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

MEMBER FOR PAGE
Ms ROXON (Gellibrand) (9.31 a.m.)—On indulgence, I wish to briefly record my response to the member for Page’s comments in the House yesterday. I would like to say that I fully accept the apology that was provided by the member. I am very grateful that he promptly offered his apology both directly to me and to the parliament. I am very appreciative that he was prepared to record that within the House. I would like all members to know that, as far as I am concerned, the matter is now resolved. I trust that we will all be better for the issue having been raised.

The SPEAKER—I should point out to the House that the member for Gellibrand did not have an opportunity to respond to the member for Page’s comments last night, because of the program she had and the program the House had. Thank you for that consideration.

PRIVILEGE
Dr SOUTHCOTT (Boothby) (9.32 a.m.)—I wish to rise on a matter of privilege.

The SPEAKER—The member for Boothby may proceed.

Dr SOUTHCOTT—in a question yesterday from the member for Grayndler to the Minister for Ageing, there appears to have been a disclosure of the deliberations of the House of Representatives Standing Committee on Ageing. I propose to refer this to the committee and to report back to the House.

Mrs Crosio interjecting—

The SPEAKER—Member for Prospect! We do not need any assistance so early in the day.

Dr SOUTHCOTT—I propose to refer this to the committee to determine if there has been a substantial interference in the work of the committee and to report back to the House.

The SPEAKER—I thank the member for Boothby, as chairman of that committee, for that notice. Reference to the Privileges Committee is in the hands of the House, but what the committee that you chair chooses to do is in its hands obviously.

RESEARCH INVOLVING EMBRYOS AND PROHIBITION OF HUMAN CLONING BILL 2002

First Reading
Bill presented by Mr Howard, and read a first time.

Second Reading
Mr Howard (Bennelong—Prime Minister) (9.33 a.m.)—I move:

That this bill be now read a second time.

The purposes of the Research Involving Embryos and Prohibition of Human Cloning Bill 2002 are to ban human cloning and other unacceptable practices associated with reproductive technology, and to regulate research involving human embryos.

The bill reflects the decision of the Council of Australian Governments in April this year to ban human cloning, unacceptable practices associated with reproductive technology, and to regulate research involving human embryos.

The bill addresses the desire of that meeting for a nationally consistent approach to regulate research involving human embryos—research that has the potential to cure disease and to save lives.

It is because the bill traverses areas involving complex moral and ethical judgments, where inevitably Australians will take a variety of attitudes, that senators and members of the Liberal and National parties will exercise a free vote on the bill as a whole and on all of its provisions.

I hope it will go without saying that I respect the views of all members who apply themselves conscientiously to the elements of this very important bill.

I am sure that the most debated parts of the bill will be those dealing with research involving the destruction of excess IVF embryos. Those who oppose such research have argued that the destruction of human life is at issue. That is an argument that must compel our attention. It certainly did mine.

Because this issue is so fundamental, I spent considerable time informing myself of
the views of community opinion leaders on ethical matters and of the views of scientists with expertise in this area of research. Amongst others, I talked to His Grace George Pell, the Catholic Archbishop of Sydney, and to His Grace Peter Jensen, the Anglican Archbishop of Sydney, both of whom are publicly opposed to research using IVF embryos. They are both men whose views I greatly respect, although I do not agree with them on all occasions. I also talked to a number of leading scientists, including the Chief Scientist Dr Robin Batterham, Professor Hearn, Dr McCullagh and Professor Alan Trounson. In the end, as I guess all members will do, I made up my own mind, according to my own conscience.

A key fact shaping my view was that at present surplus IVF embryos are disposed of after a set period of time in storage, in consultation normally with the donor where that is possible, and largely through exposure to room temperature.

I could not find a sufficiently compelling moral difference between allowing embryos to succumb in this way and destroying them through research that might advance life-saving and life-enhancing therapies. That is why, in the end, I came out in favour of allowing research involving excess IVF embryos to go ahead.

I believe strongly, however, that the special character of embryos warrants a strict regulatory regime for research involving excess IVF embryos. It is also my very strong belief that human embryos should not be created for any purpose other than IVF treatment.

Having conscientiously applied myself to this issue, I understand and respect that others in good conscience will come to a different conclusion. That is why, as I have said, every member of the coalition parties will exercise a free vote. Some members have argued that the bill should be split into two. In their mind, one would prohibit human cloning and other ethically unacceptable practices, which most members would support; the other bill would deal with research involving excess IVF embryos, which obviously would be more controversial.

The government has decided to introduce the bill in a consolidated form; but, out of respect for the views to which I have just referred, the government itself will not oppose any move in the House to split the bill. It will, however, be up to members in a free vote to decide whether or not this should occur.

As I have said, this bill will effectively ban both human cloning and a range of other ethically unacceptable practices, including the creation of hybrid embryos and commercial trading in human reproductive material.

Like many in the community, I am opposed to any form of human cloning, both reproductive and therapeutic, and consider that now is the time to prohibit such practices from occurring in Australia.

The bill, therefore, makes it an offence, with a maximum prison term of 15 years, for a person to create a human embryo clone or import a human embryo clone into Australia. This is a severe penalty and indicates the seriousness of the crime.

The bill that I put before you today also establishes a comprehensive regulatory system to govern the use of excess IVF embryos. Researchers and scientists proposing to undertake work on excess IVF embryos that would otherwise have been destroyed will be required to follow specific procedures and meet strict criteria. I consider that this regulatory system is a responsible approach that strikes the right balance between ethical considerations and embracing the possibilities of therapies and cures opened up by medical research.

The regulatory regime will cover all uses of excess IVF embryos, except for specified existing IVF clinical practice. For example, observation, transport and storage of embryos by IVF clinics will be exempt from requiring a licence. Current IVF clinical practice will continue to be regulated through existing state legislation and the Reproductive Technology Accreditation Committee of the Fertility Society of Australia.

Importantly, research will only be allowed on excess IVF embryos that were in existence at 5 April 2002. COAG established an ethics committee to report within 12 months.
on protocols to preclude the creation of embryos specifically for research purposes, with a view to reviewing the necessity for retaining the restriction on embryos created after 5 April 2002. It also agreed to request the National Health and Medical Research Council to report within 12 months on the adequacy of supply of excess IVF embryos.

The bill establishes a national licensing body within the National Health and Medical Research Council, to be known as the National Health and Medical Research Council Licensing Committee. The licensing committee, to be established in consultation with the states and territories, will be comprised of experts in a range of fields, including ethics, research and law. The committee will also include representatives with expertise in consumer health issues as they relate to disability and disease, and experience of IVF and related services.

The committee will be tasked with scrutinising applications to use excess IVF embryos. Each application will be examined on a case-by-case basis to ensure that the use of each embryo is fully justified and that the embryos are donated with informed consent. Consenting donors will also be able to specify research restrictions on the uses of their embryos. In granting a licence, the licensing committee will also have regard to whether the outcomes of the project will be likely to provide a significant advance in knowledge or improvement in technologies for treatment that could not reasonably be achieved by other means.

The use of adult stem cells for research, which I very strongly support, is outside the scope of the legislation and will therefore not require any licence for continuation under this legislation. Valuable research on adult stem cells will continue in accordance with National Health and Medical Research Council guidelines.

While there have been enormous developments in medical research involving adult stem cells, this does not, in my view, remove the need for embryonic stem cell research. This bill will give researchers the scope and the certainty to develop embryonic stem cell lines to lead to even greater advances in this field. I firmly believe that we should pursue both avenues of research simultaneously to maximise our chances of discoveries to cure diseases that continue to plague mankind.

Given the public interest in this issue, I am very pleased that the proposed new regulatory system also includes detailed provisions relating to public reporting. The licensing committee will be required to maintain a comprehensive, publicly available database of all licences issued, including details about the embryos used in relation to each project. The licensing committee will also be required to report annually on its operations. This will provide transparency and accountability within the system and also inform governments’ future decision making on these issues.

I recognise that this is a rapidly developing area of research and that we have to keep pace with both the potential therapeutic applications of research and changes in community attitudes and standards. That is why we have also committed to review this legislation within three years.

I would like to take this opportunity to recognise the concerted effort that each state and territory has put into development of this bill. It is an excellent example of Australian governments working collectively to address very difficult ethical issues and to ensure that Australia remains at the forefront of medical research. My state and territory colleagues have indicated that they will introduce legislation as soon as possible to ensure nationally consistent legislation. A nationally consistent approach will provide certainty to researchers across Australia by providing a clear basis of operation for practices involving assisted reproductive technology.

I do not underestimate the sensitive nature of the subject matter addressed in this legislation, nor the strength of views that many will have on these issues. However, speaking for myself, I believe that what we have before us is a comprehensive national regulatory system that does strike an appropriate balance. This bill, in my view, successfully balances respect for human dignity, ensures that community standards and ethical values are upheld and enables the enormous potential of embryonic stem cell research to be explored for the ultimate betterment of man-
kind within legislated parameters and subject to close scrutiny. In that spirit, I commend the bill to the House and present an explanatory memorandum on the bill.

Debate (on motion by Mr Zahra) adjourned.

ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT BILL (No. 1) 2002

First Reading

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

Second Reading

Dr KEMP (Goldstein—Minister for the Environment and Heritage) (9.50 a.m.)—I move:

That this bill be now read a second time.

The Environment and Heritage Legislation Amendment Bill (No. 1) 2002 will significantly improve the conservation and management of natural, historic and Indigenous heritage in Australia. This bill forms the core part of a package of legislation which fulfils the Howard government's 2001 election commitment to establish, for the first time, a truly national scheme for the conservation of Australia's unique heritage assets.

The bill is based on a national consensus reflected in the outcomes of the 1997 Council of Australian Governments (COAG) Agreement on Commonwealth-state roles and responsibilities for the environment, which was signed by all levels of government. COAG agreed on the need to rationalise existing Commonwealth-state arrangements for the identification and protection of heritage places. In this context, COAG agreed that the Commonwealth's role should be focused on places of national heritage significance.

The bill also represents the culmination of six years of community discussion and consultation, including the 1998 national heritage convention convened by the Australian Heritage Commission. During 2000, as the legislation was being drafted, there was a national briefing program where officials conducted 76 briefings in state-territory capitals and many regional centres. The National Cultural Heritage Forum, which comprises key stakeholder organisations, including the Australian Council of National Trusts, played a crucial role in the development of the legislation. The government recognises the work these organisations have put into the process and commends their commitment to improving the national heritage regime.

In establishing a new national heritage conservation regime, the reforms implemented through the bill will address the shortcomings of the existing regime. The Australian Heritage Commission (AHC) Act provides no substantive protection for those heritage places that are of truly national significance. The limited procedural safeguards in the AHC Act fall well short of contemporary best practice in heritage conservation. Indirect triggers, such as foreign investment approval, initiate the statutory process in the AHC Act, which adds to uncertainty and delay, and limits the capacity of the AHC Act to provide any real benefit for heritage conservation. The AHC Act does not and cannot adequately protect those places that contribute to our sense of Australian identity.

There is a gap between state regimes, which protect places of local or state significance, and the world heritage regime, which protects places of significance to the world. This bill establishes a mechanism for the identification, protection and management of heritage places of national significance. Such places will be inscribed in a National Heritage List. This list will consist of natural, historic and Indigenous places that are of outstanding national heritage significance. The minister will be guided in his or her decision making by advice from a body of heritage experts—the Australian Heritage Council. The council will be established under separate legislation as an independent advisory body to the minister, and will also be able to promote the identification, assessment and conservation of heritage on its own initiative.

The National Heritage List creates opportunities to remember, celebrate and conserve places that recall significant themes in Australian history. We should respect and value the development of our industries by acknowledging and protecting early mining, in-
ustrial and pastoral sites. Our national historic built heritage includes places that give an insight into the development of our own sense of Australian identity and our sense of place and, as such, should be recognised and protected for their national heritage significance. Natural heritage places that may be considered by the Australian Heritage Council include those that tell the story of our continent’s natural diversity and ancient past.

The bill moves forward in the protection of the heritage of Aboriginal and Torres Strait Islander people. Indigenous cultural heritage exists throughout Australia and all aspects of the landscape may be important to Indigenous people as part of their heritage. The effective protection and conservation of this heritage is important in maintaining the identity, health and wellbeing of Indigenous people. This bill provides new opportunities for developing agreed strategies to protect Indigenous heritage places after consultation and discussion with traditional owners on management arrangements. The rights and interests of Indigenous people in their heritage arise from their spirituality, customary law, original ownership, custodianship, developing Indigenous traditions and recent history.

Places in the Australian heart are not only in Australia. The bill will establish the capability to list national heritage and Commonwealth heritage places overseas and develop cooperative arrangements with the sovereign country in which the place is located. Places such as Lone Pine in Gallipoli, Kokoda in Papua New Guinea or Australia House in London could be given protection under this regime.

The listing process will be open and transparent and includes a mechanism for the consideration of public nominations and a public consultation process. A place on the national list will be identified under the Environment Protection and Biodiversity Conservation Act 1999 as a matter of national environmental significance. This will ensure that, for the first time ever, the heritage values of places of national significance receive appropriate statutory protection. A rigorous and efficient assessment and approval process will apply to actions that are likely to have a significant impact on the national heritage values of a place on the national list. The EPBC Act provides a framework for Commonwealth-state cooperation in relation to this assessment and approval process.

In order to achieve a higher threshold of significance for listing in the National Heritage List, it is proposed that national heritage places should be of national or other special significance. There is to be no limit on the number of places nominated to the national list. Instead the list should be built up over time from places that meet the criteria. When the Australian Heritage Council undertakes an assessment of a nominated place, for the minister’s consideration, they do so based solely on the identified heritage values of the place. It will be the minister’s responsibility, as appropriate in our parliamentary system, to consider the assessment provided by the Australian Heritage Council when deciding whether the place should be included on the National Heritage List. To ensure that all the values of the place are protected, a management plan is to be developed for each place on the National Heritage List.

The Commonwealth is committed to demonstrating leadership in relation to the management of heritage properties it owns or controls, and for the first time there will be a single list of Commonwealth places that have significant heritage value. The bill will provide for the development of a heritage strategy and a process for the identification and protection of heritage places in Commonwealth areas. It will provide mechanisms for the identification and management of the Commonwealth’s heritage assets ensuring that we continue to meet the best practice standards as outlined in the Schofield report on Commonwealth owned heritage properties.

A public nomination and listing process similar to that for the national list will apply in relation to the Commonwealth list and the bill will also provide for the ongoing protection of Commonwealth heritage places that move out of Commonwealth control. The government recognises the importance of conserving Commonwealth heritage places and is committed to developing a new policy
on the disposal of Commonwealth heritage properties.

Criteria for listing of national heritage and Commonwealth heritage places have been developed and the government is committed to consulting stakeholders on these criteria before the bill is finally passed in this House.

The government is committed to demonstrating leadership in the protection of Indigenous heritage values, recognising that protection will advance reconciliation and promote deeper understanding. The bill recognises the important role Indigenous people have in the management of their heritage values and provide a number of mechanisms to ensure Indigenous participation in the development of management strategies and plans, consultation processes and the protection of confidential information. The bill ensures that the rights and interests of Indigenous people are respected in relation to national and Commonwealth heritage places. It is the government’s intention that future regulations will consolidate the involvement of Indigenous people by providing up-front recognition of the need to protect Indigenous heritage values and the primary role that traditional owners and custodians play in such protection.

In line with the government’s election policy commitments, the Register of the National Estate will also be retained as an information resource for the purposes of heritage promotion and education. The register will be streamlined and there will be an ongoing ability to add or remove places. Furthermore, the Minister for the Environment and Heritage will be required to consider information in the register when making relevant decisions under the EPBC Act.

There will be an education program to raise awareness about the new legislation, and a web site to assist the public. The government is committed to ongoing consultation with community and heritage bodies to ensure that the new national heritage conservation regime continues to meet community expectations.

In addition, the government is committed to the continued development of the Australian Heritage Places Inventory (AHPI) database, which will serve as the community’s one-stop shop for information on heritage places throughout Australia. Places on the Register of the National Estate form an integral part of the inventory along with state and Territory heritage registers.

Through the auspices of the Environment Protection and Heritage Council, the government will also develop an Integrated National Heritage Strategy in partnership with the states, with opportunities for input by other heritage organisations.

In presenting this bill, and through the establishment of the independent statutory Australian Heritage Council, the government is demonstrating its commitment to ongoing national leadership in relation to heritage conservation. In doing so, the bill delivers on community expectations in relation to what a contemporary heritage regime should provide for the nation. I commend the bill to the House and I present the explanatory memorandum.

Debate (on motion by Mr Zahra) adjourned.

AUSTRALIAN HERITAGE COUNCIL BILL 2002

First Reading

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

Second Reading

Dr KEMP (Goldstein—Minister for the Environment and Heritage) (10.02 a.m.)—I move:

That this bill be now read a second time.

The Australian Heritage Council Bill 2002 establishes the Australian Heritage Council as the nation’s primary heritage advisory body.

The role of the council will be to provide independent and expert advice to the minister on the identification, conservation and protection of places on the National Heritage List and the Commonwealth Heritage List. The council will consist of eminent experts in the fields of natural, Indigenous and historic heritage.

The council will replace the Australian Heritage Commission as the Commonwealth’s expert advisory body on heritage.
The council will assess nominations in relation to the listing of places on the National Heritage List and the Commonwealth Heritage List, advise the minister on specified matters relating to heritage and promote the identification, assessment and conservation of heritage.

The council will have a vital role to play in ensuring the success of the government’s new heritage protection regime. A particularly important function of the council will be to provide advice to the minister in relation to the identification of places which qualify for entry on the national and Commonwealth heritage lists. The minister must consider the advice of the council in deciding whether to add, or remove, a place from the national list. Advice from the council will also form the basis for Commonwealth involvement in the management of such places.

The Register of the National Estate is a valuable asset to the Commonwealth and under this bill it will continue as an important information resource to which the council will be able to add places that it believes meet the prescribed criteria. The more than 13,000 properties already on the register will remain and the register will also be used to assist the minister in making decisions under the Environment Protection and Biodiversity Conservation Act 1999.

The Australian Heritage Commission has played a pivotal role in the conservation of Australia’s heritage places over the last 25 years. The Australian Heritage Council will continue the tradition of Commonwealth leadership in the field of heritage conservation and management. It will contribute to a confident Australian outlook, protecting our places and our past to move forward into the future. I commend the bill to the House and I present the explanatory memorandum.

Debate (on motion by Mr Zahra) adjourned.

AUSTRALIAN HERITAGE COUNCIL (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2002

First Reading

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

Second Reading

Dr KEMP (Goldstein—Minister for the Environment and Heritage) (10.05 a.m.)—I move:

That this bill be now read a second time.

This bill is an adjunct to the Environment and Heritage Legislation Amendment Bill (No. 1) 2002 and the Australian Heritage Council Bill 2002.

The Australian Heritage Council (Consequential and Transitional Provisions) Bill 2002 has two primary objectives.

Firstly, the bill provides for the repeal of the Australian Heritage Commission Act 1975 and provides for consequential amendments to other Commonwealth acts as a result of repealing this act.

Secondly, the bill puts in place arrangements for a smooth transition from the Australian Heritage Commission Act 1975 to the new scheme established by the main heritage bills.

The bill, together with the Environment and Heritage Legislation Amendment Bill (No.1) 2002 and the Australian Heritage Council Bill 2002, establishes a truly national scheme for the conservation of Australia’s unique heritage assets. This national scheme harnesses the strengths of our federation by providing for Commonwealth leadership while also respecting the role of the states in delivering on-ground management of heritage places. A centrepiece of the new regime is the creation of an independent statutory heritage body, the Australian Heritage Council. I commend the bill to the House and I present the explanatory memorandum.

Debate (on motion by Mr Zahra) adjourned.
RENEWABLE ENERGY (ELECTRICITY) AMENDMENT BILL 2002

First Reading

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

Second Reading

Dr KEMP (Goldstein—Minister for the Environment and Heritage) (10.07 a.m.)—I move:

That this bill be now read a second time.

The Renewable Energy (Electricity) Amendment Bill 2002 amends the Renewable Energy (Electricity) Act 2000 to clarify key definitions in the original legislation and to provide for greater efficiency and effectiveness in the administration of the legislation.

The implementation of the legislation by the Office of the Renewable Energy Regulator has revealed a number of minor deficiencies in the operation of the legislation which, collectively, need to be addressed to ensure the maintenance of the integrity of the legislation and the full achievement of its objectives.

The amendments contained in this bill are administrative in nature and relate to the following:

• The clarification of definitions, including those related to eligible renewable energy sources, components of a power station, relevant acquisitions of electricity and penalty charges.
• The capacity of the Renewable Energy Regulator to vary decisions, including those related to energy acquisition statements, energy shortfall statements and the 1997 eligible renewable energy baseline for an accredited power station. This action may be at the regulator’s own instigation or that of the liable party and will be exercised in a number of circumstances.
• The introduction of information-gathering powers to underpin the monitoring, auditing and compliance requirements of the Renewable Energy (Electricity) Act 2000 and to bring this legislation into line with similar pieces of Commonwealth legislation.
• The extension of authorised officers to include officers appointed by the Commonwealth and by state and territory governments.
• The capacity of the Renewable Energy Regulator to suspend entitlements, including the accreditation of a power station, in a number of limited circumstances.
• The inclusion of administrative review provisions covering decisions by the Renewable Energy Regulator to take action to vary or suspend.

The clarification of definitions is particularly important from the standpoint of investors in renewable energy. The amendments will provide greater clarity about what is an eligible renewable energy source, what is an accredited power station and what is a relevant acquisition of electricity. Similarly, the capacity to vary or amend documentation or decisions meets a pragmatic need of the regulator to address mistakes made by participants or to respond to changing circumstances, additional information or the results of monitoring and compliance actions.

The power to gather information and documents will allow the efficient administration of the legislation and is a means by which informed decisions about the participants in the trading of renewable energy certificates can be made. Information will be confined to that which is relevant to the operation of the Renewable Energy (Electricity) Act 2000.

With the renewable energy target ramping up sharply in the coming years, it is highly likely that there will be considerable growth in the number of accredited power stations and the amount of renewable energy certificates that will be traded or acquitted. The administrative load for the Office of the Renewable Energy Regulator will greatly increase and, in order to meet this demand, provision will be made to allow the appointment of Commonwealth officers or employees of state and territory governments to op-
erate as authorised officers for the purpose of the Renewable Energy (Electricity) Act 2000 and therefore exercise the power to monitor compliance with the act. The act already provides that, in order to be appointed as an authorised officer, the person must have sufficient maturity and sufficient training. As officers or employees of Australian governments, these authorised officers will be subject to the strict Public Service requirements for conduct and behaviour.

The suspension of an accredited power station is particularly important to ensure that the owners and operators of these businesses conduct themselves in a manner in keeping with the objectives of the legislation. A power station's accreditation can be suspended in a range of circumstances, including where a power station contravenes or is suspected of contravening a law of the Commonwealth, a state or a territory or where the Renewable Energy Regulator is reasonably of the opinion that a 'gaming' arrangement has occurred. Gaming involves generators manipulating their output to increase the quantity of renewable energy certificates able to be created without increasing renewable generation. The powers foreshadowed in this bill ensure that such action cannot pose a future threat to the integrity of the legislation.

Decisions by the Renewable Energy Regulator to vary or amend decisions or assessments or to suspend entitlements under the Renewable Energy (Electricity) Act 2000 will be subject to review by the Administrative Appeals Tribunal.

This bill, with its suite of administrative changes, is being introduced now to ensure that there is as little delay as possible in providing certainty to both the power generation industry and the renewable energy industry on the operation of the renewable energy trading system. Such certainty will enable these industries to make the type of strategic investments needed to achieve this government's challenging target of an additional 9,500 gigawatt hours of renewables based electricity—an amount, I am informed, that is equivalent to the residential electricity requirements of a city the current size of Sydney.

The Renewable Energy (Electricity) Act 2000 was a world-leading piece of legislation, and a number of countries have identified it as a model for promoting renewable energy through a market based trading system. While the measure has been in operation only since 1 April 2001, I am pleased to be able to report that its implementation is already achieving and delivering significant benefits. To date nearly 150 power stations have been accredited, and they encompass a wide range of fuel types.

Small and large producers are included in the trading scheme, and there are strong indications of investor confidence in the renewable energy sector, with many projects proposed for development, including a substantial number of wind energy projects.

The amendments that I am bringing forward today in no way impact on the government's commitment to conduct an independent and thorough review of the Renewable Energy (Electricity) Act 2000 as mandated under section 162 of the current act. The legislation and the mandatory renewable energy target are a critical plank in this government's greenhouse response and, equally, a significant and important step towards achieving sustainability in energy supply. As such, changes to the policy underpinnings of the Renewable Energy (Electricity) Act need to be made in an informed rather than a reactionary manner, having regard to all participants in the market and noting the importance of a stable investment environment for the uptake of renewable energy technologies. It is my intention that the policy review of the Renewable Energy (Electricity) Act 2000 commence in January 2003 and be conducted in a timely, open and transparent manner.

In the meantime, administrative changes are required to the Renewable Energy (Electricity) Act 2000 to improve the efficiency and effectiveness of its operation. I commend the bill to the House and present the explanatory memorandum.

Debate (on motion by Mr Zahra) adjourned.
Mr McGauran, and read a first time.

Second Reading

Mr McGauran (Gippsland—Minister for Science) (10.16 a.m.)—I move:

That this bill be now read a second time.


Schedule 1 to the bill makes an amendment to the Australian Communications Authority Act 1997 to enhance the operation of section 54 of that act. Section 54 empowers the Australian Communications Authority to make a written determination defining expressions used in its legal instruments. Due to the effect of sections 46A and 49A of the Acts Interpretation Act 1901, the ACA cannot apply, adopt or incorporate certain documents including legal instruments within a determination made under section 54 of the ACA Act 1997.

The proposed amendment contained in schedule 1 to the bill will allow the ACA to incorporate other documents by reference when making a written determination under section 54 and, in doing so, will make section 54 consistent with the existing determination powers under the Telecommunications Act 1997 and the Radiocommunications Act 1992.

Schedule 2 to the bill also makes a number of amendments to the Freedom of Information Act 1982 to exempt from the application of that act certain documents related to the administration of schedule 5 to the Broadcasting Services Act 1992. Schedule 5 to the Broadcasting Services Act, which has operated since 1 January 2000, provides the regulatory framework for the control of illegal or offensive online material. This framework enables the Australian Broadcasting Authority (ABA) to investigate complaints from the public about online content, including material that is, or would be, refused classification or classified X by the classification board.

Since the release of material acquired during the course of an ABA investigation would undermine the policy and objects of the framework, it has become necessary to ensure that such material in the possession of the ABA is adequately protected. Once material is released under the FOI Act, the subsequent use or dissemination of that material cannot be controlled. The amendment contained in schedule 2 to the bill will ensure that material containing prohibited, or potentially prohibited, online content or the means of accessing such content is specifically exempt from disclosure under the FOI Act.

Schedule 3 to the bill makes a number of amendments to the Radiocommunications Act 1992 in relation to law enforcement bodies. Commonwealth, state and territory law enforcement and anticorruption bodies use licensed radiocommunications devices for covert surveillance to gather evidence in serious criminal and anticorruption investigations. Covert surveillance devices are usually operated under warrants issued by Commonwealth, state or territory courts and for evidentiary value must also be properly licensed under the Radiocommunications Act.

The proposed amendments contained in schedule 3 to the bill will enable the ACA, by disallowable instrument, to exempt the personnel of certain law enforcement and anticorruption bodies from the operation of some sections of the Radiocommunications Act dealing with unlicensed transmissions, equipment standards and interference emissions. These bodies do not fall within the traditional definition of a ‘police force’.

The amendments to the Radiocommunications Act will also streamline the licensing provisions of the Radiocommunications Act to enable specified bodies to lawfully operate covert surveillance devices for the specific purpose of investigating serious crime and corruption.
The proposed provisions will also expand the objects clause of the Radiocommunications Act to provide that an object of the Radiocommunications Act is to make adequate provision of the radiofrequency spectrum for use by agencies involved in the defence or national security of Australia, law enforcement and emergency services and for use by other public or community services.

Schedule 4 to the bill makes one amendment to the Telecommunications Act 1997 to abolish the specially constituted Australian Communications Authority. In 1998, a ‘specially constituted ACA’ was established under the Telecommunications Act comprising the chairman of the ACA and six specialist ‘eligible associate members’. The primary purpose of the specially constituted ACA is to consider carrier applications for facilities installation permits under schedule 3 to the Telecommunications Act. In the specially constituted ACA’s four years of operation, no such applications have been made. Accordingly, it is proposed to abolish the specially-constituted ACA, by repealing clause 40 of the Telecommunications Act with effect from 1 April 2003, the date on which the appointments of the eligible associate members expire. The Australian Communications Authority will then assume any residual responsibilities.

Schedule 5 to the bill makes a number of minor amendments to the Telecommunications (Consumer Protection and Service Standards) Act 1999 in relation to the National Relay Service, the revocation or variation of a customer service guarantee standard and the Telecommunications Industry Ombudsman Scheme.

The National Relay Service or NRS provides people who are deaf or have a hearing or speech impairment with access to a standard telephone service on terms comparable to the terms on which other Australians have access to that service. The NRS is provided by the Australian Communications Exchange under contract with the Commonwealth and is funded by a quarterly levy imposed on telecommunications carriers, with contributions based on shares of telecommunications revenue.

Whilst much of the information provided to honourable members by way of this second reading speech has concentrated on technical or consequential amendments to various acts, members will immediately appreciate the reformist nature of this particular provision. It is a magnificent achievement, long in the making. It has proved to be as much a technical issue as one of policy by the government, which has been driven by Senator Alston and his department. I warmly congratulate them for this significant breakthrough in providing service for hearing impaired people.

The collapse of One.Tel highlighted problems with the existing funding arrangements for the NRS as One.Tel continued to accumulate an NRS levy debt under the existing provisions of the act which could not be reallocated to other carriers and had to be absorbed by the Commonwealth.

The proposed amendments in schedule 5 to the bill will improve the mechanisms for the effective funding of the NRS and provide for a carrier’s NRS levy liability to be determined by reference to the carrier’s operation in the industry in the period for which the levy is assessed. It will also allow the minister to modify, by written determination, the formula for calculating each carrier’s NRS levy contribution and enable the ACA to vary assessments of a carrier’s NRS levy contributions.

So the government is responding to difficulties raised and issues highlighted by the collapse of One.Tel, and has built upon its earlier reforms in this area so that the level of service provided to hearing and speech impaired people is not diminished in any way. This is an example of the resolve of the government, and Senator Alston particularly, in providing an equivalent service to people with such disabilities.

The proposed amendments in schedule 5 of the bill will improve the mechanisms for the effective funding of the NRS and provide for a carrier’s NRS levy liability to be determined by reference to the carrier’s operation in the industry in the period for which the levy is assessed. As I said, it will allow the minister to modify, by written determination, the formula. I wanted to again stress that
point because that is very much a central part of the government’s determination to ensure that the levy is not diminished so as in any way to affect the level of service provided to deaf or hearing or speech impaired people.

Turning to another matter, a customer service guarantee standard made by the ACA under section 115 of the Telecommunications (Consumer Protection and Service Standards) Act 1999 is a disallowable instrument for the purposes of the Acts Interpretation Act 1901. The proposed amendment to section 125 of that act will clarify that a revocation or variation of a customer service guarantee standard made under section 115 is also a disallowable instrument—again, highlighting the importance that we place on the service guarantee that we implemented on coming to government. The customer service guarantee has brought Telstra and the other carriers to a new level of service provision, particularly to those in rural and regional areas. We are determined to always maintain its central integrity as we have built upon it and strengthened it in previous reformist legislation.

The Telecommunications Industry Ombudsman, the TIO, was established in 1993 under the Telecommunications Act 1991 as a free dispute resolution scheme for residential and small business consumers. All carriers and eligible carriage service providers, including Internet service providers, are required to be members of the TIO Scheme.

A TIO member is charged a complaint handling fee when the TIO receives a complaint from one of the member’s customers which acts as an incentive for members to develop and maintain effective complaint handling and customer service procedures. Since there have been instances where the TIO complaint handling fee has been passed on to customers, the bill contains an amendment to clarify that end users are not liable for any charge in relation to complaints made to the TIO about their telephone or Internet service.

It is good that the government has moved quickly to close such a loophole that may have been, in past instances, exploited by an Internet service provider who was less enamoured than the government and the industry generally is with providing the very best service and handling with fairness its customers.

The bill also makes an amendment to clarify that paragraph 128(6)(a) of the Consumer Protection Act, which provides that the TIO Scheme must not investigate complaints on tariff levels, does not preclude the investigation by the TIO of complaints about tariff levels pertaining to charges or fees not directly related to the supply of telecommunications carriage services, such as early contract termination fees for mobile phone services.

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

Debate (on motion by Mr Edwards) adjourned.

FAMILY LAW LEGISLATION AMENDMENT (SUPERANNUATION) (CONSEQUENTIAL PROVISIONS) BILL 2002

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

Second Reading
Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (10.29 a.m.)—I move:

That this bill be now read a second time.

The Family Law Legislation Amendment (Superannuation) (Consequential Provisions) Bill 2002 will make amendments to legislation dealing with government income streams to ensure that appropriate means test assessment is applied to superannuation interests that are split pursuant to the Family Law Superannuation Act 2001 (‘the Family Law Superannuation Act’).

It will also amend the legislation that provides for pensions for Commonwealth judges and make minor technical and correcting amendments to the Family Law Act 1975 to ensure the effective operation of the superannuation reforms contained in the Family Law Superannuation Act.

The Family Law Superannuation Act is a major landmark in the Howard government’s ongoing reform of family law.
Under the current law superannuation interests can—and usually are—taken into account in court proceedings for a property settlement following marriage breakdown.

However, under the law as it now stands, superannuation interests are not able to be split in a family law property settlement.

Under the Family Law Superannuation Act, when it commences, couples will for the first time be able to split their superannuation interests on marriage breakdown in the same way as their other assets.

Superannuation interests will be able to be split either by agreement between the parties or, if the parties are unable to agree, by court order.

Under the Family Law Superannuation Act, both agreements and court orders will generally be binding on the trustees of superannuation funds.

The Family Law Legislation Amendment (Superannuation) (Consequential Provisions) Act 2001 makes consequential amendments to relevant tax legislation to ensure that appropriate tax treatment is applied to superannuation interests which will be split pursuant to the Family Law Superannuation Act.

This bill will make consequential amendments to social security and veterans’ affairs legislation to ensure that superannuation interests that have been split pursuant to a family law settlement are assessed consistently with the current assessment of other income and assets under the means test.

The bill will amend the Social Security Act 1991 and the Veterans’ Entitlements Act 1986 to ensure that, where an income stream is split under the new family law arrangements pursuant to the Family Law Superannuation Act, the income and asset values of the separate income streams will be assessed in accordance with guidelines that cover the various situations.

Those guidelines will be set out in disallowable instruments.

The bill will also repeal a complex provision of the Social Security Act 1991 that treats the profit component of a withdrawal from a superannuation fund as income over the following 12 months.

If not repealed, these provisions could result in the inequitable outcome that a split of superannuation under the Family Law Act could lead to the assessment of income against the partner who owned the superannuation.

Following the implementation of a measure announced in the 2001 budget, people aged 55 and over were exempted from the provisions from 1 July 2001.

Accordingly, the provisions are now of very limited application.

Repeal of the provisions is also in accord with the government’s objective of simplifying social security and veterans’ entitlements to the maximum extent possible.

The bill will also repeal mirroring provisions in the Veterans’ Entitlement Act 1986.

The bill will also amend the Judges’ Pensions Act 1968 (‘the Judges’ Pensions Act’) to authorise the making of regulations to contain factors for use in determining the proportion of a pension that had accrued at the time of a judge’s marriage breakdown.

Under the Judges’ Pensions Act, a judge generally does not qualify for a pension until he or she has turned 60 years of age and has served for at least 10 years. If a judge does not satisfy these preconditions, no pension is payable. For this type of benefit, it is more equitable to divide the interest by way of a percentage split, rather than attempting to calculate a dollar value.

In some circumstances, such as where most of a judge’s pension entitlement accrued after separation, it may be appropriate that the percentage split apply to only that portion of the pension which accrued before separation. In determining that proportion, the relevant formulae in the family law legislation refer to the judge’s ‘accrued benefit multiples’ at certain dates.

As the Judges’ Pensions Act currently does not contain factors that would constitute accrued benefit multiples for the purposes of the formulae, the bill will amend the Judges’ Pensions Act to authorise the making of regulations to set out such factors.

Finally, the bill will also make minor technical and correcting amendments to the
Family Law Act 1975 to ensure the efficient operation of the family law superannuation reforms. These amendments will:

- insert a definition of “reversionary beneficiary” into part VIIIB of the Family Law Act;
- clarify that the provisions dealing with second and subsequent splits of a superannuation interest so that they will apply if the parties to a marriage separate, re-marry and then separate a second time;
- ensure that the preservation requirements that apply to any interest that the non-member spouse has in a regulated superannuation fund will also apply to any interest that the non-member spouse has in an approved deposit fund or to an exempt public sector superannuation scheme; and
- make a minor drafting amendment, consequent on amendments made in the parliament during debate on the Family Law Superannuation Act.

Full details of the measures contained in this bill are included in the explanatory memorandum, which I now present to the House. I commend the bill to the chamber.

Debate (on motion by Mr Edwards) adjourned.

SEX DISCRIMINATION AMENDMENT BILL 2002

First Reading

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

Second Reading

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (10.36 a.m.)—I move:

That this bill be now read a second time.

The Sex Discrimination Amendment Bill 2002 is in substance the same as the Sex Discrimination Amendment Bill (No. 1) 2001 that was introduced by the government in the previous parliament. This bill, as with the previous bill, remedies a problem with the operation of the Sex Discrimination Act 1984 identified by the Federal Court in its decision in McBain v. State of Victoria.

In the McBain case, the Federal Court held that Victorian legislation restricting access to assisted reproductive technology treatment to women who were married and living with their husband on a genuine domestic basis, or living with a man in a de facto relationship, was inconsistent with the Commonwealth Sex Discrimination Act and as a consequence was invalid under section 109 of the Constitution.

The matter was also recently indirectly considered by the High Court in the matter of Re McBain; Ex parte the Australian Catholic Bishops Conference [2002] HCA 16.

In 2001, the Australian Catholic Bishops Conference and the Australian Episcopal Conference of the Roman Catholic Church brought proceedings in the original jurisdiction of the High Court seeking orders to quash the decision of Mr Justice Sundberg in McBain. The bishops were granted a partial flat by the Attorney-General to ensure that they had standing to bring proceedings in the High Court to argue that there was no inconsistency between the Victorian act and the SDA. The Attorney-General also intervened in the proceedings under section 78A of the Judiciary Act 1903, as the proceedings raised a constitutional issue.

On 18 April 2002, the High Court handed down its decision. The High Court did not deal with or decide the issue of inconsistency between the Victorian act and the SDA. Rather, the decision was based on questions of procedure, jurisdiction and the exercise of judicial discretion. The effect of the High Court decision is that the decision of Mr Justice Sundberg in McBain stands.

The government has consistently maintained that it does not believe that the Sex Discrimination Act was ever intended to prevent the states and territories from legislatively to restrict access to ART procedures to women who are married or living in de facto relationships.

The Sex Discrimination Amendment Bill 2002 will amend the Sex Discrimination Act to ensure that states and territories can legislate to limit access to assisted reproductive technology services to married couples—or
married couples who are not living separately and apart from their spouse—and de facto couples, if the state or territory wishes to do so. The amendments will not, however, permit states and territories to discriminate between married and de facto couples. Nor will they permit states and territories to impose an additional criterion of a specified period of cohabitation for de facto couples.

The Commonwealth has limited constitutional power to legislate in this field. It is consistent with the states’ responsibilities in relation to the regulation of the provision of medical care and treatment that they be permitted to legislate in the area of ART as they consider appropriate.

This issue primarily involves the right of a child within our society to have the reasonable expectation, other things being equal, of the care and affection of both a mother and a father.

The amendment deals with ART services. ART services are defined to mean services using technology to assist in non-coital fertilisation. The main forms of ART include in vitro fertilisation, artificial insemination, gamete, zygote and embryo transfers.

IVF involves a range of procedures aimed at achieving pregnancy where there are issues of infertility. IVF actually means that ova are fertilised outside of a woman’s body to allow the fertilised ova—that is, embryos—to be implanted at some later stage.

Artificial insemination involves the transfer of sperm into the reproductive tract of a woman to achieve pregnancy. Fertilisation occurs within the woman’s body. Artificial insemination is used to achieve pregnancy in women who are fertile but do not have male partners and who do not wish to become pregnant by traditional coital means; by couples where the male partner is infertile (donor insemination); and in some cases where the woman may not be classified as ‘infertile’ in the strict sense but nevertheless has been unable to become pregnant by coital means.

Artificial insemination is by far the most commonly used procedure by single and lesbian women to achieve pregnancy in the absence of female infertility. IVF is generally only utilised by single and lesbian women if pregnancy has not been able to be achieved through artificial insemination.

The bill will commence upon royal assent.

When the bill commences, any provisions of the Victorian and South Australian acts that have previously been ruled inconsistent with the Sex Discrimination Act and that are no longer inconsistent with that act will revive. However, the bill will not preserve state or territory laws to the extent that they prescribe a required length of cohabitation before a person can access ART services as this is inconsistent with the definition of ‘de facto spouse’ in the Sex Discrimination Act.

If a state or territory chooses not to legislate in this area, the Sex Discrimination Act will continue to apply.

The government is acting to ensure that states and territories have the power to enact legislation to limit the availability of assisted reproductive technologies to married women and those living in a de facto relationship with a male partner.

In doing so, the government is doing its part to protect the rights of children to have the reasonable expectation, other things being equal, of the care and protection of both their mother and father. I commend the bill to the House and present the explanatory memorandum.

Debate (on motion by Mr Edwards) adjourned.

COMMONWEALTH GRANTS COMMISSION

Report: Government Response

Mr ANDREWS (Menzies—Minister for Ageing) (10.43 a.m.)—I present the government response to the Commonwealth Grants Commission report on Indigenous funding 2001.

HEALTH INSURANCE AMENDMENT (PROFESSIONAL SERVICES REVIEW AND OTHER MATTERS) BILL 2002

First Reading

Bill presented by Mr Andrews, and read a first time.
Second Reading

Mr ANDREWS (Menzies—Minister for Ageing) (10.44 a.m.)—I move:

That this bill be now read a second time.

This bill contains a number of amendments to the Health Insurance Act 1973.

Professional services review

The main amendments relate to the Professional Services Review Scheme, which commenced in 1994.

The scheme is a process for reviewing and investigating the provision of services by a person to determine whether the person has engaged in inappropriate practice in the rendering or initiating of Medicare services or in prescribing under the Pharmaceutical Benefits Scheme.

The essence of the scheme is one of peer review to ensure that the technical and professional issues of providing services are appropriately considered in the review process.

The amendments proposed to the scheme in this bill need to be considered in the context of changes in the scheme's operation since its inception. The PSR Scheme was substantially amended by the Health Insurance Amendment (Professional Services Review) Act 1999 following a detailed review conducted by the Department of Health and Aged Care, the Australian Medical Association, the Director of Professional Services Review and the Health Insurance Commission. The changes implemented following the review were endorsed by all the parties.

Subsequently, a decision of the Federal Court has suggested that the amendments made in 1999 may not have had the effect intended by the review committee. The proposed amendments clarify the intended operation of the scheme, consistent with the recommendations of the review committee, and address certain issues identified by the Federal Court. Again, wide consultation has been undertaken with all stakeholders, who support the provisions in the bill.

The bill clarifies the three operational stages of the review process. The Health Insurance Commission requests the Director of Professional Services Review to review a practitioner’s provision of services. Following the review, the director may decide to take no further action, enter into an agreement with the practitioner or refer the provision of identified services—that is, the referred services—to a professional services review committee for investigation. It is during the PSR committee investigation that the conduct in connection with the provision of referred services by the person under review is examined.

The amendments in this bill make it clear that the director’s review is limited to the services specified in the request, but is otherwise not limited in any way by the initial Health Insurance Commission request. Where the director has made a referral to a PSR committee, that investigation is restricted to the services referred to them by the director but is not limited by either the initial Health Insurance Commission request or the reasons contained in the director’s referral. In other words, both the director and the committee can identify additional conduct arising from the provision of the referred services that may constitute inappropriate practice.

Normal procedural fairness safeguards apply throughout the PSR process, and have been further strengthened by this bill. The services to be investigated are clearly identified in advance, so the practitioner knows where the investigation will focus.

But it is only when a PSR committee—the practitioner’s peers—are able to examine individual services, including interviewing the practitioner and hearing their explanations or reasons for engaging in a particular course, that it is possible to properly assess the appropriateness of their conduct.

The bill provides that before a PSR committee makes a finding of inappropriate practice the person under review must be notified of the intention to deliver such a finding and the committee’s reasons for doing so. The person under review must be provided with an opportunity to respond to the proposed committee finding and the reasons. Further, the person under review is able to make submissions to the determining authority before the draft determination stage.
The proposed amendments also validate the investigative and adjudicative referrals which are currently before PSR committees to the extent that those referrals specify the conduct to be examined and do not involve examination of conduct at large.

Members will be aware that Medicare is one of the largest programs administered by the federal government. This investment needs to be protected, particularly in regard to accountability, the public interest and the standard of health care attracting Medicare and pharmaceutical benefits. Providing this protection is the principal objective of the Professional Services Review Scheme. I thank all parties for their continued support of the scheme.

Cleft Lip and Cleft Palate Scheme

The bill also proposes change to the Cleft Lip and Cleft Palate Scheme.

The proposed changes will enable eligible persons requiring ongoing treatment for cleft lip and cleft palate conditions to claim Medicare benefits under the Cleft Lip and Cleft Palate Scheme until their 28th birthday. Under the current arrangements, in order to be eligible for Medicare for cleft lip and cleft palate treatment, a patient must be a person who has not attained the age of 22 years.

The current age limit was established on the basis that cleft lip and cleft palate patients would generally have completed most specialist dental work associated with their condition once their facial growth was complete.

However, the age limit of 22 years has created some difficulties, as some patients require ongoing treatment beyond their 22nd birthday as their facial growth continues, or where scheduled surgery had not been possible until after attaining 22 years of age.

The Department of Health and Ageing has advised that only a small number of existing patients would require continuing care beyond that which is now provided and so this measure will have a minimal impact on Medicare outlays.

Miscellaneous/technical corrections

The bill also contains minor technical amendments to remove redundant definitions in section 3 of the act relating to health care cards and pensioner concession cards.

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

Debate (on motion by Mr Edwards) adjourned.

VETERANS’ AFFAIRS LEGISLATION AMENDMENT BILL (No. 2) 2002

First Reading

Bill presented by Mrs Vale, and read a first time.

Second Reading

Mrs VALE (Hughes—Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence) (10.51 a.m.)—I move:

That this bill be now read a second time.

This bill makes a number of amendments to the Veterans’ Entitlements Act 1986 to address minor anomalies, make consequential amendments and clarify policy. These changes are designed to further improve the operation of the repatriation system.

The bill will make amendments to the operation of the compensation recovery provisions; firstly, to remove an anomaly so that civilian compensation payments that are offset against disability pension are not also counted as income for the purposes of the income test; and, secondly, to correctly reflect arrangements for the direct recovery of debts from compensation payers and insurers in respect of the partner of a person who received lump sum compensation.

The bill will also clarify policy in relation to telephone allowance to make it clear that eligible persons with a mobile telephone service, and no traditional fixed line telephone service, may receive telephone allowance.

The bill will also amend provisions of the VEA relating to rent assistance. These amendments will align the eligibility provisions for rent assistance for veteran pensioners who receive a base rate family tax benefit with those of the Social Security Act 1991. The amendments will ensure that rent assistance is available under the VEA to eligible persons receiving family tax benefit with no rent component. Other amendments will ad-
dress the issue of retirement village entry contribution payments and access to rent assistance and will align the VEA with the Social Security Act 1991.

Furthermore, the bill will extend the eligibility criteria for the Pension Loans Scheme, which provides income support to eligible persons in the form of a loan. The changes will extend the eligibility criteria to include certain persons who are not a veteran or the partner of a veteran and will enable eligible income support supplement recipients to be eligible for the scheme from ‘qualifying age’ rather than ‘pension age’. ‘Qualifying age’ is five years earlier than ‘pension age’ and is the age at which war widows and war widowers may be eligible for income support supplement and a number of other related benefits under the VEA.

Similarly, amendments to the eligibility criteria for the Commonwealth seniors health card will enable war widows and war widowers to be eligible for the Commonwealth seniors health card from ‘qualifying age’ rather than ‘pension age’.

The bill also contains other minor technical amendments to clarify provisions in the VEA.

This bill continues the government’s ongoing commitment to improving the repatriation system to benefit and provide equitable assistance to our veteran community, to whom we owe so much.

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

Debate (on motion by Mr Edwards) adjourned.

THERAPEUTIC GOODS AMENDMENT BILL (No. 2) 2002

First Reading

Bill presented by Ms Worth, and read a first time.

Second Reading

Ms Worth (Adelaide—Parliamentary Secretary to the Minister for Health and Ageing) (10.55 a.m.)—I move:

That this bill be now read a second time.

This bill amends the definition of ‘therapeutic goods’ to provide greater clarity and certainty for industry, consumers and regulators at the food-medicine interface.

It also rationalises the pre-approval process for advertisements for therapeutic goods by ensuring that the same requirements are met for advertisements for all types of media.

This bill also makes changes to transfer the advertising offences from the Therapeutic Goods Regulations to the Therapeutic Goods Act 1989 to provide a greater consistency in penalties imposed for breaches of similar severity.

There are occasions where it can be difficult to ascertain whether certain goods, because of the way they are presented, are ‘therapeutic goods’—that is, medicines—or ‘foods’.

The definition of therapeutic goods currently excludes any goods that are covered by a prescribed food standard made under the Australia New Zealand Food Standards Code. This is the case even when the goods would otherwise, but for this exclusion, fall within the definition of ‘therapeutic goods’ under the act.

For example, the Australia New Zealand Food Standards Code defines a ‘formulated supplementary sports food’, otherwise known as a sports food, as ‘a food or mixture of foods specifically formulated to assist sports people in achieving specific nutritional or performance goals’.

The effect of this definition is to require that any complementary medicine presented as assisting sports people in this way be regulated as a food.

This means the product, which may be in tablet or capsule form, with dosage instructions and indications for use, is not subject to the usual pre-market assessment, or post-market regulatory surveillance that occurs for other therapeutic goods.

Additionally, the product cannot be represented as a medicine, or carry medicinal claims, as to do so would render it an illegal food.
The amendment to the definition of ‘therapeutic goods’ will allow the use of a determination under section 7 of the act in the practical manner that the legislation and all stakeholders always intended.

Without the amendment, the confusion with the regulation around the food-medicine interface would escalate. This could, in the future, pose public health and safety risks to consumers resulting from individual complementary medicinal products being inappropriately regulated as foods.

Another important aspect of this bill is to enable a transfer of the provisions for the pre-approval of therapeutic goods advertisements in the broadcast media from the Broadcasting Services Act 1992 to the therapeutic goods legislation.

Under the Broadcasting Services Act, approvals for advertisements of medicines intended for the broadcast media may be granted by the Secretary to the Department of Health and Ageing, or her delegates.

Review of the secretary’s decisions is undertaken by the Minister for Communications, Information Technology and the Arts. At present the Minister cannot delegate this function.

On the other hand, approvals for advertising of therapeutic goods intended for the print media, cinema and outdoors are given under the Therapeutic Goods Regulations by the Secretary to the Department of Health and Ageing, or by her delegates.

The function of reviewing any decision to approve, or not to approve, an advertisement for publication is conferred upon the Minister for Health and Ageing, who is able to delegate this function to officers of the department.

When deciding whether to approve advertisements intended for publication in the print media, cinema and outdoors, the secretary must be satisfied that the advertisement complies with the Therapeutic Goods Advertising Code.

However, under the Broadcasting Services Act, there is no requirement that advertisements about medicines published through broadcast media comply with the code.

The removal of provisions in the Broadcasting Services Act relating to the pre-approval of therapeutic goods advertising will enable these functions to be transferred to the therapeutic goods legislation.

This will create a level playing field for the provisions that apply to advertisements for therapeutic goods in all forms of media, as they will all be required to comply with the Therapeutic Goods Advertising Code.

The amendments will also simplify the pre-approval and appeals processes. All pre-approvals made in relation to advertisements will be made by the Secretary to the Department of Health and Ageing, or her delegate, and all related appeals made will be undertaken by the Minister for Health and Ageing or her delegates.

This bill will also transfer the advertising offences provisions from the Therapeutic Goods Regulations to the act.

Currently, some of the offences relating to advertising still remain in the Therapeutic Goods Regulations, where the penalty for breaches of advertising requirements is set at 10 penalty points. Other comparable advertising offences have been included in the act, where the penalty for breaches of advertising offences is 50 to 100 penalty points.

In order to ensure consistency of penalties applying for all breaches of the Therapeutic Goods Advertising Code and to render any prosecution for breaches of the code more effective, all advertising offences that are included in the Therapeutic Goods Regulations are to be transferred to part 5(1) of the act, where other comparable advertising offences are located.

Based on recommendations from previous reviews of the therapeutic goods advertising provisions, a new requirement is for advertisements published in the different media described as ‘specified media’ to comply with the code. This will ensure that the principles of the code in its entirety will be enforceable in relation to advertisements published in all forms of the media.

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

Debate (on motion by Mr Edwards) adjourned.
SUPERANNUATION LEGISLATION AMENDMENT (CHOICE OF SUPERANNUATION FUNDS) 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) (11.02 a.m.)—I move:

That this bill be now read a second time.

The Superannuation Legislation Amendment (Choice of Superannuation Funds) Bill 2002

Superannuation will allow employees to choose where their superannuation contributions are paid.

As part of its 1997-98 budget, the government announced the choice of funds measure. Commitment to this policy was reaffirmed by the government in its 2001 election document, ‘A Better Superannuation System’. Choice of funds will provide workers with the right to decide who manages their superannuation.

The bill amends the Superannuation Guarantee Administration Act 1992 so that from 1 July 2004 employers will be required to comply with the choice of funds requirements. This can be done in one of two ways: either through the formal process of offering choice of fund to their employees or by agreeing to a fund that has been proposed by the employee via an individual written agreement. An individual written agreement involves the employee providing the employer with a written notice proposing a fund and the employer giving written notice accepting that fund.

However, if the employer is currently contributing to a defined benefits fund for the employee, then this option is not available and the employer must comply with the formal choice of fund process. This will ensure that employees that are defined benefits members will receive the necessary information to make an informed choice.

The formal choice process requires the employer to offer a standard choice form to an employee within 28 days of becoming an employee. An employee can also request a standard choice form every 12 months.

If an employer has complied with the choice of fund requirements but the employee has not chosen a fund in compliance with those requirements, the employer is able to contribute to a default fund. The employer must have included certain information about the fund as part of the choice process and the fund must have minimum levels of insurance in respect of death.

The process to select a default fund for an employee is contained in the choice provisions. If there is a Commonwealth or territory industry award fund for the employee, then this is the default fund. If there is no such industry award fund, then the fund to which the employer contributes for the greatest number of employees is the default fund. If the employer is unable to contribute to this fund, then the employer may select another eligible default fund.

The choice of fund amendments will increase competition and efficiency in the superannuation industry, leading to improved returns on superannuation savings and placing downward pressure on fund administration charges.

Full details of the measures contained in the bill are included in the explanatory memorandum, which I now table. I also commend the bill to the House.

Debate (on motion by Mr Edwards) adjourned.

SUPERANNUATION (GOVERNMENT CO-CONTRIBUTION FOR LOW INCOME EARNERS) 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) (11.06 a.m.)—I move:

That this bill be now read a second time.

The Superannuation (Government Co-contribution for Low Income Earners) Bill 2002 will enact legislation that will establish the arrangements for the government to pay superannuation co-contributions to eligible
low-income earners. This legislation will outline how the government will determine those who are eligible for a co-contribution and the amount of the co-contribution; the method of payment of the co-contribution and of adjustments where necessary; information gathering arrangements by the Australian Taxation Office; review of decisions; and other administrative matters.

This bill, together with the Superannuation Legislation Amendment Bill 2002, will fulfil an election commitment announced on 5 November 2001 in ‘A Better Superannuation System’ to further assist low-income earners to save for their retirement. The government co-contribution is expected to increase the numbers of low-income earners making personal superannuation contributions and to increase the levels of contributions being made by existing contributors. More generally, the government co-contribution will boost the retirement savings of low-income earners.

The government co-contribution will replace the existing taxation rebate for personal superannuation contributions made by low-income earners. However, the co-contribution will be more generous than the rebate it is replacing. The maximum co-contribution of $1,000 compares with the maximum rebate of $100.

Low-income earners who are not entitled to claim a deduction for their personal superannuation contributions will be eligible to receive the co-contribution if they meet the eligibility criteria.

The government co-contribution will match personal superannuation contributions made on or after 1 July 2002 by eligible people with incomes less than $32,500. The maximum co-contribution of $1,000 will be payable for those on incomes of $20,000 or less. The maximum co-contribution will reduce by 8c for each $1 of income over $20,000, with some co-contribution available for those with incomes up to $32,500. A minimum co-contribution of $20 will also apply, as long as the person is below the income thresholds and has made some personal superannuation contributions during the year.

The income test for the government co-contribution will be based on assessable income plus reportable fringe benefits. This is consistent with the existing rebate. To be eligible for the government co-contribution, a person will need to have employer superannuation support, be aged less than 71 on 30 June of the year in which the personal contributions were made, and not be eligible for release of benefits upon permanent departure from Australia.

Small business people who are self-employed will be unaffected by this proposal, as they will continue to be able to claim a tax deduction for personal superannuation contributions. One of the government’s other election commitments increases from $3,000 to $5,000 the amount of personal superannuation contributions that is fully deductible for this group. Similarly, those with superannuation support, but not employer superannuation support, will be eligible for a taxation deduction for superannuation contributions.

The government co-contribution will be treated as an undeducted contribution. This means that the co-contribution will not be subject to contributions tax when paid into the fund and will also not be taxed when paid out to a person as an end benefit. In situations where it is paid directly to the person it will be treated as exempt income and will not attract income tax.

The Australian Taxation Office will use contribution and account details provided by superannuation funds, together with the income details from low-income earners’ tax returns, to assess and pay the co-contribution directly to the person’s fund; that is, there will be no need for eligible people to apply for the co-contribution. This delivery mechanism is the most seamless option for low-income earners and is designed to ensure that low-income earners who are eligible for the co-contribution receive their correct entitlements.

While funds will need to report new information from that currently required, this requirement will not commence until 1 July 2003. This will provide superannuation funds with a window in which to implement any necessary system changes.
Full details of the measures in the bill are contained in the explanatory memorandum. I commend the bill and present the explanatory memorandum.

Debate (on motion by Mr Edwards) adjourned.

SUPERANNUATION LEGISLATION AMENDMENT 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) (11.12 a.m.)—I move:

That this bill be now read a second time.

Over recent years there has been a growing realisation throughout Australian society of the importance of retirement planning and saving for the years ahead. Superannuation is seen as a vital element in planning for a comfortable and secure retirement.

This bill, together with the Superannuation (Government Co-contribution for Low Income Earners) Bill 2002 will fulfil two election commitments, announced on 5 November 2001 in 'A Better Superannuation System' to make superannuation more attractive and support the government’s retirement incomes policy.

The government co-contribution is expected to increase the numbers of low-income earners making personal superannuation contributions and increase the levels of contributions being made by existing contributors. More generally, the government co-contribution will boost retirement savings for low-income earners.

The details of the arrangements for the government to pay superannuation co-contributions to low-income earners are contained in the Superannuation (Government Co-contribution for Low Income Earners) Bill 2002.

The Superannuation Legislation Amendment Bill 2002 will amend a number of taxation and superannuation laws. In particular, this bill will deal with the following aspects of the government co-contribution measure: eligibility for and taxation treatment of government co-contributions; arrangements for certain defence personnel and Commonwealth public servants regarding co-contributions, use of the Superannuation Holding Accounts Reserve for co-contributions in some circumstances and a review of certain decisions. This bill will also repeal the existing personal superannuation contribution taxation rebate found in the Income Tax Assessment Act 1936. In addition, this bill will reduce the maximum superannuation and termination payments surcharge rates from 15 per cent to 10.5 per cent over the next three years.

Full details of the measures in this bill are contained in the explanatory memorandum. I commend the bill to the House and present the explanatory memorandum.

Debate (on motion by Mr Edwards) adjourned.

NEW BUSINESS TAX SYSTEM (CONSOLIDATION, VALUE SHIFTING, DEMERGERS AND OTHER MEASURES) 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) (11.16 a.m.)—I move:

That this bill be now read a second time.

This bill reflects a continuation of the government’s initiatives to the reform of business taxation by amending the income tax law and other laws to give effect to the following measures.

Consolidation regime

The basic foundations of the consolidation regime were contained in the initial measures introduced on 16 May 2002.

The measures contained in this bill will deal with outstanding matters necessary for the further implementation of the consolidation regime from 1 July 2002. Further legislation is scheduled to be introduced later this year.
This bill introduces the cost setting rules for the formation of a consolidated group. These rules modify the basic case rules of a single entity joining an existing consolidated group.

The bill also contains transitional measures aimed primarily at reducing the compliance costs associated with forming a consolidated group. The key transitional measure provides that in certain circumstances, and where a consolidated group is formed before 1 July 2004, the head company may choose that assets of subsidiary members retain their existing tax cost. This transitional option removes the need for consolidated groups to revalue assets as required under the ongoing tax cost setting rules.

Further, this bill includes certain measures that deal with international aspects of consolidation. The measures in the bill ensure that the foreign tax credit provisions work appropriately for a consolidated group, including allowing the head company to use excess foreign tax credits available to a subsidiary member at the time of joining a group. The removal of the existing foreign tax credit grouping rules has also resulted in the rewriting of the provisions applying to all taxpayers that allow excess foreign tax credits to be carried forward for five years.

The bill also deals with account balances that are maintained to avoid double Australian taxation of the income of a controlled foreign company or foreign investment fund. The measures in the bill ensure that the foreign tax credit provisions work appropriately for a consolidated group, including allowing the head company to use excess foreign tax credits available to a subsidiary member at the time of joining a group. The removal of the existing foreign tax credit grouping rules has also resulted in the rewriting of the provisions applying to all taxpayers that allow excess foreign tax credits to be carried forward for five years.

The bill also deals with account balances that are maintained to avoid double Australian taxation of the income of a controlled foreign company or foreign investment fund. The measures in the bill ensure that the foreign tax credit provisions work appropriately for a consolidated group, including allowing the head company to use excess foreign tax credits available to a subsidiary member at the time of joining a group. The removal of the existing foreign tax credit grouping rules has also resulted in the rewriting of the provisions applying to all taxpayers that allow excess foreign tax credits to be carried forward for five years.

Simplified imputation system

This bill makes consequential amendments to the provisions currently referred to in the tax laws as the ‘exempting and former exempting company provisions’. These provisions are concerned with limiting the source of franking credits available for franking credit trading. The simplified imputation system measures introduced into parliament on 30 May 2002 contained core rules for the new simplified imputation system. As a result of the introduction of those measures, certain consequential amendments are now required to other areas of the imputation system not covered by those rules including the exempting and former exempting company provisions. The consequential amendments include moving the existing provisions from the Income Tax Assessment Act 1936 to the Income Tax Assessment Act 1997. The simplified imputation system, including these consequential amendments, applies from 1 July 2002.

Value shifting and loss integrity

The bill will also introduce a general value shifting regime applying mainly to interests in controlled companies and trusts that are not consolidated. The regime is expected to achieve similar value shifting integrity to that achieved within consolidation. The new regime, which will generally apply to value shifts from 1 July 2002, will also strengthen the integrity of the existing capital gains tax rules.

The bill will also make amendments to the current loss integrity provisions to allow assets to be valued globally in calculating unrealised losses. This will reduce the compliance costs of these measures.

Demerger relief

Finally, the bill will introduce provisions to provide tax relief for a demerger. A demerger involves restructuring a corporate or trust group by splitting it into two or more
entities or groups, with the underlying owners of the head entity holding the demerged entities or groups directly.

The tax relief for demergers will increase efficiency by allowing greater flexibility in restructuring a business and ensuring that tax considerations are not an impediment to such restructuring. The proposed demerger amendments will apply to demergers happening on or after 1 July 2002.

Full details of the measures in this bill are contained in the explanatory memorandum.

I commend this bill and present the explanatory memorandum.

Debate (on motion by Mr Edwards) adjourned.

TAXATION LAWS AMENDMENT BILL (No. 5) 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) (11.23 a.m.)—I move:

That this bill be now read a second time.

The Taxation Laws Amendment Bill (No. 5) 2002 will amend various income tax laws to make the following amendments:

There will be a special transitional measure to address the concerns of oyster farmers who use the traditional stick farming method of capturing oyster spat about the difficulties for them in complying with the trading stock rules.

The transitional rule will assist the oyster farmers by attributing a value for the oyster trading stock of these farmers at the start of the 2001-02 income year, based on a value per stick multiplied by the number of sticks used to capture the oyster spat. The stick method of calculating the value of trading stock allows oyster farmers to avoid excessive compliance costs.

Schedule 2 of the bill will remove the potential for double taxation where amounts are paid for work in progress.

Work in progress will be partially completed work that has not yet reached a stage where a recoverable debt has arisen in respect of the work. It commonly arises in the context of a change in the composition of a professional partnership, for example accountants or lawyers, but the measure is not limited to a particular industry or particular types of entities. Work in progress will not include partially completed goods or partially completed structures.

In the case, for example, of a partner leaving a partnership, a payment for work in progress will be deductible for the remaining partners, and receipt of an amount for work in progress will be assessable income for the departing partner. When the work is completed and invoiced or paid for, the amount invoiced or paid will naturally be income of the partnership.

Schedule 3 contains technical corrections and amendments to the capital allowances system to ensure it operates as intended and interacts appropriately with related provisions. In particular, there will be finetuning of the provision governing the deductibility of blackhole expenditure to ensure it operates as the government intended.

Finally, schedule 4 of the bill will make technical amendments to enable the commissioner to recover all PAYG withholding amounts by making an estimate of the outstanding liability. In addition, it will allow taxpayers to have the estimate of the withholding amount reduced or revoked by giving the commissioner a statutory declaration.

The amendments will apply to amounts due and payable in the financial year ending 30 June 2002 and in subsequent years.

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

Debate (on motion by Mr Edwards) adjourned.

INDUSTRY, TOURISM AND RESOURCES LEGISLATION AMENDMENT BILL 2002

First Reading

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

Second Reading

Mr ENTSCH (Leichhardt—Parliamentary Secretary to the Minister for Industry,
Thursday, 27 June 2002

Tourism and Resources) (11.27 a.m.)—I move:

That this bill be now read a second time.

The purpose of the Industry, Tourism and Resources Legislation Amendment Bill 2002 is to make a range of minor amendments to a number of acts in the Industry, Tourism and Resources portfolio. The amendments are intended to correct out-of-date references, to correct technical errors that have occurred as a result of drafting and clerical mistakes, and to clarify provisions to ensure they operate in the way that was intended. This bill also repeals two acts which no longer have any legislative role.

The bill makes minor amendments to the ACIS Administration Act 1999. The Automotive Competitiveness and Investment Scheme (ACIS) commenced on 1 January 2001 and is scheduled to end on 31 December 2005. The scheme encourages the development of internationally competitive firms in the Australian automotive industry through rewarding eligible production, strategic investment and research and development. ACIS participants earn incentives in the form of duty credits which can be used to offset customs duty on eligible automotive imports, or can be sold for use by another party. The intention was that these duty credits could also be used to gain a refund of customs duty previously paid on eligible imports. The legislative authority for this use of duty credits was not clear. This bill will make specific provision for such refunds.

The bill amends the Trade Practices Act 1974 to correct a drafting oversight in the Trade Practices Amendment (Country of Origin Representations) Act 1998. The 1998 amendments created defences to actions for false or misleading country of origin representations. The defences were not extended to section 53(a) of the act, which prohibits false or misleading representations as to a good’s particular history. Actions for false or misleading country of origin representation can also be made under section 53(a). The bill ensures that the existing defences to a false or misleading country of origin action are extended to protect companies that may be subject to a false or misleading country of origin action under section 53(a).

The bill amends the Pooled Development Funds Act 1992, the PDF Act, to correct a drafting error which rendered section 4A inoperative. Section 4A of the PDF Act, which defines the meaning of a ‘widely-held complying superannuation fund’ for the purposes of the act, referred to ‘excluded superannuation funds’ as defined in the Superannuation Industry (Supervision) Act 1993, the SIS Act. However the definition of excluded superannuation funds in the SIS Act was repealed in 1999. This bill amends the PDF Act to correct the error by amending the definition of a ‘widely-held complying superannuation fund’ to provide that such a fund must have a minimum of five members.

Several of the amendments are technical in nature and involve no change to the substance of the law. A technical correction to the Bounty (Computers) Act 1984 removes a reference to the organisation once referred to as the ‘Standards Association of Australia’ and replaces it with the correct name, ‘Standards Australia International Ltd’.

An amendment to the Petroleum (Submerged Lands) Legislation Amendment Act 2001 corrects a misdescription of an amendment to the Petroleum (Submerged Lands) Act 1967. In this case, text that was to be replaced in subsection 85(1) of the principal act was misquoted, omitting the word ‘to’ before the word ‘make’. This amendment corrects that misquote.

The bill amends the States Grants (Petroleum Products) Act 1965 to reflect changes in administrative arrangements. This act underpins the Petroleum Products Freight Subsidy Scheme, which subsidises the cost of freighting eligible fuel to remote locations in Australia. In April 1999, responsibility for administering the scheme was transferred from the Australian Customs Service to the forerunner of the Department of Industry, Tourism and Resources. The act contains some references to the Chief Executive Officer of Customs, and the bill changes these to the Secretary of the Department to reflect the transfer of responsibility.

This bill repeals two acts which are no longer required. The need for the Management and Investment Companies Act 1983, the MIC Act, ceased with the conclusion of
the MIC program in 1991, which was replaced by the Pooled Development Funds Program in 1992. Relevant clawback provisions of the MIC Act—to retrieve outstanding monies from relevant businesses—ceased in 1995-96.

Finally, the Aluminium Industry Act 1960 is also no longer required. The aluminium smelter at Bell Bay in Tasmania was established in the 1950s as a joint venture between the Commonwealth and Tasmanian governments. The Aluminium Industry Act 1960 subsequently provided the legislative approval for the Commonwealth’s interest in the smelter to be sold to a subsidiary of Comalco Ltd. These acts have served their purpose well, but are now redundant, and their repeal is in keeping with the government’s commitment to remove from the statute books unnecessary business legislation. I present the explanatory memorandum on the bill.

Debate (on motion by Mr Edwards) adjourned.

INTELLECTUAL PROPERTY LAWS AMENDMENT BILL 2002

First Reading

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

Second Reading

Mr ENTSCH (Leichhardt—Parliamentary Secretary to the Minister for Industry, Tourism and Resources) (11.34 a.m.)—I move:

That this bill be now read a second time.

This bill, the Intellectual Property Laws Amendment Bill 2002, makes a series of technical amendments to several intellectual property acts.

The bill amends the Patents Act 1990, the Trade Marks Act 1995 and the Designs Act 1906 to clarify that errors and omissions by people providing services to IP Australia, such as independent contractors and consultants, are encompassed by the existing extension of time provisions. Currently, these acts provide that a person must be granted an extension of time if a relevant time period was not complied with because of an error or omission by the Commissioner of Patents, the Registrar of Trade Marks, the Registrar of Designs or an employee of the relevant office.

However, IP Australia often uses the services of independent contractors and consultants during the processing of applications, such as the use of a courier service to transport documents from a suboffice to the central office in Canberra, or a private company for maintenance of information systems or storage of data. These amendments will make it clear that the extension of time provisions encompass errors and omissions by these parties.

These amendments will therefore ensure that any person who is legitimately entitled to an extension of time will be granted one.

This bill also amends subsection 45(3) and section 101D of the Patents Act, which deal with the disclosure of information to the Commissioner of Patents that is relevant to the patentability of an invention.

These provisions were previously amended by the Patents Amendment Act 2001. Those amendments were intended to ensure that the commissioner had access to as much relevant information as possible when determining whether an invention was patentable. However, based on initial experience with the new system, it has recently become apparent that those amendments will not achieve the government’s policy objectives, because they lack certainty and impose an undue burden on applicants and patentees.

In order to maintain Australia’s strong patent system, the government has decided to take swift action to rectify this situation. The amendments in this bill narrow the scope of the information covered by these provisions to provide an effective disclosure regime that reduces the burden on applicants and patentees while still ensuring that relevant information is disclosed.

These amendments will replace the disclosure obligations that have applied since the commencement of the Patents Amendment Act 2001. That is, they will apply to any standard patent application that had not been accepted before 1 April 2002 and any innovation patent for which examination had not begun before 1 April 2002.
This will mean that the new disclosure arrangements will completely replace the current provisions, and any applicant or patentee who has not complied with those provisions will no longer be obliged to. If they have complied with the current provisions then, for the purposes of the Patents Act, the information they have provided would only need to meet the requirements of the new provisions.

So, although the amendments will not commence retrospectively, they will have a retrospective effect.

This should not disadvantage any applicants or patentees, because these amendments will be introducing an improved disclosure regime that imposes a significantly reduced burden on them. In addition, the bill provides that any information provided under the current provisions is taken to have been provided under the new provisions and, therefore, will not need to be resubmitted.

These arrangements will ensure that people are not adversely affected by the operation of these amendments.

I would like to take this opportunity to acknowledge the valuable contribution of representatives from the Institute of Patent and Trade Mark Attorneys of Australia and the Australian Federation of Intellectual Property Attorneys in the development of this bill. Their input is certainly very much appreciated. I present the explanatory memorandum.

Debate (on motion by Mr Sidebottom) adjourned.

RESEARCH AGENCIES LEGISLATION AMENDMENT BILL 2002
Second Reading
Debate resumed from 26 June, on motion by Mr McGauran:
That this bill be now read a second time.

Mr KELVIN THOMSON (Wills) (11.40 a.m.)—Prior to the debate being adjourned last night, I was discussing the Australian Nuclear Science and Technology Organisation, one of the subjects of the Research Agencies Legislation Amendment Bill 2002, and, in particular, the fact that they had found a fault line at the site of the proposed replacement facility for the ageing Lucas Heights nuclear reactor. That fault line was found by ANSTO last week during a geological study of excavation for the new reactor’s foundations.

Immediately following these revelations, my colleague Senator Kim Carr quite rightly requested that the government’s regulatory agency, ARPANSA, make an immediate statement on the safety of the site for the new Lucas Heights reactor. He alerted the community to the fact that the government had called in a New Zealand company, the Institute of Geological and Nuclear Science Ltd, to advise it on the technical safety issues.

This company’s report must be made public. It is not good enough to rely upon commercial-in-confidence to keep people in the dark about critical matters of public safety. The public has a right to know and a reason to be concerned at reports that there is an earthquake fault line under the Lucas Heights site. The onus lies fair and square with the government to conduct an exhaustive review of the safety of Lucas Heights as a site for the proposed new reactor. It must also ask whether the existing reactor’s safety can be guaranteed. This is an issue of major concern, not just for the residents of Sydney but for all Australians. The opposition will ensure that the government acts quickly and decisively to deal with this issue and guarantee the safety of Lucas Heights.

My state colleague New South Wales Environment Minister Bob Debus has quite justifiably demanded an inquiry into how the fault line was missed in the new reactor’s environmental impact statement, and is in the process of writing to the federal minister seeking a full explanation. Failure to pick up the fault in the preliminary site analysis appears to me to be an incredible oversight. As a result, I have asked the government to provide me with a full briefing on the issue and expect this to take place as a matter of urgency, to ensure that a transparent and appropriate response is forthcoming.

Let us not forget the concerns of the people who live nearby. Despite the comments of the science minister, who seems hell-bent on proceeding with the project regardless of ARPANSA’s investigations—and I will come
to that—this risk is not an abstract one. For local residents, this fear is all too real. Local residents who are opposed to the new nuclear reactor are saying that the discovery of the fault line shows that the project should not go ahead. The Principal Environmental Scientist at Sutherland Shire Council, Dr Gary Smith, said on The World Today program last Friday that the discovery of this fault line simply increases the safety concerns of residents—and he has some very valid points. He said:

The ARPANSA licensing process, as explained to us by the Commonwealth government, allowed for a number of hold points during the construction process because there were a number of issues in the licence that weren’t fully resolved and that had to be resolved properly before the government would give it the full go ahead.

He went on:

So this would certainly seem like one of those significant hold points, first of all from the point of view of assessing it openly and properly, but secondly I think keeping the public informed because we, as a local council and others, have spent a lot of time trying to get safety issues raised on this project. And I think it’s only fair that the local community be brought fully up to speed with it.

I am particularly concerned about the response so far of the federal Minister for Science, Peter McGauran, who promised in media reports that work on the reactor would resume after what he termed a ‘full analysis’. Mr McGauran in fact stressed that the project would go ahead, making the bold assumption that ‘these issues will be quickly resolved and the project will proceed post haste’. Does he think he has the power to prevent the earthquake fault from being active? If it does prove to be a threat, does he somehow think he can minimise the risk to an acceptable level? If so, I fear he is deluding himself.

Labor have done the prudent thing. asking for a briefing on the situation from ARPANSA. Labor are keeping an open mind on all possible options, once expert advice and analysis of the situation have been undertaken. We are not assuming the project is automatically going to proceed. To do so would be pre-emptive of the expert advice, second-guess due process and be totally irresponsible. The full report on the fault line and its implications is expected to take between two and four weeks. Last night at 6 p.m. I received a brief from ARPANSA on this issue, which contains the following remarks: ‘Until this work is completed it is premature to speculate on the implications for either the site licence or the construction licence.’

We do not yet know how big the Lucas Heights reactor fault line is, but there is a very big fault line between the responsible position taken by ARPANSA and the reckless position taken by the science minister. The minister cannot treat this discovery as a mere glitch, a mere speed hump to be driven across as quickly as possible before resuming top speed. He must treat this as a stop sign, and proceed no further with the reactor construction until the significance of the fault line has been determined and explained properly. ARPANSA is taking a responsible and considered position. If the minister were to pre-empt the investigations of his own agency, ARPANSA, which is responsible for the safety of the reactor, it would be a reckless disregard of the public safety of the people of Sydney. (Time expired)

Mr LINDSAY (Herbert) (11.46 a.m.)—In the time available to me this morning in the Australian parliament I want to recognise the strong commitment that the men and women working at the Australian Institute of Marine Science have to generating and transferring knowledge in Australia’s national interest.

The Research Agencies Legislation Amendment Bill 2002 assists AIMS, the Australian Institute of Marine Science, and ANSTO in the transferring of knowledge and the commercialisation of research that have been successfully undertaken.

What is AIMS? It is a Commonwealth statutory authority which has 155 staff and 55 PhD students. Its headquarters are located at Cape Ferguson in my electorate of Herbert. It is a world-leading institution in marine science. AIMS also has branches in the Northern Territory and in Western Australia. The facility has done world-leading research and continues to lead the world in relation to marine science. Its mission encapsulates
what is in the bill we are discussing this morning. Its mission is:
To generate and transfer the knowledge to support the sustainable use and protection of the marine environment through innovative, world-class scientific and technological research.
And it does, as do many other scientific organisations in this country. I wish that the men and women of Australia could know, understand and be proud of the fantastic scientific achievements we have in this country today.

AIMS is funded through a government appropriation of a little over $17 million. It has an asset replacement program of about $3.6 million and has external revenue of approximately $5 million. The external revenue is part of what we are discussing in this bill this morning. AIMS is very committed to alliances and partnerships. Some notable examples are the Australian National University and AIMS joint venture and the relationship between AIMS and CSIRO in the aquaculture program they are involved in. The Chief Scientist, Robin Batterham, makes the observation that AIMS is a model for cooperation. In North Queensland, in Townsville, we have the Australian Institute of Marine Science, the Great Barrier Reef Marine Park Authority, the Reef CRC, the International Marine Projects Activity Centre and, of course, James Cook University, all of whom cooperate in a way that has attracted the commendation of the Chief Scientist of Australia. It is a model of what organisations could do in other areas of science across this country. The vision of the Australian Institute of Marine Science is:
To lead marine research in our chosen fields and to deliver greater benefits and value to the government, our partners, our customers and the general public than they can obtain from others.
This bill certainly assists AIMS to realise their vision. It assists them to deliver greater benefits. It assists them to deliver value to government. It assists them to deliver value to their partners and their customers through the commercialisation of their research.

The research at AIMS is basically in three streams: conservation biodiversity, coastal processes and marine biotechnology. I have been to AIMS on many occasions and have seen the terrific and world-leading work they do. There are certainly some very great challenges for marine science and for Australia. AIMS and this bill are part of meeting those challenges. I think that the marine resources of Australia are vastly undeveloped. The area has the potential, in my view, to double the contribution of marine resources to Australia’s GDP within the next 15 years. We can lead the world in doing that. AIMS can be part of that, as can this commercialisation process. In so many areas there is the ability to use the resources of Australia’s economic exclusion zone. Not a large number of people understand that the sea area that Australia controls is 2½ times the land mass of Australia. Our sea resource area is 2½ times the size of Australia. There are terrific opportunities for parts of our economy, including science, to take advantage of those resources.

The big picture is that currently marine resources comprise five to 10 per cent of the Australian economy, but that figure could be larger. The Great Barrier Reef, which is just out the back door of Townsville, is a global conservation icon generating almost $1 billion annually. As a note of digression, and for those who are listening this morning, Australia’s largest tropical city has the reef, the rainforest and the outback just out its back door; it is a great place to visit and it is not as cold there as it is here today.

How does marine science help in relation to this bill and the economy? It produces new opportunities for economic development. It is all very fine to do the science, but you have to translate that science to the benefit of Australia and not to the benefit of somebody overseas. The AIMS approach is to discover, develop and transfer, and it is the transfer that we are talking about this morning. In the discovery phase, strategic basic research needs to be done. What have we got? How does it work in the marine environment? In the development phase you have to look at knowledge synthesis and new technologies. How can we protect? How can we benefit? In the transfer mode you have to look at delivery to stakeholders. How can we deliver greater value and benefit? I am pleased to see that the Australian Institute of
Marine Science and its people have that at the forefront of their vision. They want to turn knowledge into wealth, so they have a biodiversity program that looks at things like pharmaceuticals, agrichemicals, sunscreen, seafood toxin testing, antifoulants, environmental monitoring and industrial enzymes, all of which are possible outcomes of research from the Australian Institute of Marine Science.

What is so exciting is that Australia is megadiverse in comparison to other countries. It is largely an untapped resource for new discoveries in our marine environment. Through this bill we want to give AIMS the opportunity to easily commercialise and take advantage of the particular research that they do. The other observation I make is that when you look at the diversity in systems in Australia you find that marine diversity tops the list of all of the areas where you find diversity; it is a very significant contributor to Australia’s diversity.

There have been terrific discoveries already, in relation to anticancer compounds that have been found in, of all things, sponges. Research has been going on into how to grow sponges, and there are some side benefits in that in relation to Aboriginal communities, for example, having sponge farms. Who would have thought of having a sponge farm? But it is something that is low technology and, significantly, can produce high incomes. As an example of the potential of some of the natural marine products presently sold as research tools, if you produce a compound called bastadin 5 you can sell it on the world market at $9,040 per milligram. There are other compounds that sell for $21,400, $20,360 or $14,240 per milligram, and they all come from the marine environment.

While there are low-tech purification and extraction processes there are also high-tech purification and extraction processes. The current potential winner is a spin-off biotechnology company called ToxiTech, which produces food and drinking water diagnostic kits. It is a joint intellectual property of the Australian Institute of Marine Science and James Cook University. Its products can be locally manufactured and distributed but it mostly has an international market, so it can earn export dollars for our country. It can also earn income for the Australian Institute of Marine Science. The kind of return on an investment that you can get out of this is such that you could expect a gross revenue in the first five years of $505 million; a total royalty to be split up between AIMS and JCU in 10 years of $48 million; and a national induced economic benefit over five years of almost $1 billion. That is a terrific return on an investment.

It is projects like ToxiTech that this bill will allow AIMS to transfer effectively to the market and, at the same time, it will allow the technology, if necessary, to be kept in Australia. It is a much better process than licensing systems, because when you license a product that you have discovered the project may or may not compete with other projects and it may or may not be developed. If AIMS are able to commercialise these products themselves then they can determine what is going to happen and in what time frame.

I conclude by asking: why is AIMS in the north? The answer is that it is an area that is largely unexplored, it is of global significance as a marine ecosystem, it has immense potential as a source of wealth for the nation, and access is currently limited. The Australian Institute of Marine Science is doing a fabulous job for Australia, and this bill will further untie its hands in relation to getting better outcomes. I would like to congratulate the men and women of the Australian Institute of Marine Science. I look forward to this bill passing the parliament and to the opportunity it will give AIMS to further expand its mission and its vision.

**Dr Emerson (Rankin) (12.00 p.m.)—** Labor are supporting the Research Agencies Legislation Amendment Bill 2002. The bill in some way takes forward the agenda of strengthening the commercialisation of our research and development, the commercial links between institutions and the whole effort of innovation in this country. To the extent that it takes a small step in that direction we support it. But we do have some reservations about particular details, and that is why we propose to refer the bill to a Senate com-
It raises the general issue that, while the commercialisation of inventions and research are very important, we need to do all of that within a sensible policy framework. Some concerns have been raised about agencies setting up companies, which may or may not be a good thing, but certainly that has the scope to reduce accountability. To that extent we would need to know what is being proposed both in relation to the agencies covered in this bill and more broadly. It is Labor’s strong conviction that this bill should not weaken Commonwealth responsibility for AIMS and ANSTO in terms of ongoing funding.

The Australian Institute of Marine Science has been lauded in this parliament just now by the member for Herbert and, I think, previously by a number of speakers, and that is for very good reason: AIMS is a world-class centre in Townsville and it does great work. If by the passage of this legislation we can advance the interests of AIMS even just a little bit, that is a good thing.

However, speaking on this bill gives me the opportunity to talk a little more broadly about the role of research and development in Australia and the commercialisation of Australian research. The fact is that in Australia we can choose our own destiny: we can take the low road to a low skill, low wage economy where we are competing globally on labour costs. If we do that, we will inevitably be beaten because there are plenty of countries around the world that can organise labour at a much lower cost than Australians would want to be paid and could legitimately expect to be paid. If we compete, on the basis of labour costs in the global economy, we will pay a very high price. So I urge that Australia not go the low road but that it take the high road to a high skill, high wage economy. My vision for the next 20 years for Australia is that Australia becomes a high skill, high wage economy producing high value goods and services, especially for the export market.

How do we get there? How do we achieve high skills and high wages? The key to the future prosperity of nations in this so-called information age is innovation. Just as in the postwar period the imperative for Australia was to populate or perish—and there is a robust and productive debate going on in Australia about the optimal level of population for this country over the next few decades—so it is the case that the imperative for Australian industry is to innovate or perish. If we do not innovate, the knowledge content of our goods and services will decline, particularly in relation to manufactured goods. They will become standardised and, when they become standardised, they will lose their knowledge content and there will be a tendency then for the production of those particular goods to be relocated overseas on the basis of lower wage costs and/or economies of scale and proximity to market. So, for Australia, the path to future prosperity is to continue innovating, to add knowledge to the goods and services that we produce because by adding knowledge we add value.

I am very concerned, however, that we are at present stuck between being a lucky country and a clever country. In the mid-1980s in particular Australia suffered a catastrophic collapse in our terms of trade to the point where the then Treasurer, Paul Keating, said, ‘If we keep going like this, we will become a banana republic.’ The reason for all of that was that Australia had relied for too long on being a farm and a quarry. The Hawke government had understood from its first days in office that there were structural weaknesses in the economy and had in fact established a structural adjustment committee of cabinet to deal with those structural weaknesses, but it was all exposed for the world to see in the mid-1980s with that catastrophic collapse in Australia’s terms of trade.

At that time, the Labor government had already been moving to make the transition to a clever country. It had been internationalising the Australian economy, it had deregulated financial markets, it had floated the Australian dollar and it had begun to implement industry plans for industries that were protected by high tariff barriers and quotas. Then a suite of policies was brought in to enhance our skills base, to enhance our schools and our universities, all of which were proving to be very effective. I would like to cite one indicator—school retention
rates. They increased from 36 per cent in 1982 to more than double that during the previous Labor government. In round terms, while one in three children were going on to complete high school under the former coalition government, the Fraser government, under Labor that had been increased to more than two in three. So very substantial strides were being made in this transition from a lucky country to a clever country. You might recall—and this is very relevant to this legislation—that a great initiative of the previous Labor government was the establishment of cooperative research centres. Those CRCs have played an important part in making the transition towards a clever country. It is true that the present government has continued funding for cooperative research centres, so to that extent there is bipartisan support. I always think that a good policy deserves bipartisan support.

In that respect there is some encouragement, but on other fronts there is despair. Business spending on research and development as a proportion of gross domestic product has fallen in each and every year of the Howard government. The latest annual figures are due out next Monday, on 1 July, and everyone will be examining those with interest. But the story is a little worse than that because, while business spending on research and development as a proportion of GDP has declined in each and every year of the present government, in the OECD as a whole it has been rising. So we are slipping further and further behind in terms of the nation’s research and development effort.

During the 1990s, productivity grew in Australia at twice its historic rate. That is a great achievement. The Productivity Commission and Treasury—and, I will say, the present Prime Minister—have acknowledged that a very large part of that boost in productivity has been the dividend from the very reforms that I spoke of, implemented by previous Labor governments. The question is: where to now? There are some early indications of productivity tapering off in Australia. There have been warnings by the Productivity Commission that the boost that we have had in productivity, and therefore national prosperity, as a result of those reforms during the 1980s and up to the mid-1990s may be petering out. Therefore, a new source of productivity growth will be needed in this country. My argument is that that source of productivity growth will be innovation and education. But under this government there has been a very worrying underinvestment in both innovation and education.

Further evidence of this tapering off of productivity growth can be found in the Intergenerational Report released by the government at budget time. It forecasts that productivity growth will slump back to its long-term, 30-year mediocre average within three years—by the middle of this decade. I think it is a very bad indictment of the policies of this present government that, in its own official report—its own forecast—of what is going to happen or could happen in this country over the next 40 years, it is forecasting that within just three years productivity growth will slump back to Australia’s mediocre long-term average. That unfortunately is probably a fairly accurate projection, because of the underinvestment in education and innovation in this country.

The government persists with what is appropriately described as an old economic agenda. In this parliament every day we see the government bringing in industrial relations legislation, not because the government thinks that major productivity improvements will be gained as a result of that legislation and not because it thinks it is good policy, but because it thinks that it is good politics to try to link the federal parliamentary Labor Party and the leadership of the Labor Party with industrial disputation. I urge the government to stop playing politics with Australia’s future and to look at developing a proper, well-considered new economic reform agenda. A new economic reform agenda would contain a commitment to invest properly in education and innovation in this country. The government may well say that it is doing that through its innovation statement, Backing Australia’s Ability. The ‘backing’ part is accurate, because if you look at the figures—that is, the money that has been allocated under Backing Australia’s Ability—it is back-end loaded. It is a fact that, 3½ years after the release of the Back-
ing Australia’s Ability statement, only 20 per cent of the funds allocated will have been spent. Obviously, the government wanted to portray to the community that it is committed to innovation, but it back-end loaded the funding to that extent.

But it gets worse, because in this present budget the minister for industry has presided over a freeze on the R&D Start program. Instead of boosting funding for research and development, he has presided over a freeze. When asked about that on a small business television program, the minister said, ‘No, we’re not freezing it; we’re just not processing any new applications.’ That sure sounds like a freeze to me. This is the same minister who, when he was given his portfolio and I was given my shadow portfolio, told the media that he was perplexed at the inclusion of innovation in my portfolio. He obviously cannot see the link between innovation and industry.

This is the same minister who, on 29 January in the Australian Financial Review, said that the government has got the balance on research and development pretty right—that is, that there was enough government support going into research and development. If that is about the right balance, the country has a lot to worry about in terms of its future prosperity, because not only has business expenditure on research and development as a portion of GDP fallen in each and every year of the Howard government but the minister himself in the budget has presided over a 30 per cent cut in his own department’s funding over a four-year period and a 10 per cent cut in his departmental staffing. The outlook for national investment in innovation as a source of future productivity growth is not very good.

I was very interested to attend a dinner where the Reserve Bank Governor, Ian Macfarlane, gave quite an insightful speech. He pointed out that Australia can be a world leader in economic growth and prosperity in the coming years. He pointed out that Australia is second in the world only to Finland in its growth in multifactor productivity. That is the yield, the dividend, from the micro-economic reform program of previous Labor governments. We have done quite well over the last few years in economic terms. There has been a growth in prosperity in this country, although all the evidence shows that the distribution of that prosperity has become more skewed, that we have become a more unequal society. That is undoubtedly true under this government. The virtue of additional investment in education, in particular, is that it will be a future driver of economic growth in the so-called global knowledge economy. It is also a great investment in terms of equality of opportunity in Australia.

There is enormous scope for the government to take on a new economic agenda. The problem is that it is not interested in a new economic agenda at all. It is interested only in the politics of division—the politics of dividing Australia and setting Australian against Australian. That is a very typical Liberal tactic. It was employed by the previous Liberal government and it continues to be employed by the Howard government in terms of industrial relations, for example, in the motor vehicle industry. Members of the Howard ministry—most particularly the minister for workplace relations and the minister for industry—have exhorted employers to engage in an industrial war with the work force and with the unions.

The car industry has become a flagship of Australian industry and a great example of an export oriented industry with a lot of knowledge content, producing high value goods. The future of the industry will be in research and development. I take the opportunity to note that the Productivity Commission’s interim report on future assistance arrangements for the motor vehicle industry is due for tabling in this parliament today. I understand that that will be done after question time—which is pretty convenient for the government. We will all be having a look at that report with great interest. I am sure that the car industry has transformed itself over the last decade—again under the micro-economic reform agenda of the previous Labor government—such that it is now a very successful industry. I think there is a strong case for ongoing government support. I will have more to say about the nature of the support that I think should be provided to the car industry.
I want to close by saying that the government continues to underinvest in innovation and education in this country. It would be very disturbing, but likely, that a leader of this nation later in the decade would have to say, ‘We missed a great opportunity there. When economic growth was strong, we could have invested in the future of this country.’ Instead, the government decided not to do that. It never had a forward, new economic reform agenda. Instead it played politics, it tried to engage in industrial warfare with the work force of this country and it missed an opportunity that it ought not to have missed. I call on the government to pull back from that confrontationist approach and to invest in the nation’s future. *(Time expired)*

Ms JULIE BISHOP *(Curtin)* (12.20 p.m.)—Australia has the potential to be one of the most competitive and dynamic, knowledge intensive economies in the world. To meet this objective it is imperative that we encourage innovation and the commercialisation of scientific knowledge. Not only will this continue the growth we are witnessing in our economy under the stewardship of our Treasurer, but the success of innovative, knowledge based companies is a sure way to boost employment and productivity. Innovation and the commercialisation of scientific knowledge also deliver wider social benefits—say, in health care—and environmental benefits, for example, in cleaner technologies.

I was pleased to hear the member for Rankin speaking in such glowing terms about our commitment to innovation, but he omitted reference to one of the government’s important platforms in this area. The federal government has committed itself to an innovation action plan. It was released in January 2001 and is titled Backing Australia’s Ability. This plan aims to strengthen Australia’s ability to generate ideas and undertake research, accelerate the commercial application of those ideas and develop and retain Australian skills. The bill before the House, the Research Agencies Legislation Amendment Bill 2002, reflects the objectives and aims of the innovation action plan specifically insofar as it relates to public sector research, for the plan also aims to strengthen research links between public sector science and industry bodies and to provide seed funding to take promising research to the stage of commercial viability.

It is this combination of private and public sector research that will strengthen exponentially Australia’s research credentials. As per the theory of technological advancement, technology is driven by knowledge, especially by scientific knowledge. Knowledge is cumulative: once it exists it does not cease to exist. So this process of accumulation, with discovery building on discovery, is strongly self-reinforcing with a built-in tendency to accelerate. When a certain critical mass of knowledge exists, the pace of future accumulation can increase very sharply as previously unsuspected connections between different branches of knowledge are exploited, each breakthrough creating new opportunities. With the federal government’s support as the catalyst, and with private and public sector commitment to innovation, Australian research is really taking off, leading—as I indicated in opening—to national prosperity.

This bill addresses the issues of the commercialisation of the research carried out by two of our nation’s most important research agencies: the Australian Nuclear Science and Technology Organisation, ANSTO, and the Australian Institute of Marine Science, AIMS. Both are agencies of the Commonwealth governed by legislative acts of this parliament. ANSTO is governed by the Australian Nuclear Science and Technology Organisation Act 1987 and AIMS is governed by the Australian Institute of Marine Science Act 1972.

ANSTO employs approximately 800 scientists and other workers, principally at the Lucas Heights Science and Technology Centre in the southern suburbs of Sydney, the site of Australia’s only nuclear reactor. That reactor produces radioactive products for use in medicine and industry and acts as a source of neutron beams for research purposes and of irradiated silicon for semiconductor applications. In addition to its management of the reactor, ANSTO advises the Commonwealth on nuclear issues and, similarly, assists Australian industry. It funds
these activities principally through the appropriations provided by taxpayers but it also engages in commercial operations that provide an external source of revenue. For example, ANSTO derives rental income from land at its technology park and from sales of radiopharmaceuticals and radioisotopes.

AIMS similarly derives external revenue from commercial activities. That organisation, which has facilities in Perth, Townsville and Darwin, services clients in the fishing, mining, petroleum and tourism industries, as well as academics and government. As the member for Lindsay noted earlier, the mission of AIMS is ‘to generate the knowledge to support the sustainable use and protection of the marine environment through innovative, world-class scientific and technological research’.

As the Minister for Science noted in his second reading speech to this House in March, both ANSTO and AIMS have had their efforts to commercialise their research initiatives hampered by existing legislative requirements. The minister cited as an example the collaborative project between AIMS and James Cook University. This project has developed a toxin detection kit that could be used in the seafood industry as well as in general freshwater testing. Unfortunately, AIMS is prevented from fully exploiting its research by the legislative barriers to the development and commercialisation of non-marine applications.

Another example cited was the collaborative project between ANSTO and CSIRO, along with industry partners, which has developed environmental management technologies for miners through ANSTO’s Sulphide Solutions Research Project. While this project has exciting possibilities for the solution of acid mine drainage problems, it is essentially a non-nuclear application. Finally, the minister also cited the ANSTO-CRC project for the remediation of arsenic polluted water—another non-nuclear project.

Clearly, the commercialisation of the research undertaken by our agencies is in the interests of Australian taxpayers, and understandably the federal government has undertaken a number of policy initiatives to encourage such commercialisation. That is why the coalition’s science policy commits the Commonwealth to the extension of venture capital tax concessions, so as to provide Australia with a world’s best practice investment vehicle for venture capital. It is also why the coalition is committed to reform of the intellectual property system, including requiring universities to improve their IP management procedures. Further, the coalition is increasing funding for research commercialisation by 80 per cent over the next five years through the Cooperative Research Centres Program. This $227 million increase will grow the number of CRCs and expand the resources available to them. The Commercialising Emerging Technologies program—commonly known as COMET—will be doubled, thereby providing an extra $40 million towards the improvement of commercialisation skills. Other initiatives include the $100 million Innovation Access Program; the $78.7 million pre-seed fund for universities and science agencies; the investment innovation fund, which has provided $221 million to capital development since 1997; and the $40 million biotechnology innovation fund.

To best allow our research agencies to utilise these policies, we need to relax the legislative binds on the commercialisation of research undertaken by AIMS and ANSTO. This bill seeks to give AIMS the opportunity to engage in the development and commercialisation of both marine and non-marine applications of marine science and technology. It seeks to remove restrictions on AIMS’s ability to produce and market commercially products which incorporate the results of its research and development. It seeks to authorise AIMS and related companies to undertake borrowings and make loans and—with ministerial approval—guarantees, as required. Finally, it aims to increase the accountability of AIMS, consistent with the Commonwealth Authorities and Companies Act with regard to contracts and intellectual property. This will give AIMS the opportunity to engage in contracts worth under $1 million without ministerial approval.

The bill also facilitates the commercialisation of non-nuclear technologies by ANSTO. It clarifies ANSTO’s ability to con-
struct and lease buildings, and makes consistent the ANSTO Act and the Science and Industry Research Act 1949. This will allow ANSTO to enter into contracts worth more than the $5 million limit set down in the act if a higher amount is prescribed by legislation. Just as with the similar initiative for the AIMS Act, this measure will substantially reduce the administrative burdens on the agencies and government.

The coalition has proven its commitment to ANSTO and AIMS in the past. Since 1996 the federal government has approved the $300 million replacement reactor project and boosted the ANSTO annual budget by $8 million in recognition of the organisation’s quality research outcomes. Similarly, the coalition has granted $12.85 million to AIMS for the expansion of the Cape Ferguson laboratories in Townsville—which would be of interest and pleasing to you, Mr Deputy Speaker Lindsay—and $3.25 million for a new marine laboratory in Darwin. Appropriations have also been made for the design and construction of the research vessel Cape Ferguson and the refurbishment of the research vessel Lady Basten.

The bill before the House gives this parliament the opportunity to further enhance the work of ANSTO and AIMS and provides a return to taxpayers, who fund that work. I urge members to embrace that opportunity, and I commend this bill to the House.

Ms HALL (Shortland) (12.31 p.m.—The Research Agencies Legislation Amendment Bill 2002 removes legal restrictions that prevent and limit the commercial operations of the Australian Nuclear Science and Technology Organisation, ANSTO, and the Australian Institute of Marine Science, AIMS. The impetus for this bill comes from the government’s innovation package, Backing Australia’s Ability, and its aims of strengthening links between public scientific research bodies and industry, whilst at the same time facilitating the commercialisation of their research. Both AIMS and ANSTO are subject to external earning targets imposed by the Commonwealth. AIMS’s target is 20 per cent of adjusted revenue, while ANSTO’s target is 20 per cent of Commonwealth appropriations.

The Howard government’s commitment to funding and supporting research and development has, I believe, been appalling. This is of great concern to me and, I know, to other members on this side of the House. When we look at this type of legislation, it always raises questions about where the government is seeking to go. This government has shown its support for research and innovation by slashing research and development funding and, in 1996, slashing university funding; funding which it has failed to restore. At this time in our history—a time when education, research and innovation are so important; when the knowledge that we get from universities is so important in establishing Australia’s position in the world—this is a very worrying factor.

The initiatives in the Backing Australia’s Ability program restore only a fraction of the $3 billion cut from university operating grants and only a fraction of the $2 billion cut from research and development. In 1999-2000, investment in research and development fell to 1.3 per cent of Australia’s gross domestic product—that is $2 billion less than in 1996-97. Given the facts that I have just stated about how important it is for Australia to be at the cutting edge of research and development and knowledge, this is a very serious state of affairs. Australia’s investment in research and development is nowhere near the investment made by other developed countries, and our investment is nowhere near the OECD average. It is no wonder that we have a brain drain in Australia. I will talk a little bit more about that when I am discussing various institutions, in particular the Australian Institute of Marine Science, which I visited last year.

The situation should be that the brightest and the best scientists stay in Australia to push our research but, unfortunately, these scientists are going overseas. I find that really sad because it comes at an enormous cost to Australia, to our future and to the students who would like to stay here and work for these institutions whose legislation we are now amending to allow them to engage in some commercial activities. It reflects the government’s lack of commitment to research. It reflects the government’s lack of
commitment to science, to innovation and to creating a knowledge base within this country—a knowledge base that would push research, push technological advancement and would see Australia as one of the leaders in the world. As a result of this, our society, including our standard of living, will lose. If we do not have a government that has a commitment to research, our society as a whole will not value it. It will not appreciate what this research and knowledge can give to us as a country.

The world has changed and Australia is now part of the global economy. We have to have knowledge in order to link into that global economy and compete equally. The key to our success in that global economy is knowledge. We must invest in knowledge, we must invest in innovation and we must invest in research and development, otherwise Australia will become a second-class country and our standard of living will deteriorate. It is the countries which embrace research and knowledge which are thriving in the world today. We, on this side of the House, are committed to Australia being a world leader, and it is through research, knowledge and innovation that we will achieve that.

As I mentioned earlier, the government’s commitment to funding and supporting research and development has always been questionable. It is because of the government’s past record that I believe its plans to commercialise ANSTO and AIMS should be watched very carefully. The bill arises as a result of a recommendation from the Auditor-General, who identified the barriers to commercialisation imposed on these agencies and the implications of these barriers for them. Commercialisation will allow these organisations to develop new technologies.

The provisions of this bill will, in the case of AIMS, broaden the purview of the functions of the institute, including those in relation to the application and use of marine science and technology and marine science and technology research. A catch-all provision has been inserted in the bill to include quarantine in the institute’s primary functions and fishery beyond Australia’s limits.

I think it would be an appropriate time for me to talk a little about AIMS. I know that you, Mr Deputy Speaker Lindsay, would be very supportive of AIMS, as the institute is located in your electorate. When I visited the institute, I was very impressed with the work that it does. I believe it is very important that we support the fine work that is being done there. AIMS has three main research groups: conservation and biodiversity, coastal process and marine biotechnology. Its major research tasks extend over several years. In 2002-03, five projects represent the institute’s strategic direction. Its mission is ‘to provide enhanced scientific knowledge to support the protection and sustainable development of Australia’s marine science’. The institute ensures that it gets a lot of feedback from its stakeholders on its strengths. One of the institute’s aims, identified by the institute on its web site, is:

... to undertake large scale, long term studies of very complex environmental issues; particularly those involving human impacts in coastal and marine environments.

What worries me is the impact of commercialisation on the institute’s ability to deliver that. I would hate to see a situation arise where commercialisation was driving the research done by this fine institution. The fact that the institute is looking at long-term studies and at complex environmental issues creates a question in my mind as to whether or not it will be able to continue the type of research for which it is so famous, particularly when this research is on such important issues. Issues that the institute is looking at include the impact of global warming on coral reefs, broadscale mapping of seabed diversity, land-sea interaction germane to coastal development, novel biomarkers for sublethal stress caused by marine pollution and improved decision support for natural resource management. Other issues the institute is looking at include the impact of global warming on coral reefs, broadscale mapping of seabed diversity, land-sea interaction germane to coastal development, novel biomarkers for sublethal stress caused by marine pollution and improved decision support for natural resource management. Other issues the institute is looking at include the impact of global warming on coral reefs, broadscale mapping of seabed diversity, land-sea interaction germane to coastal development, novel biomarkers for sublethal stress caused by marine pollution and improved decision support for natural resource management.
investment in the kind of research that AIMS undertakes and the kinds of results and outcomes that we have come to associate with AIMS prevented.

When I visited AIMS, one of the issues that staff raised with me was that of the brain drain, which I mentioned earlier, and the impact of our lack of commitment to research and development in this country. Staff spoke to me of the lack of funding and the difficulty the institute has in attracting the best and the brightest.

The bill empowers AIMS to borrow from the Commonwealth and, with the written permission of the Minister for Finance and Administration, from other persons and to provide guarantees on behalf of its associated companies. That is defined as those companies where AIMS holds 15 per cent or more of the maximum number of votes exercisable at a general meeting of the company. It would also be able, again with the permission of the finance minister, to provide Commonwealth guarantees for its borrowings and to provide as security its buildings and/or its assets.

There are a number of minor amendments but they are designed with the purpose of adding to the institute’s flexibility, particularly in its commercial operations. That is a good thing. They need to have that flexibility, but there need to be proper checks and balances to make sure that it does not get out of hand. There also needs to be a commitment from the government to ongoing funding and not a greater move towards commercialisation and the problems that can be associated with that. People who work in CSIRO have told me about some of the problems that they have with commercialisation—how it is driving their research—and the implications that that has.

With ANSTO, the bill will also provide for additional commercial flexibility. The bill will allow the organisation to produce and acquire goods as well as provide and sell goods and services. While supporting commercialisation as a means of increasing resources available to these agencies, issues of corporate governance and financial due diligence are raised, which should be dealt with.

The bill raises some important issues that have parallels in other public sector organisations, including the public university system, which have been pretty effectively canvassed by this side of the House. The commercialisation in universities illustrates that there are a number of pitfalls and dangers in allowing too much free rein with regard to borrowing and the provision of financial guarantees and suchlike.

The lack of commercial know-how and experience can also cause some wastage and misuse of funds. We need to have safeguards, we need to have them in place and we need to make sure that this works, as one way of allowing these organisations to pursue their research and to be at the cutting edge. This move is just another demonstration of how the government is not prepared to put in the money itself—it is not prepared to create the flexibility for these organisations to pursue adequate research. Since this government has been in power the Commonwealth has demonstrated that it does not have a true long-term commitment to research. I do not think it understands the value of research. Here it sees a commercial opportunity. It worries me that it sees a commercial opportunity that will lead to it being able to withdraw funds from these organisations in the long term. I would hate to see a situation exist in which these organisations would be required to fund all their research commercially, as this would determine the type of research they undertook and the direction in which that research would go.

The future of research in this country is very unsure. We have a government that lacks the commitment needed to ensure that we are a world leader when it comes to knowledge, technological advancement and research. Instead we have a government that is inward looking and locked in the 1950s; one that does not recognise the advantages of education; one that does not understand the importance of research and investment in knowledge. Australia’s future can only be ensured if we embrace knowledge and support institutes like AIMS and ANSTO.

Mr GEORGIOU (Kooyong) (12.48 p.m.)—It has become something of a cliche that Australia’s scientific and technological capabilities are vital to our economic wel-
But cliches emerge because they do communicate something of importance. Efficiently converting innovative scientific research and development into viable commercial outcomes is a key to our position amongst the world’s economies. Australia is at the cutting edge of a wide range of scientific disciplines. A prime example came just last week with the announcement of a breakthrough by the ANU in teleportation. People a little more scientifically literate than I am advise me that teleportation has the potential to revolutionise the speed and security of computing and communications. The Australian National University research team headed by Dr Ping Koy Lan outperformed research teams from the United States and Europe. In doing so, it received significant assistance from the Australian Research Council. Over the next four years the Commonwealth’s funding of the Research Council will be close to $1.8 billion, an amount that underscores this government’s commitment to innovation.

Accelerating the commercial application of scientific research is one of the key strategies of Backing Australia’s Ability, the Commonwealth’s $3 billion, five-year investment. Backing Australia’s Ability provides a framework for the pursuit of excellence in research, science and technology. The need for Australia to have more of its research converted into successful commercial outcomes has long been identified—for at least as long as I have been around. It was again emphasised by the Australian Science Capability Review conducted in 1999-2000 by Chief Scientist, Dr Robin Batterham. The final report concluded:

The ultimate measure of success in innovation is the value placed on it by consumers and the community.

It proposed that:

... government research agencies—

must—

make the most of the knowledge they create, and build upon this to elevate their role in the economy. The challenge for them is to stimulate and facilitate the increased transfer of knowledge to business and society, across all sectors of the economy.

The Research Agencies Legislation Amendment Bill 2002 is intended to provide further impetus to the emphasis on commercialisation by clarifying the capacity of two statutory research agencies—the Australian Institute of Marine Science or AIMS, and the Australian Nuclear Science and Technology Organisation or ANSTO—to develop and commercialise all viable aspects of their research. Both AIMS and ANSTO, in researching their respective scientific areas, have developed technologies with commercial applications in industries unrelated to the agencies’ areas of specialisation. These technologies have attracted Australian and international attention. The problem is that, at present, the legislation governing these agencies appears to leave some doubt about the permissibility of commercialising all viable spin-offs from their research into marine and nuclear science. Governments do need to ensure that any outdated legislation that potentially impedes progress and prosperity is suitably addressed. This bill will unequivocally enable AIMS and ANSTO to develop research with applications outside their respective areas of marine and nuclear science.

I will first address those measures in the bill relating to AIMS and then move on to those dealing with ANSTO. AIMS was established by the Commonwealth act as a statutory authority in 1972. Its mission is to generate the knowledge needed for the sustainable use and protection of the marine environment through innovative, world-class scientific and technological research. However, it is advised that at present the institute’s establishing act does not unequivocally permit AIMS to fully engage in the development and commercialisation of all its research. As it currently stands, section 9 of the institute’s establishing act states that the function of the institute is to carry out research and develop it in relation to marine science and technology. There is no explicit provision within the act allowing the institute to develop and commercialise the non-marine applications of its research into marine science.

The importance of utilising the institute’s commercialisation capacities is demonstrated by the institute’s research into how coral
Corals have developed natural sunscreens to survive long-term exposure to the intense ultraviolet radiation that penetrates the shallow reef waters in which they live. Researchers at the institute identified this and developed and patented a synthetic copy of the UV blocking compound involved in the process. There is a promise of significant commercial applications in the human sunscreen industry, in competition with a range of UV blockers currently in use. According to the institute’s business director, Dr Peter Isdale:

We have copied and modified nature’s own defensive product, evolved by marine animals over millions of years to ward off the effects of UV-B, and have come up with a stable and efficient sunscreen suitable for commercial use.

The AIMS Act, in its present form, is unclear as to whether the institute is permitted to commercialise such research. Some of us might believe the authority for such commercialisation could be found if one were a little creative, but there are contrary views. In any event, this bill will remove any doubt as to the institute’s ability to engage in the commercial production and marketing of products incorporating the results of its research and development activities. This addresses a perceived hindrance to the development of useful new products, limiting the potential return on the community’s investment in marine science and development.

The bill will grant the institute and its related companies the explicit power to borrow in order to finance their commercial activities, and the institute will be given the explicit power to make loans to its related companies. With the approval of the Minister for Finance and Administration it will be able to provide guarantees for the benefit of those companies. The bill will also increase the institute’s level of responsibility and accountability, consistent with the intent of the Commonwealth Authorities and Companies Act in relation to contracts. The institute will be in a position to sign contracts valued at over $100,000 and up to $1 million without having to seek ministerial approval, which I think is a very appropriate change—$100,000 is not what it used to be.

I would now like to move on to the second statutory body covered by this bill. The Australian Nuclear Science and Technology Organisation is at the centre of Australian nuclear research and is a provider of the broad range of technical knowledge required to support Australia’s nuclear interests in the field of medicine and industry. In pursuing its research and development role in nuclear science and technology, ANSTO has made discoveries with important non-nuclear applications. For instance, through the sulfide solutions project, conducted in collaboration with the CSIRO and industry partners, ANSTO has developed environmental management technologies that will be of benefit to the mining industry. By addressing the worldwide problem of acid mine drainage, this technology will provide sustainable environmental and financial benefits.

ANSTO has also been instrumental in the development of a technique for the remediation of arsenic based waste and water that carries arsenic compounds. This technique can be applied to the processing of minerals and will, again, have environmental benefits. However, ANSTO’s establishing act presents it with the same problem currently facing AIMS: a lack of clarity about the extent to which it can develop and commercialise all of its viable spin-offs emanating from the research it conducts. This bill will remove any doubts as to ANSTO’s ability to commercialise research that may have application outside the sphere of nuclear science.

Emphasising the need for commercialisation means that measures enhancing the organisation’s relationships with the private sector are extremely important. The bill will ensure that ANSTO can construct and lease buildings to a third party. The Australian Government Solicitor recently advised ANSTO that their establishing act does not in fact allow them to do so. By gaining this control over leasing, ANSTO will be able to encourage those companies with whom they share specialist technical and research synergies to move to the ANSTO Technology Park. The positives stemming from a close geographic relationship are already evident in ANSTO’s interaction with some of the technology park’s current tenants. If ANSTO
are to commercialise research that can be applied to mining and medicine, close relationships with companies specialising in these industries are vitally important.

In concluding I would like to make a further point that I believe is quite important. There is a need to put beyond question the ability of these two statutory research agencies to commercialise all viable elements of their research. But there is another fundamental point. Giving organisations like AIMS and ANSTO a more commercial orientation must not be at the expense of their research in their defined scientific field. It is both important and commendable for the government to encourage AIMS and ANSTO to commercialise a wider range of their research. But this must not mean that they come to focus only on areas of research where the commercial return may be high. Widening Australia’s knowledge and expertise in maritime and nuclear science must continue to be their primary objective.

In summary, this bill will unequivocally remove barriers to commercialisation currently placed upon the Australian Institute of Marine Science and the Australian Nuclear Science and Technology Organisation. It will provide greater certainty and will heighten the potential for closer relationships between the agencies and the private sector. The bill provides further evidence of this government’s commitment to the development of cutting-edge Australian scientific knowledge and support for improving the linkages between this knowledge and its application in a commercial environment. I commend the bill to the House.

Mrs DE-ANNE KELLY (Dawson) (1.00 p.m.)—I rise to speak on the Research Agencies Legislation Amendment Bill 2002, which deals with the Australian Institute of Marine Science, commonly known as AIMS, and the Australian Nuclear Science and Technology Organisation, commonly called ANSTO. Mr Deputy Speaker Lindsay, you and I are very familiar with AIMS. It is on the boundary of our two electorates, and it is an institution that we are extremely proud of in Northern Australia. I would like to talk about AIMS specifically today. I have to admit that my knowledge of ANSTO is somewhat limited, but it is to AIMS that I would like to direct my attention in this address. AIMS’s mission is to generate the knowledge to support the sustainable use and protection of the marine environment through innovative, world-class scientific and technological research.

The act of parliament that established AIMS, the Australian Institute of Marine Science Act 1972, recognised that most studies of the world’s oceans had been done in the cold seas of the North Atlantic and Pacific Oceans, so when the institute’s laboratory was founded at Cape Ferguson in 1977 it marked the beginning of research into tropical oceans, coral reefs and mangroves and the associated marine life of those areas. There is no doubt that through AIMS’s work the knowledge of tropical coasts and oceans has caught up with, if not surpassed, that of the traditional centres of oceanographic knowledge in the developed countries of the Northern Hemisphere.

Of course, all that is largely centred on the Great Barrier Reef, which is a national treasure in any sense of the word. There is no doubt that before AIMS was established the reef was poorly known—there were mostly just periodic expeditions and studies done at a few island stations. AIMS certainly took the laboratory out to the reef, and it mapped the length and breadth of its living complexity and its physical and chemical cycles. We now generally have a description of most coral species and a knowledge base that has been the cornerstone of the successful management of the Great Barrier Reef Marine Park Authority for the last 20 years. Every year some 60 reefs are monitored and studied. Recently, AIMS’s expertise was demonstrated when it detected the latest crown-of-thorns-starfish outbreak some years before it occurred.

AIMS works with the tourism industry, the oil and gas industry and, of course, the pharmaceutical industry. Recently, through the Australian pharmaceutical company, Amrad, the institute joined a network of Australian organisations committed to the commercialisation of Australia’s biomedical research. Amrad is funding a major research project to discover new medicinal drugs de-
rived from marine toxins. It is using the cone shell—a deadly species. It is at the clinical stage of developing a drug that is potentially more powerful than morphine for use in cancer treatments and to alleviate chronic pain. The opportunities that are opening are very exciting, and the Australian Institute of Marine Science has been the catalyst.

I should mention those who, way back in the early seventies, foresaw the opportunities for the Australian Institute of Marine Science. They range from Dr Joe Baker, one of the fathers of marine science studies in Queensland, to others such as the current director of the Australian Institute of Marine Science, Dr Stephen Hall.

Some of the technology transfer to industry that has been particularly noteworthy with AIMS has been recent work which predicts the likely path of oil spills. Obviously, the path of oil spills is a particularly challenging problem. In 1992, the institute collaborated with United States based Applied Science Associates to look at user-friendly computer interfaces using mathematical models of ocean circulation to produce what is now known as OILMAP. AIMS now uses OILMAP as a national oil spill management system, and it is leading the world in this field. We hope there never will be an oil spill on the reef, but one has to be prepared. If there is an oil spill on the reef, by using this software they will be able to forecast its direction and final destination. This is very useful for training personnel and for contingency planning. The marine sector in Australia is worth $35 billion every year to the Australian economy, so it is obviously very important that we have leading research in that area and an organisation with the scientific integrity of the Australian Institute of Marine Science.

I would like now to talk about the legislation which will enhance the role that AIMS and ANSTO are going to play in the commercial life of Australia. In the past, their commercialisation efforts focused on developing technologies that merely fitted within their areas of specialisation. However, they have both recently developed technologies that have significant applications outside their areas of specialisation and have attracted considerable Australian and international interest. Through the Commonwealth government’s innovation strategy, Backing Australia’s Ability, we have acknowledged, as a government, the importance of achieving greater commercial application of research, both from our universities and our public sector research agencies. This move to commercialise public sector research is being backed by $78.7 million over five years as preseed funding and it will be available to agencies such as AIMS and ANSTO. It will enable sound proposals to be taken through to a venture capital ready stage.

Recently the Australian Government Solicitor examined the acts that override CSIRO, AIMS and ANSTO to ensure that they did not inhibit the commercialisation of research. In the case of AIMS and ANSTO, the legislation was found to be very restrictive in some areas—hence today’s bill, which will give those very worthy organisations greater scope. I would like to deal very briefly with the current legislation for AIMS and the restrictions it contains. For instance, AIMS were unable to take up a shareholding recently in a spin-off venture to market a seafood test kit technology that they developed in collaboration with James Cook University in Townsville—your university, Mr Deputy Speaker Lindsay. The kit uses a new method to test shellfish for the presence of a toxin that causes food poisoning. It also lends itself to determining the presence of toxic algal blooms in freshwater bodies. There is plainly a great opportunity and a considerable market if it could be taken further. But, regrettably, under the existing legislation AIMS are excluded from exploiting their intellectual capital. There is also a doubt whether the current legislation would permit AIMS to produce goods and to participate in the development of marine technology.

This bill will give AIMS significantly greater scope to commercialise its discoveries. Firstly, it will be able to engage in the development and commercialisation of marine and non-marine applications of marine science and technology. Secondly, the bill will remove restrictions that would limit the ability of AIMS to engage in commercial
production and marketing of products which incorporate the results of its research and development activities. Finally, the bill will give AIMS and its related companies the power to borrow money to finance their commercial activities and the power for AIMS to make loans to its related companies and, with the approval of the finance minister, provide guarantees for the benefit of associated companies. This means, for instance, that AIMS will be able to sign contracts valued at over $100,000 to the level of $1 million without ministerial approval. As the last speaker said, these days $100,000 does not really go terribly far. This is really a way of allowing AIMS, with the considerable reputation that it has built for research, to be able to take that further and prepare proposals to a venture capital ready stage. I am very supportive of this, and I have no doubt, Mr Deputy Speaker, that you are as well. AIMS has a formidable reputation for scientific integrity. It really is one of the leaders in marine research and it is widely regarded internationally. This will simply add weight to its ability not only to provide world-class research but also to commercialise new technologies for the benefit of all Australians.

Before I close I would like to speak very briefly on the role of science generally in promoting new opportunities, growth and jobs in Australia. Regrettably now, with a 40 per cent drop in rural incomes predicted by the Australian Bureau of Agriculture and Resource Economics, it is really time to look at the way in which science can go hand in hand with agriculture in particular in ensuring that our agricultural industries are not only competitive and efficient but also profitable.

I guess I direct my statements particularly to CSIRO and, of course, our cooperative research centres. I note particularly the sound work that the CRC for sustainable sugar has done in looking at improving profitability in the sugar industry. There are dual roles for science here. Obviously we want them to continue their theoretical work—their blue-sky research, as it is commonly known. But we also want them to look at more focused, practical research that can be implemented at the grassroots level, dare I say it—no pun intended—of agriculture. I think it is very important that CSIRO, as the lead scientific organisation in Australia, looks at partnerships with the major agricultural industries because science is far more than just white lab coats and glossy reports; it is an opportunity for CSIRO in particular, with the CRCs, to develop partnerships with major agricultural industries, to undertake research and to ensure that that is implemented. In Australia now, with declining commodity prices, a rising Australian dollar and, sadly, we have to say, with other countries increasing their subsidies—for example, the US Farm Bill—it is becoming a great deal tougher for our agricultural export industries.

It is time now for agriculture not only to work smarter but also to work harder. I think it is time too for a new paradigm in science, to see that our major lead scientific organisations work in partnership with agricultural industries to take all of us forward. There is a considerable challenge out there for Australia and Australian agriculture. I trust that our lead scientific organisations will take up that challenge with agriculture.

Mr McGaURAN (Gippsland—Minister for Science) (1.13 p.m.)—in reply—I wish to thank those government members who contributed to this debate on the Research Agencies Legislation Amendment Bill 2002 in such a supportive way and I express my disappointment at the contributions from the members of the Australian Labor Party who also participated in this debate. It was a very instructive debate, and I strongly recommend it to anybody in research—or, indeed, in the wider community—who wants to assess for themselves the difference in approaches between the two sides of the House toward research and development, science and technology, engineering, innovation, commercialisation and so on so as to properly realise the difference. The speakers on our side were very supportive and knowledgeable about R&D in Australia. They were positive, encouraging and, above all else, they knew what they were talking about. Sadly, but perhaps predictably, the members of the opposition had no policy solutions, nothing that we could sensibly engage in and nothing, cer-
tainly, to learn from. Instead, the *Hansard* will reveal that each and every one of them was negative, carping and attacking. Hardly a word was spoken about the content of the legislation that the opposition would happily and freely support.

Scientists and engineers need to know that the opposition is stuck in a time warp of years ago. The glimpses of science policy that we are able to elicit amongst the welter of criticism and abuse are outdated. They are not in keeping with the outward looking and invigorating attitudes and policies of the research agencies, the funding bodies and the private sector, as well as individual scientists. They really should talk to some of the scientists’ and engineers’ academies, societies and institutes to better understand and appreciate what is the new movement in science and technology today. They would then fully realise that Backing Australia’s Ability, the innovation statement released early last year, radicalised the government’s approach to R&D with the full support of the research community.

Firstly, the innovation statement brought a whole of government approach, so that science and technology does not just sit out to one side of government administration as a curiosity and an oddity, as in the days of Barry Jones. Instead, it is in the mainstream. In fact it is at the crossroads of government policy. The ministers for agriculture, telecommunications, environment, health, industry and so on all draw on Backing Australia’s Ability to further their ambitions, knowing that research and development underpins so many of Australia’s hopes and aspirations as a community. It is remarkable to me that the opposition would seek to make political capital out of a document that has received near unanimity of support and endorsement from the research and business communities.

The second thing the innovation statement did as never before was inject huge new funding into research and development in very strategic ways—$3 billion of new money. It went into all the areas: building up the skills base, commercialisation and a number of innovation schemes to better link the public sector—the research agencies and the universities—with the private sector. I should not be dismayed or disappointed, because the Labor Party’s opposition to anything constructive or visionary like Backing Australia’s Ability is entirely to be expected. But you would hope, in an area that should enjoy more bipartisan endorsement and support, that there would be a degree of support from the opposition.

I wish to thank you, Mr Deputy Speaker Lindsay—you contributed earlier to this debate—for your obvious support and championing of the Australian Institute of Marine Science, which lies within your electorate not far from the major city of Townsville. You have assiduously supported that marine institute both before and certainly after your election to parliament in 1996. I thank you for that. From my quite regular visits to AIMS and my meetings with its board and its senior staff, I know how much they appreciate that. Likewise, the member for Dawson supports AIMS, and she mentioned CSIRO in glowing terms. Both of you, like the government itself, are not uncritical. How can we be? We have the responsibility of overseeing these bodies. But we know that we can support them and, by doing so, bring out the very best of their talent and enthusiasm. There is nothing worse for public sector research agencies than an unsupportive, damning, unjustifiably critical government or opposition. The members for Curtin and Kooyong also spoke well in support of the legislation and the research community.

The member for Dawson and you, Mr Deputy Speaker, the member for Herbert, have shown the value of this deep involvement in research and development by your actions in recent days. Irukandji jellyfish have burst on the scene and have caused the deaths of two tourists in North Queensland this past summer. No previous fatalities have been recorded, but there have been numerous stings. There is a dearth of knowledge and research on irukandji jellyfish, unlike box jellyfish for instance. Both of you got involved. On behalf of your constituents, for their health and safety but also because of the important tourism trade in both your electorates upon which so many of your constituents depend, you agitated the govern-
ment, and especially me, to bring greater focus and effort to the research in this area.

As a result, with the members for Herbert and Dawson I hosted a workshop in Townsville bringing together under the one roof at the one time all of those who had been doing research at Mackay, Townsville and Cairns and who were not always as well connected as they, and we, would have hoped they would be. We were able to give some seed funding of $100,000, which my department generously found from within its own administration allocation. We directed that to the Great Barrier Reef Foundation, a philanthropic organisation which has taken the lead on this and is the honest broker. Already they have advised me, the members for Dawson and Herbert will be interested to know, of $150,000 leverage, and they expect a great deal more. We are still waiting for the Queensland government, which made a bit of a song and dance about this at the time, to commit any funds. I am not so pessimistic that I believe it will never eventuate; I just hope it hits the table sooner rather than later.

You can stand to one side, criticise and always oppose, or you can get involved like the members for Herbert and Dawson and materially and tangibly benefit your constituents, with wider application for other Australians, through scientific and research breakthroughs.

I am not convinced that the Research Agencies Legislation Amendment Bill 2002 needs to be referred to a Senate committee, as is the intent of the opposition in the Senate. I find the reasons for the referral unconvincing and I certainly would have hoped that the shadow minister for science and research, Senator Carr, would have sought a briefing from the department or from the research agencies involved, AIMS and ANSTO, before the referral. If he was still unsatisfied or unconvincing as to his questions or concerns being answered, then of course he could have referred it to a Senate committee. But this seems to me something of a knee-jerk reaction. That is out of our control, but I urge Senator Carr to always give the agencies the opportunity to put forward their views as to their administrative arrangements, their legislative basis and their operation.

I believe that the legislation governing AIMS and ANSTO has to be amended so that AIMS can engage in the development and commercialisation of marine and non-marine applications of marine science and technology and so that the restrictions that presently limit AIMS’s ability to engage in commercial production and marketing of products incorporating the results of its R&D activities can be lifted. In regard to ANSTO, there is no doubt that its capacity to engage in the development and commercialisation of non-nuclear applications of nuclear science and technology is also limited. We want ANSTO to develop greater collaboration with the users of its technologies—for example, through the location of research and development partners in the ANSTO Technology Park.

More broadly, the major impacts of the amendments will be that the potential return on the Commonwealth’s investment in nuclear and marine research and development is maximised to the benefit of the community. Some of the issues of the government’s innovation strategy, Backing Australia’s Ability, will be addressed. Some of the other impacts that might be of interest to members who are not so familiar with the content of the bill are that the capacity of AIMS and ANSTO to contribute to increased competitiveness of Australian industry will be expanded. There will be access to new products and technologies useful to all Australians—for example, new and better medicines and food from marine science.

These are the opportunities that we want to seize, not by some fiat from a central government but because the agencies themselves have requested this legislative flexibility. They were locked into a straitjacket. That is why I say in conclusion, as I said earlier in my address, that the opposition are locked in a time warp. For them to oppose the government’s own initiatives and policies, such as Backing Australia’s Ability, and for them now not to accept this legislation in the Senate is an example that they are not fully conversant with the move towards commercialisation, greater linkages with industry and a
far better return to the community for its investment in the research agencies. These are being driven from within. These scientists and engineers are enthusiastic about making their work relevant, so that there are end users and so that the health, environment and job prospects of Australians are all bettered. Why would you hold them back when there are proper accountability and reporting requirements and mechanisms existing and which are even strengthened by the government in these and other pieces of legislation? It is not as though anyone has been given a free rein or has been loosened to speculate or gamble. Of course not. That is an insult to the intelligence of the people involved and also to the parliamentary draftsmen.

Finally, through these legislative changes, AIMS and ANSTO can better contribute to growth in income and employment, social wellbeing and a more sustainable environment. We share those ambitions of AIMS and ANSTO as a government.

Question agreed to.

Bill read a second time.

**Third Reading**

**Mr McGauran** (Gippsland—Minister for Science) (1.26 p.m.)—by leave—I move:
That this bill be now read a third time.

Question agreed to.

Bill read a second time.

**PROCEEDS OF CRIME BILL 2002**
Cognate bill:

**PROCEEDS OF CRIME (CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS) BILL 2002**

Second Reading

Debate resumed from 13 March, on motion by Mr Williams:
That this bill be now read a second time.

**Mr Melham** (Banks) (1.27 p.m.)—The genesis of the Proceeds of Crime Bill 2002 and the Proceeds of Crime (Consequential Amendments and Transitional Provisions) Bill 2002 rests in a 1999 report from the Australian Law Reform Commission called *Confiscation that counts*. Recommendation 2 of that report stated that the principal objectives of a civil forfeiture scheme should be:
to deprive persons of the proceeds of, and the benefits derived from, unlawful conduct to provide for forfeiture of property used in or in connection with the commission of offences against the laws of the Commonwealth or the Territories.

This report underpins the legislation currently before the House. The Labor Party envisaged such legislation modelled on the New South Wales Criminal Assets Recovery Act 1990. In 2000, my colleague, the member for Denison—who is at the table at the moment, and that is appropriate—introduced a private member’s bill reflecting the ALP’s position on civil confiscation. He spoke in the House on 2 April 2001. On 20 September 2001, the government introduced the Proceeds of Crime Bill 2001, which was referred to the Senate Legal and Constitutional Affairs Legislation Committee but lapsed at the beginning of the 40th Parliament. It has now been replaced by the current bill, together with a bill that contains the consequential amendments flowing from the Proceeds of Crime Bill 2002.

The 2002 bill was also referred to the Senate Legal and Constitutional Affairs Legislation Committee. That committee has performed extraordinarily and has produced a quality report, which forms the basis for proper changes to the legislation. This report provides the detail for the amendments, supported by both sides of the parliament, which will be introduced during the committee stages of this debate and which I will discuss later.

These bills have had a long gestation period but have improved with that process. The supplementary explanatory memorandum to the Proceeds of Crime Bill 2002 states in its general outline:
The Bill as introduced contains a refined conviction based confiscation regime which will ultimately replace that in the Proceeds of Crime Act 1987. In addition, the Bill establishes a complementary system of non-conviction based or ‘civil’ forfeiture, as well as a regime to confiscate ‘literary profits’.

It is appropriate to briefly consider the existing legislation relating to civil forfeiture as
we discuss the bills before the House today. There is currently a limited civil forfeiture provision in the Customs Act 1901. The provision provides for the forfeiture of cash, cheques or goods proven to the civil standard—that is, on the balance of probabilities—to have been derived from dealings in prohibited narcotic imports, without the need for a criminal charge or conviction.

The New South Wales government introduced the Criminal Assets Recovery Act in 1990. The Senate committee was advised in a submission by the National Crime Authority that the number of orders made and the amounts recovered under this act have surpassed the combined totals of all other confiscation laws throughout Australia. While not focusing on the revenue generated, it is worthwhile noting the apparent effectiveness of the New South Wales act. In Victoria, the Confiscation Act 1997, which applies to serious drug offences, was enacted. The Senate committee was advised, again through the NCA submission, that the Labor government in Victoria will be seeking to review the law with the possible intention of extension. Western Australia has enacted the Criminal Property Confiscation Act 1997. The Senate committee report commented in the section of the report dealing with state and territory legislation that most other states and territories are in the process of considering similar legislation.

Australia has ratified two international treaties that require us to adopt such measures as may be necessary to deal with the proceeds of crime. Those treaties are the 1998 UN drug convention and the 1990 European money laundering convention. Australia also signed the International Convention for the Suppression of the Financing of Terrorism on 15 October 2001, although it has not yet been ratified. In his second reading speech on the Proceeds of Crime Bill 2002, the Attorney-General stated:

The purpose of such laws is to discourage and deter crime by reducing profits ...

The opposition is always ready to support reasonable legislation that will discourage and deter crime by reducing the profits from those crimes. The intent of the Proceeds of Crime Bill 2002 is to prevent criminals from benefiting from their crimes. It further aims to prevent the reinvestment of those proceeds and benefits into further criminal activities. The bill provides for the restraint and confiscation of property and assets that are the proceeds of crime. It provides for civil forfeiture to allow the confiscation of unlawfully acquired property without first requiring a conviction.

The concept of civil forfeiture has long been a matter of debate across Australian jurisdictions and internationally. There is a school of thought that says that we do not need a civil forfeiture scheme. After much consideration, I believe that there is today such a need to meet changed circumstances of organised crime. This is not a position I have come to easily. The Commonwealth Director of Public Prosecutions, in his submission to the Senate committee, stated that the existing conviction based scheme has reduced the range of cases which can be pursued and that the public interest now requires the Commonwealth to have comprehensive legislation to ensure that those who profit from crime are not able to benefit from it.

The New South Wales Bar Association argued both in its submission and in its subsequent appearance before the Senate committee that there was a question over such a scheme. It suggested:

The failure of conviction based approaches may owe as much to failure to allocate them adequate resources as to the limitations of the legislation itself.

The New South Wales Bar Association further queried the number of cases quoted by the law enforcement agencies in their submissions. The Australian Federal Police, in its evidence before the committee on 27 March 2002, responded with information on the number of cases it may have been able to investigate had this type of legislation been available. The AFP said:
In the year 2000-01, the AFP investigated over 10,000 potential breaches of Commonwealth law. Of that figure, approximately one-tenth related to the kinds of serious offences that would fall within the purview of this bill. Currently available to us, of that one-tenth, the figures for prosecution within that same period range from five to 15. If you look at that de-escalation of effectiveness, it tells the story quite tellingly. Within that difference of five to 15, which I think is less than one per cent, the remaining nine per cent would probably include a whole range of investigations that we could have pursued and would have if we had legislation available.

It was further suggested to the Senate committee that conviction based schemes were becoming less effective as technology advances and globalisation allow criminals profiting from their criminal activity to distance themselves from individual criminal acts.

There is a case for civil forfeiture legislation today. We cannot fight crime with dated weapons. Today’s criminals operate in a global and technological environment that allows them to stand at arms length from their crimes and the profits of those crimes. This legislation allows us to get closer and to ensure that those people are not given the opportunity to continue to benefit at the community’s expense.

The Proceeds of Crime Bill 2002 and the related Proceeds of Crime (Consequential Amendments and Transitional Provisions) Bill 2002 are complex pieces of legislation. Their spirit is simple: criminals do not recognise state or even national borders. Multi-national crime requires a multifaceted approach. We must ensure that our law enforcement agencies have the appropriate tools to disadvantage those in our community who would be advantaged by the proceeds of their crimes. We must ensure that the criminals in our community do not continue to benefit from their activities—activities which are based on the suffering and misery of others. The opposition supports the principles of the legislation before the House.

The report from the Senate committee reviewing the legislation noted a number of issues in relation to possible infringements on our civil rights and the Labor senators on that committee made additional comments relating to these and other concerns. The committee and its secretariat must be congratulated on the quality of the final report and their contributions to that report. I must particularly commend Senators Cooney, Ludwig and McKiernan and thank them for their commitment and dedication to producing the final report and the additional comments. The committee met today at very short notice, and for that I extend my thanks to both the committee and the secretariat. I will have a bit more to say on that during the committee stage of the debate. At this stage, I wish to outline the opposition’s position on the matters raised by the committee as a whole, as well as to consider some of the comments in general made by the Labor senators.

In relation to reversal of the onus of proof, once a court has ordered forfeiture then the onus is on the individual concerned to show that the property was acquired legitimately. I with a number of others have been concerned that this reversal, by removing the presumption of innocence, is contrary to the essential principles of Australian law. However, from the Senate committee hearings it has become obvious that the reversal provisions are very narrowly circumscribed in this bill. A person will be required to show the lawful origin of property only after the DPP has established, according to the civil standard, that there is a nexus between the property in question and serious criminal activity, and we think that is appropriate.

In relation to derivative use immunity, immunity is the term used within the law to describe the protection in the law against self-incrimination. Derivative use immunity describes the level of immunity whereby a person who provides information during an examination or who produces documents could not have that information used against him or her later. These bills remove derivative use immunity but retain use immunity. Use immunity is that level of immunity where a person is afforded immunity in subsequent proceedings for the specific answer to a question provided under compulsory examination. This also applies to the content of a specific document produced in response
to a production order. The essence of this is that information obtained in this way can be used in further investigations and, should these further investigations produce incriminating material, that material will be available as evidence. The National Crime Authority in its submission to the Senate committee noted the benefits of allowing use immunity rather than derivative use immunity. The National Crime Authority stated:

... use immunity strikes an appropriate balance between the competing public and private interests enlivened in relation to this issue. That standard is appropriate to the intent of these bills.

In relation to legal assistance, under the provisions of the bill, people facing restraint or forfeiture of their assets will be able to seek legal assistance by applying for legal aid. Restrained property will be excluded from the means test and the application for legal assistance will be considered against the usual legal aid criteria. Where restrained property is subsequently forfeited, some can be used to meet the costs of legal aid. Where costs exceed the amount of restrained property, the balance will be paid from the confiscated assets account.

The Senate committee—and I emphasise the whole committee—determined that it would be unreasonable for a person who is ultimately found to have acquired their property lawfully to be required to bear the costs of proving their innocence. The opposition concurred with this finding, and I will address this matter in detail in the committee stage of the debate. I note in relation to the evidence today before the Senate committee that that matter was clarified. There are existing provisions in the current bill that, when read in the context of the committee’s concerns, I think adequately address that issue. But I will deal with that during the committee stage debate and will refer to some of the evidence that was subsequently placed before the committee. I think that the committee’s concerns have now been satisfied in that regard.

In relation to forfeiture orders, section 47 of the proposed bill provides for the making of forfeiture orders in relation to property that has been the subject of a restraining order under section 18 of the bill for a period of six months. Property is restrained under that clause where the DPP satisfies the court that there are reasonable grounds to suspect that a person has committed a serious offence within the six years prior to the application. The proposed legislation does not provide for a nexus to be shown between the property to be restrained and the offence that is suspected where the property is that person’s property.

Subsection 47(1)(c) allows a court to make an order that property specified in the order is forfeited to the Commonwealth if there are reasonable grounds to suspect that a person was engaged in conduct constituting one or more serious offences—not terrorism offences—committed in the last six years. The Labor senators, and I concur, were extremely concerned that forfeiture could occur simply on the grounds of suspicion. This opinion was reinforced by the submission and evidence to the Senate committee provided by the New South Wales Bar Association. Quite clearly, the basis of proof in a civil forfeiture scheme needs to be much stronger than merely suspicion. It is more appropriate that the standard that the court finds on the balance of probabilities be observed.

In relation to the amendments that we have now been shown and that will be tabled during this debate, that matter has been addressed and is also addressed in particular sections in the current bills before the House. When read together, the Labor senators’ comments and everyone’s concerns I think have been properly dealt with. That will become apparent during the committee stage debate.

As to restraining orders, Labor was concerned by the ability of defendants to dispute a continuance of a restraining order within a limited time frame such as 28 days. Where a person is charged, and perhaps bail refused, the person will be preoccupied with finding legal representation and dealing with the practicalities of their changed circumstances. That is, where their assets have been restrained ensuring day-to-day expenses are met will necessarily be uppermost in their minds. It is likely that, shortly after being
charged, they will be served with a restraining order. To expect in those circumstances that either the individual or their lawyers are likely to consider the making of an application under section 42 is unrealistic. We felt that a 28-day period, as it was, was too limited a period of time for such an application to be made. The opposition believed that a court should be allowed a level of discretion in determining extensions of time for the continuance of a restraining order. Again, that is a matter that the government has picked up and amendments will be before the House during the committee stage of the debate. I reiterate, on what we have seen, that our concerns have been adequately satisfied by the government in that regard. I am sure the committee’s concerns have also been fully met.

I turn to literary proceeds. Much of the reform encompassed by this legislation has been based on the recommendations provided by the Australian Law Reform Commission’s report No. 87 of 1999, Confiscation that counts: a review of the Proceeds of Crime Act 1987. Unfortunately, not all the ALRC recommendations have been included. One of these omissions in terms of the bill is currently before the House and relates to literary proceeds orders. This matter deals with the making of a literary proceeds order against a person who may benefit from the proceeds of a crime through a literary endeavour. While this part of the legislation attempts to deal with the issue of chequebook journalism, the converse is that it may also restrict freedom of speech by imposing unreasonable limits on a person’s ability to speak out. We have seen this illustrated recently.

There has been some publicity about a book Scarred for Life which was published this week. I have not read it as it is not yet in the shops or even in the Parliamentary Library, but it seems to me to encompass the argument we are presenting. Scarred for Life was written by a man currently an inmate at the Cooma Correctional Centre and who will be there for another few years. The author explores his own experiences with self-harm and the times he harmed others. The author uses the book to ‘understand why he self-harmed and as a result he was able to break the cycle’. While not condoning the reasons for his incarceration, the writing of the book allows the author to work through his experiences for both his own benefit and the broader benefit of those following a similar path. There can be a public interest benefit derived from such a product depending on the nature and purpose of the publication, including its use for research, educational or rehabilitation purposes. While this may be unusual, again we believe that the courts should have the ability to make such a determination having regard to certain criteria. Simply, the courts have discretion, not currently provided for in the bill, to determine that in some instances it may be appropriate for an individual to produce a document, or undertake an activity, designed to contribute to the greater good.

Some of these criteria include: whether it is in the public interest to confiscate the profits; whether there is any general, social or educational value associated with, say, a movie or a book; and the nature or purpose of the product—for example, if it is for research, education, rehabilitation or deterrence. To put things in context, we had drafted some appropriate amendments arising out of the additional comments of the committee report and the main report and given them to the government. As it was, the government was drafting amendments independently of the opposition arising out of the committee’s suggestions. That is why, when it comes to the committee stage debate, the Labor Party will not pursue its amendments because we believe the government has adequately responded, in the amendments it is going to place before the House in the committee stage, to all these concerns. Literary proceeds is another example where the government, through its drafters, has picked up better words than even the Labor Party was proposing. We acknowledge that because what it does is require the court to go through particular matters before they make their determination. I accept that the words proposed by the government during the amendment stage are better than indeed what the committee and the opposition had proposed.
In terms of the review, this legislation has significant short- and long-term ramifications increasing the powers of law enforcement agencies and potential impact on the privacy of Australian citizens. Its powers must be closely monitored and scrutinised. The Labor senators in particular raised in their additional comments the matters of the removal of derivative use immunity, the guidelines relating to legal assistance and examination by the DPP. There is a review mechanism by way of a provision in relation to the legislation currently before the House. Again, the government has given us certain undertakings in relation to what will be incorporated in a review. The opposition is satisfied that we do not need to move amendments highlighting the further scrutiny of derivative use immunity or guidelines on legal assistance or examination by the DPP. The government has given us the assurance that the review mechanisms as they are in the bill are broad and that these matters will be picked up. We accept the government’s assurance on that.

I note that in relation to the evidence before the Senate committee today, the Australian Federal Police Association also put other matters on the agenda where they think the government has not gone far enough. That itself will also be the subject of a review in a couple of years time. That is as it should be because in a couple of years we will have the benefit of seeing how the state schemes are operating and how the federal scheme is operating.

Both the full Senate committee and the Labor senators have separately raised concerns in relation to telephone intercepts. One of the proposed effects of the consequential bill, as it currently stands, is that it would restrict the use of information gained by law enforcement agencies. Item 46, schedule 6 of the consequential bill provides for an amendment to the Telecommunications (Interception) Act which limits the use of telephone intercept material to the restraint of property based upon section 17 of the bill. In its present form, information gained through telephone interception would only be useable in criminal matters; it would not be useable in civil matters.

The law enforcement agencies have suggested that the significance of this was such that the effectiveness of the legislation overall would be undermined. Again, the ramifications of this needed to be carefully considered, because we did not wish to restrict the legitimate investigations of the law enforcement agencies. But, at the same time, we did not wish to restrict the liberties of individuals in our community and we were all concerned to construct safeguards to ensure that this power was not misused or abused. Again, it is something I will come to in the committee stage of the debate. There has been discussion between the Australian Federal Police, the opposition and the government and a suitable amendment has been constructed—which we believe strikes the right balance.

Let me say this: it is not an extension of telephone intercept powers but an evidentiary matter. So there are no extra offences under which telephone intercept powers are going to be granted by our picking up this amendment. It just means that these warrants can be obtained under existing law, under existing offences, and that that evidence is going to be admissible in civil proceedings. That is the way it should be if we are going from a conviction based scheme to a civil scheme. We see it is an evidentiary matter. It is not an expansion of police powers, it is not an expansion of the sorts of offences under which police would be able to obtain a warrant. Concessions and evidence before the committee today confirmed that this amendment still does not allow the police, for instance, to obtain a warrant merely to pursue civil forfeiture. That is important; it needs to be put on the record and it was put on the record, and we accept the undertakings in relation to that.

The Labor senators noted that the Proceeds of Crime Bill 2002 is under consideration against the background of several other bills dealing with terrorism and terrorist acts. This bill contains a reference to a terrorism offence which is to be defined in the Security Legislation Amendment (Terrorism) Bill 2002. The additional comments from the
Labor senators noted that they believe that it is impossible to finalise a position in relation to the Proceeds of Crime Bill until the definition is finalised by the other bill. I strongly concur with that position. I note that the other bill has passed all stages of the House, so we do now have an acceptable definition that will also come back to this House, hopefully today, in relation to that. So it is appropriate now we have the definition. Mr Deputy Speaker, you would be aware that that matter in relation to the definition of terrorism was debated in other bills; it has now been concluded. We fully intend, as an opposition, to abide by the definition in terms of these bills.

One of the principal objects of the Proceeds of Crime Bill 2002 is to deprive persons of the proceeds of offences, the instrument of offences and benefits derived from offences against the laws of the Commonwealth or the non-governing territories. The Labor Party agrees with this object. We will not allow criminals to benefit from their crimes and we will continue to work with the government to achieve that end. The opposition will continue to work with the government to achieve the objects of these bills. I commend everyone involved in the evolution of these bills. I believe we have ended up with a better product: a product that has survived process, that has survived scrutiny, that has allowed things to be looked at by a committee of the parliament and recommendations to come back and that has allowed for interchange between government, the opposition and other parties. We will end up with bills that go through this House and the other place that we can all be proud of.

I think that principle is very important, because this place often only gets viewed through the prism of question time. The truth is that, on many items of legislation that are significant and important, all sides of the House agree. That does not make the legislation any less significant, and that is the case in relation to the Proceeds of Crime Bill. I have now been in this place for 12 years and what I think is important, and what this bill shows, is that, whoever the government is, they should not try to ambush the opposition or set time frames in relation to the debate of bills. We should embrace the committee system of both houses of the parliament and allow scrutiny in relation to legislation before this place.

The terrorism bills that have just gone through the other place, with Labor support, will end up being bills that, in my opinion, we can support wholeheartedly as a parliament. We can look anyone in the eye and say: ‘Those bills, as they have been amended, are fairly and squarely aimed at terrorists; they are not aimed at innocent civilians. There will not be situations where innocent civilians will be dragged before the courts. The bills are squarely and fairly aimed at the terrorists.’ We have ended up with better bills and these bills before the House at the moment, whilst not as contentious, do change the existing law. But it has been handled by the government in a way where the opposition has been involved, the bills have been debated on their merits, the Senate committee system has worked and we have ended up with bills that we can all live with.

So I commend that process to the government. No more do I want to see there being 10 or 12 hours to debate contentious legislation in this place and the Senate having to deal with it. This has been a great process on the Proceeds of Crime Bill in terms of this House. I commend the government, for a change, for the way they have conducted themselves on this bill, and I want to see more of it. I do know that in other areas we are going to have a blue, but we are not going to have one on the Proceeds of Crime Bill. The bills that have just gone through the Senate are entitled to the full support of the parliament.

The SPEAKER—I thank the member for Banks for his accommodation, which, I believe, was mutually advantageous. It being 2 p.m., the debate is interrupted in accordance with standing order 101A. The debate may be resumed at a later hour.

QUESTIONS WITHOUT NOTICE
Automotive Industry: Support

Mr CREAN (2.00 p.m.)—My question is to the Minister for Employment and Work-
place Relations. Minister, are you aware of a report handed down today by the Productivity Commission into the automotive industry? Are you aware that the report concludes that making ACIS, the industry support scheme, 'conditional on the achievement of particular workplace targets would be a blunt, administratively difficult and potentially counterproductive way of pursuing the goal', the goal being changes within the industry? Minister, given that this is the direction that you have been advocating so vocally in the community, doesn’t the rejection by the Productivity Commission of your proposal simply demonstrate that you have been playing politics on this issue and have not had the interests of the workers at heart in promoting the industrial confrontation that you seek so desperately to foster?

Mr ABBOTT—I have never called for the linkage that the Leader of the Opposition suggests.

Mr Crean—Yes, you have.

Mr ABBOTT—Never.

Mr Crean—You have.

Mr ABBOTT—Never, and I urge the Leader of the Opposition to produce the evidence that I have called for that linkage. Let me just say that the last thing I would want to do in any industry is to go out seeking confrontation. The only people who have sought confrontation in the motor industry are the AMWU—a union which has brought that industry to its knees three times in the last 12 months, a union which has donated $3 million to the Labor Party over the last six years and which controls the largest single block vote inside the Victorian Labor Party. They are the people who want confrontation, and they are the people who the Leader of the Opposition has never ever criticised or repudiated. This Leader of the Opposition can never ever bring himself to say a critical word about a union or a strike; he has never seen a strike that he did not support. This government support jobs, we support investment, we support entrepreneurialism, we support dynamism and we support a great car industry with a great future in a great economy for Australia’s sake.

Defence: Equipment

Mrs HULL (2.03 p.m.)—My question is addressed to the Prime Minister. Would the Prime Minister advise the House of recent developments regarding possible Australian participation in the United States joint strike fighter program?

Mr HOWARD—I thank the member for Riverina for her question. I am conscious of the fact that in particular there is a large Royal Australian Air Force establishment in her electorate, and I know that many of her constituents are keenly interested in the issue that she has raised. As members will be aware, Australia will need to replace the FA18 Hornets and the F111 strike aircraft from the year 2012, and because of this the national security committee of cabinet agreed yesterday that Australia will commence negotiations with the United States to join the decade-long development phase of the United States $200 billion joint strike fighter program.

This is a very major and a very important decision by the government which looks to the long-term defence acquisition needs not only of the Royal Australian Air Force but of Australia’s entire defence capacity. The decision to commit up to $US150 million over 10 years as a partner in the program will put Australia at the forefront of developing the world’s most advanced and biggest combat aircraft project over the next 30 years and, importantly, there are very substantial benefits for Australia in being involved in this project from the outset. Through the JSF program the Australian Defence Force will have access to levels of capability and technology in the aircraft that will be a generation ahead of other contemporary aircraft. The partnership will also lead to significant savings and ensure that Australian industry is able to compete for JSF work.

The JSF is a stealthy, supersonic, multi-role fighter. Some 3,000 aircraft are expected to be produced for the United States and the United Kingdom alone, with total production worldwide likely to be more than 4,500 aircraft. The $20 billion development phase is aimed at developing the JSF from a demonstrator to a mature combat aircraft. The cabinet having taken the decision that it did yes-
terday, the defence department will now start negotiating the terms of Australian involvement in this phase of the project with a view to ensuring maximum Australian industry participation.

I want to say to the House that this announcement is just the latest phase of the very careful and steady attention that this government has given to Australia’s defence capability over the last 6½ years. The defence white paper represented the biggest reassessment of Australia’s defence capability and defence needs in over a generation. The additional commitments we made as a result of the terrorist attacks last year and the other strategic needs that were assessed subsequent to the white paper are further evidence of our determination to see that this country has an adequate defence capability. This decision, which represents the essence of the long-term planning which is needed in relation to defence capability of this character, is a further example of the government’s determination to ensure that the Australian defence forces have the best possible assets at their disposal for the defence of Australia.

Industrial Relations: Reform

Mr CREAN (2.07 p.m.)—My question is to the Minister for Industry, Tourism and Resources, and I remind him of a press release that he issued on 17 June in which he said, amongst other things, ‘we will have to go so far as to tie future industry assistance to improved working conditions’? Minister, given that this approach has now been rejected by the Productivity Commission, do you still stand by your proposal to tie these two issues?

Mr IAN MACFARLANE—I will check that quote: I do not take anything from the Leader of the Opposition as read. In terms of the Productivity Commission, I have a greater respect for protocol, obviously, than the Leader of the Opposition. That report is not being released for another hour and 20 minutes. I can tell you, though, from the discussions that I have had with industry, including the Automotive Council yesterday, that if the Labor Party listened to what the car industry was saying it would support this government on instituting industrial relations reform. Let me quote from the President of the Federal Chamber of Automotive Industries, Holden’s Peter Hanenberger:

The enterprise bargaining process ... provides a framework for developing win-win outcomes if properly applied.

He goes on to say:

However, the disputes that have derailed the industry in recent months have been outside that process and, in some cases, have been simply unlawful.

He then went on further to say:

We have asked all parties to secure support for some simple, commonsense steps for industrial relations. We want the introduction of cooling off periods to avoid unnecessary industrial action. We are also seeking increased protection for innocent third parties at risk of significant damage as a result of such action.

I can also assure you that he and other members of the council, along with Bob Herbert, who was quoted in this House earlier this week, are also in support of secret ballots. Let me quote what Bob Herbert said on radio this week. As Chief Executive of the Australian Industry Group, he said:

... you also need to ensure that people can’t take industrial action which damages third parties.

Mr Crean—Well, give the commission the power.

Mr IAN MACFARLANE—The opposition leader has every opportunity to improve the industrial relations situation in the car industry.

Mr Crean—And I put forward proposals!

The SPEAKER—The Leader of the Opposition!

Mr IAN MACFARLANE—As Alan Wood, the economics writer for the Australian, said last week:

Changes to federal legislation are required to make strike action more difficult ...

... These changes can be implemented only with support in the Senate.

He went on to say:
This is the real challenge for Simon Crean, not Mickey Mouse fiddling with numbers at Labor Party conferences. Is he prepared to support the legislation needed to curb the nationally destructive activities of unions such as the AMWU and the Construction, Forestry, Mining and Energy Union or isn’t he? The future of Australia’s automotive industry, and others, hangs on the answer.

Mr Crean—Mr Speaker, so that the minister can check his words, I seek leave to table his press release of 17 June in which he seeks to tie these two issues.

Leave not granted.

Rural and Regional Australia: Year of the Outback

Mr Haase (2.11 p.m.)—My question is addressed to the Deputy Prime Minister and Minister for Transport and Regional Services. Would the Deputy Prime Minister inform the House of progress in the Year of the Outback 2002 initiative? What benefits is this initiative bringing to communities and businesses in rural and regional Australia? Is the Deputy Prime Minister aware of any community reaction to this initiative?

Mr Anderson—I thank the honourable member for his question and acknowledge that, as one who comes from the biggest electorate in Australia and I think the biggest electorate in the world, he has a very real interest in the Year of the Outback and the promotion it brings of this last great frontier, which is of interest, I think, to all Australians and, hopefully, to people in other parts of world as well. We are now six months into the Year of the Outback and I think it is timely as we contemplate the winter recess to indicate that things are going extremely well. During the winter recess everyone ought to seek to put an event—there are about 2,000 to choose from—from the program for Year of the Outback on their calendar for the winter recess.

I would like to thank all members of this House who have supported it, particularly those who might be said to, in the general sense, represent the outback, and that includes the member who asked the question and the members for Lingiari, Grey, Parkes, Maranoa and Kennedy. In particular, their electorates are truly representative of outback Australia. To be fair, too, I think the media deserve recognition. They have covered the Year of the Outback and its personalities, running profiles of people in rural and regional Australia and programs on rural and regional areas, and they have reported events in a terrific way during the year. I note again that the government is certainly supporting the Year of the Outback strongly. We have contributed something in the order of $3.2 million to various programs and supporting mechanisms to ensure that it is a success.

The member asked what benefits this initiative is bringing to communities and businesses. They are quite considerable and are reflected well in a couple of letters that have been forwarded to me. One comes from the Albert Park Motor Inn in Longreach. The principal of the business, Lance Smith, writes to Bruce Campbell, the Chairman of Year of the Outback, that:

I just wanted to put in writing the profound difference that YOTO—Year of the Outback—has made to our business forecasts. … Already this year we have seen a healthy growth in occupancies surrounding special events such as Easter in the Outback, the Qantas Founders Museum opening, Aramac’s Harry Redford Cattle Drive and more.

He goes on to say that their coach numbers are way up, their Queensland Rail packages and special air charters are well up and their bookings for July are ahead of last year’s actuals and will improve dramatically, and predicts a 20 to 25 per cent increase in the numbers going through their two businesses for the first six months of this financial year. He goes on to express their appreciation for the interest generated in the bush and the millions of extra dollars going into their banks.

I met today with state leaders of the Country Women’s Association, whom I see in the gallery this afternoon. They do a fine job in representing women right across the nation.

Honourable members—Hear, hear!

Mr Anderson—The Prime Minister met with them yesterday. They, too, have been able to fill us in on the positive benefits of Year of the Outback.
I will refer to just one other letter in part, an important one, given the importance of health to people in remote parts of the country. The Royal Flying Doctor Service reports ‘an unprecedented level of public awareness’ being enjoyed by the service as a result of Outback 2002. The public affairs manager comments:

General public interest inquiries and requests from schools for project material—particularly from urban areas—have escalated dramatically since the beginning of the year. Specific requests for—Royal Flying Doctor Service—representation at events and guest speaking engagements have also significantly increased.

That is what Outback 2002 is all about: creating awareness, and building business and investment opportunities, particularly related to tourism. It is one of the most fascinating parts on earth. Although it covers most of the landmass of Australia there are only about 180,000 people out there, with a few major cities. I certainly encourage all members and people listening today to get out there this year and make this the time they experience it. As Ernie Dingo said, ‘Go on, get out there.’

Budget: Disability Support Pension

Mr SWAN (2.16 p.m.)—My question without notice is directed to the Minister for Children and Youth Affairs, representing the Minister for Family and Community Services. Minister, can you confirm the government has backed down on its previous threat to remove $500 million in unmet need funding from disability services if your cuts of $52 a fortnight to 200,000 disability support pensioners were not passed by the parliament? Minister, given that you now accept removing services from people with disabilities is unfair, why are you persisting with a new plan to create two classes of disabled people, with a new group from 1 July next year to be paid $52 a fortnight less? Minister, why do you need to cut someone’s pension to help them into work?

Mr ANTHONY—I would like to thank the shadow spokesperson on family and community services for asking this question, because it puts into absolute contrast the position that the coalition is taking to help people with disabilities and the opportunistic position that has been adopted by the Australian Labor Party. The interesting thing with this new approach of the coalition government is that we will be grandfathering those people who are currently on a disability support pension to the year 2003, because you were unable and unwilling and unresponsive, even to come to the negotiating table, when it came to helping people with disabilities—totally unwilling.

Mr Swan interjecting—

Mr ANTHONY—The interesting thing is that what we are doing is exactly what you tried to do when you changed the invalid pension back in 1990 and partly created the problem that we have today. Back in 1990, 300,000 were on an invalid pension. That figure is now 650,000. When you talk about classes, I would like to recall the member for Werriwa, and even yourself—

The SPEAKER—Minister, I do have an interest in grandfathering but I do not want to be that closely related to your answer. If you would avoid the term ‘you’, I would appreciate it.

Mr ANTHONY—When the member for Werriwa spoke, he said:

Something also needs to be done about the outrageous growth in the disability support pension … It is now paid to more than 550,000 Australians.

He said that some experts believe the size of the program should be no more than 150,000, and also said:

The DSP needs to be overhauled and mutual responsibility policies applied to all those with a genuine capacity for work.

Here is a shadow spokesperson who advocated not so long ago a cutting of the disability support pension which would have affected 400,000 people on DSP. The proposal that we have put in place is all about focusing on those people’s capacity to work; it is not focusing on their inability. The legislation that will be coming before the House this afternoon is grandfathering those people to 2003. We are still fully committed to providing 73,000 places to assist those people.
I think it is outrageous that the Labor Party are not prepared at all even to come to the negotiating table. Yet they created this problem when they deliberately changed the invalid pension back to DSP. That is why we now have the highest growth rate in the DSP in Australia. It is this government, the coalition government, that are always looking after people who cannot look after themselves. When it comes to people with disabilities we are the ones putting in more money than ever before. Likewise, we are the ones putting more money now into the Commonwealth-state disability agreement and also employment assistance. Your position is totally hypocritical on this, particularly when you are on record yourself, member for Lillee, as advocating changes for those people to help in the area of disability support pension. These figures on this graph I am holding show it all. This is why we have that rapid growth now happening in DSP. Something needs to be done so that future generations, particularly, are not left to languish on welfare dependency. This government is absolutely committed. That is why we are providing 73,000 places. That is why we are now proposing to grandfather it. I think it is totally irresponsible and opportunistic—

Mr Swan—Two classes.

Mr ANTHONY—The only two classes here involve the opportunism of the Labor Party where they do not support these changes.

Economy: Tax Reform

Mr PYNE (2.21 p.m.)—Thank you, Mr Speaker, for the opportunity to ask a question today. My question is to the Treasurer. Would the Treasurer advise the House how the government’s tax changes have benefited the Australian economy?

Mr COSTELLO—Mr Speaker, I thank you for allowing the member for Sturt the call today. I thank him for his question. This is the last question time before the second two years of the new taxation system, which commenced on 1 July 2000. I want to pay tribute to the businesses of Australia for the transition to the new tax system and for all of the work that it involved. We estimated that 2.1 million Australian business numbers would be sought; in fact, four million Australian business numbers were sought. We anticipated that 1.4 million businesses would apply for GST registration; in fact, 2.1 million sought GST registration.

As we look back over the last two years, we can see that the Australian economy has remained very strong in the face of a world downturn during the first two years of the new taxation system. Whereas the American economy went into recession, as did much of Europe and Japan, the Australian economy has run strongly. Two years after tax reform was introduced, our economy is growing faster than any other economy in the developed world. Labor said GST would cause a recession; Australia leads the world in terms of growth. Our unemployment rate today, at 6.3 per cent, is about the same as it was two years ago but, importantly, in the first two years of tax reform 241,000 new jobs were created in the Australian economy. Labor said tax reform would lead to job losses; in fact, we have had job rises. Two years ago, inflation was 3.2 per cent; today, it is 2.9 per cent. Inflation has actually come down; Labor said that tax reform would push it up. Today’s Australian reports that optimism has soared in the first two years of the tax system. It states:

Voters’ confidence in maintaining or improving their standard of living has risen 21 percentage points since the introduction of the GST in July 2000 ...

I am sure both sides of the House welcome that. Some things have changed in the last two years. Two years ago, only one side of this House supported retaining a GST as part of our tax system and now both sides of the House do. We welcome the fact that the Labor Party now supports the coalition in retaining the GST as part of our taxation system, now that the hard work is done. We wish that the Leader of the Opposition had not wasted the time of the parliament for two years with his opportunistic campaign, opposing a tax system which he now supports.

Some things remind you of what was occurring two years ago. The regrettable interview in the Bulletin of this week reminded
me of an interview in the *Bulletin* two years ago, when John Della Bosca was interviewed by Maxine McKew. John Della Bosca advised the Labor Party to give away roll-back. He said roll-back would only make the tax system more complicated. Della was almost run out of the Labor Party for saying that. He was going to be the ALP president and he had to stand aside, and the way was made clear, I think, for Greg Sword to become the ALP president in his place. We would like to form the 'bring back Della' society on this side of the House. I think Della was badly treated. All he did was tell the truth and he had his head taken off. Della has been walking headless through the Australian community for the last two years and really he deserves to be reinstated. He was the person who had it right. The person who had it wrong, of course, was the then Deputy Leader of the Opposition, who wasted the time of this parliament with an opportunistic campaign and was rewarded with promotion to the position of leader.

Some things change, but some things do not. Although Labor now supports the GST, Labor's opportunism has not changed. All that has happened is that Labor's opportunism has moved on to new heights in respect of new things. Labor today opportunistically opposes measures to properly base the Pharmaceutical Benefits Scheme. To those Labor backbenchers who probably have had no experience of real Labor leadership, because they have only been in the parliament over the last five years, I say, 'Your position will be the same. Your leadership will tell you they are opposed to Pharmaceutical Benefits Scheme changes. But, if changes are introduced, they will keep them or will, if changes are not introduced, propose even larger ones should they ever get elected.'

We think the important thing for leadership in the Australian community is to be right first, not to be right a long time after the event. The important thing is to do what is necessary for Australia, not to wallow in political opportunism. The important things are to make our economy straight, create jobs and give the Australian people the opportunities that they deserve. That is the difference between coalition government and Labor opportunism.

**DISTINGUISHED VISITORS**

The SPEAKER (2.27 p.m.)—I welcome to the gallery this afternoon Father Michael Tate. Father Tate will be remembered as a former Special Minister for State, former Minister for Justice and former Ambassador to the Netherlands. On behalf of everyone in the chamber I extend him a welcome.

Honourable members—Hear, hear!

**QUESTIONS WITHOUT NOTICE**

Health: Pharmaceutical Benefits Scheme

Mr STEPHEN SMITH (2.27 p.m.)—My question is addressed to the Treasurer. I refer the Treasurer to the report of the Australian Institute of Health and Welfare, entitled *Australia's health 2002*, which was launched today by his colleague the Minister for Health and Ageing. Is the Treasurer aware that the report refers to the national health priority area of diabetes as the sixth leading cause of death in Australia, and to the national health priority area of asthma as having approximately two million sufferers in Australia? I also refer the Treasurer to his remarks today in which he was threatening, yet again, to stop the listing of new medicines on the Pharmaceutical Benefits Scheme. Treasurer, will you please advise the House which of the following medicines currently going through the PBS approval processes you will not be listing on the Pharmaceutical Benefits Scheme: Avandia and Actos for the oral treatment of diabetes, and Singulair and Symbicort to treat asthma?

Mr COSTELLO—That question has already been asked and it will be answered exactly as it was previously. This government have introduced programs for asthma and diabetes. We introduced a new program for the treatment of asthma in last year's budget. That was something that had never been done before: a new care management program. We did the same in relation to diabetes, and that was also something that had never been done before. If you want to know what the government think about asthma and diabetes, have a look at what we have done.
Those parents that I have come across who have been able to take advantage of the new asthma program have had the opportunity to take their children to doctors to be advised on a preventative program, to have it assessed and to have the ailment managed before it becomes a crisis. Notwithstanding the Labor Party’s false accusation that the price of Ventolin, for example, would increase, the price of Ventolin is unchanged by any of the measures announced in the budget. It is a shame that the Labor Party plays with people’s fears in the dishonest way that it has. If the Labor Party had a leader, the Labor Party would knock into shape the people who made those false accusations. You cannot discipline if you cannot lead, and that is the problem with the member for Hotham at the moment.

We have made this point in relation to the Pharmaceutical Benefits Scheme: those people that want a sustainable Pharmaceutical Benefits Scheme will want to put it on a sustainable basis. That was the argument that Mr Keating made in 1990 when he introduced a copayment, when he said he was worried that the cost of the scheme could go to $2 billion per annum. Today the cost of the scheme is at $4 billion per annum and, as our projections show, it is the fastest growing area of Commonwealth expenditure. We said in relation to the tax system that the people who cared about social services were the people who would introduce a tax system which would fund them, and that is why we reformed the tax system. The people that care about the Pharmaceutical Benefits Scheme are those who will introduce a scheme which will fund it. That is where the coalition leads and that is where the Labor Party stands condemned.

Workplace Relations: Car Industry

Dr WASHER (2.31 p.m.)—My question is addressed to the Minister for Employment and Workplace Relations. Would the minister inform the House how the government’s workplace relations policies have benefited Australian workers and their families? Minister, how have these policies created more jobs, higher pay and fewer strikes? Is the minister aware of any alternative policies, particularly in respect of the Australian motor vehicle industry?

Mr ABBOTT—I thank the member for Moore for his excellent question. Since March 1996, Australians have enjoyed more jobs, higher pay and fewer strikes. Thanks to the diligence of Australian workers, the creativity of Australian managers and also the policies that this government has put in place, there have been nearly one million new jobs since March 1996. Average weekly earnings are up 12 per cent in real terms and strikes are at the lowest levels since records were first kept in 1913.

But, thanks to a few ultramilitant unions, there are still some significant areas of industrial disruption. I regret to tell the House that in the last month some 40 per cent of days lost through strikes took place in the construction industry and 50 per cent of days lost through strikes occurred in the metal industry, particularly the motor industry. This handful of strike-happy unions provides the biggest donations to the Labor Party and has the biggest block vote inside the Labor Party. Between them, the CFMEU and the AMWU have provided $6 million to the Labor Party over the last six years. They have helped to engineer the Socialist Left takeover of the Victorian ALP. Changing to a 50-50 rule will not make any difference—60-40 or 50-50, what does it matter? The only thing that counts is the fundamental democratic principle of one vote, one value.

I have been asked about the motor industry. I want to say that this government is fully committed to the motor industry, which provides 50,000 jobs and $5 billion a year in exports. By contrast, members opposite are fully committed to the AMWU, which has brought the motor industry to its knees three times in just 12 months. The AMWU has caused nearly 30,000 stand-downs and nearly $400 million in lost production. This government supports people who create jobs. That opposition supports people who destroy jobs. This government supports Peter Hanenberger, the head of Holden, who said yesterday:

We will not stand by and let our people be affected by the illegal industrial actions of others.
By contrast, members opposite are in lock step with Doug Cameron, who most recently has had his union threatening the long-term future of 500 firms in the car component industry. The unions pay their bills, the unions pick their members—they have got no choice but to support what the unions want. The Leader of the Opposition has never seen a strike that he did not support.

Trade: United States

Mr GAVAN O’CONNOR (2.35 p.m.)—My question is to the Minister for Agriculture, Fisheries and Forestry. Minister, didn’t you provide to this House just last week a defence of your US beef quota plan? Hasn’t the Senate inquiry now chaired by disgraced Senator ‘Wild’ Bill Heffernan just rolled you on your plan? Minister, haven’t you been out on a limb on this issue, and hasn’t Senator Heffernan just cut it off—

The SPEAKER—The member for Corio’s reference to a senator in those terms is quite out of order. The reflection is on members of the other house.

Mr GAVAN O’CONNOR—I will read that section again. Minister, haven’t the Senate inquiry now chaired by disgraced Senator Bill Heffernan, a good friend of the Prime Minister, just rolled you on your plan? Haven’t you been out on a limb on this issue, and hasn’t Senator Heffernan just cut it off behind you?

Mr TRUSS—The honourable member for Corio’s question is quite extraordinary as it is based on a completely inaccurate statement. The chairman of the committee was actually Senator Crane.

Opposition members interjecting—

The SPEAKER—The minister now has the call and will be heard in silence, as is his right.

Mr TRUSS—The member for Corio might seek to check the Senate Hansard and note who tabled the report in parliament, and then it will be abundantly clear who was the chairman of the committee. But apart from that gross inaccuracy in the member’s question, the whole basis of the question was a demonstration of Labor’s complete policy vacuum when it comes to dealing with agricultural issues. They are great at hating, but when it comes to any kind of policy issue they are a total vacuum. We had the opposition spokesman on this issue, Senator O’Brien, rushing around suggesting to everybody that they should be granted a larger share of the US quota, but never once did he go to a meatworks and say, ‘This is the meatworks we’re going to take the quota away from.’ He never went to Capricornia and talked to the striking meatworkers of Rockhampton and told them that Labor’s plan is to take quota away from the meatworkers there and give it to somebody else. He never went to the seat of Oxley and told the meatworkers of Oxley that they were to have their jobs sacrificed so quota could be given to a meatworks in another town.

Labor knew full well, like everyone else, that there are 378,000 tonnes to be granted and that a tonne given to a meatworks in one town is a tonne taken away from another. It was very easy for people to list meatworks that they would like to give additional tonnages to. I would like to give additional tonnages to every meatworks in the country, but the reality is that it does not go around. Sooner or later, someone had to make a decision about where it was going to go. The industry could not do it. They argued for months and could not reach agreement, then finally said, ‘The minister should do it.’ The minister came out with a detailed plan that shared the pain as fairly and as evenly as possible.

The Senate met for a couple of weeks, took evidence from people all over the place, got a full taste of how difficult the politics are within the beef industry and heard everywhere from everybody how they all wanted additional quota. Then, after all this furore and name-calling and these vicious insults, the Senate came up with a recommendation that changed only one of the points of my plan; the rest of it was completely accepted. All they did was alter the discretionary tonnage from 14,000 tonnes to 30,000 tonnes. The rest of the formula—the arrangements for the distribution of the quota—was all left completely intact. They hardly dumped the quota, as the honourable member for Corio suggested in his question; the reality is they accepted the entire plan.
They just asked for a bit of additional discretionary tonnage. The effect of the Senate recommendations is that we now have to find 30,000 tonnes of quota to distribute on a discretionary basis. The only way that can be done is to take 30,000 tonnes off the other meatworks of Australia. So the reality is that about 4 1/2 per cent of the quota will be taken from every allocation in Australia. Jobs will undoubtedly be affected as a result of that loss in quota in some towns so that others can obtain some quota.

I have accepted that recommendation of the Senate. The government is tabling in parliament today the regulations for the new quota system, and we will hopefully be gazetting an order for the new arrangements for the quota tomorrow. That will give the industry some certainty after all the disruption that the Labor Party have endeavoured to create in this whole exercise and all of the uncertainty that they have created in meatworks around the countryside. We have resolved the issue. In addition to that, I have decided to set up an independent tribunal to deal with these issues in the future to ensure that there can be no perception that people are dividing quota amongst themselves to benefit their own establishment and that the arrangements will dealt with fairly and honestly, hopefully without the interference of Labor spokesmen who only want to destroy the industry and cause disruption and who do not want to allow Australian cattlemen and Australian meat processors to get on with the business of exporting our products around the world.

Parliament: Question Time

Mr Anthony Smith (2:42 p.m.)—My question is to the Prime Minister. Would the Prime Minister advise the House as to the number of questions being asked in question time under the current government and how this compares with previous years?

Mr Howard—I thank the honourable member for Casey for what, as this is the last full sitting day of this parliamentary session and as it is coming up to 30 June, is a very timely question. It happens that I do have in front of me the fruits of some very prescient research on the subject. It is very revealing. I think it reveals first and foremost that one of the differences between this government and some governments that went before it is that this government do not regard question time as a courtesy extended to the House by the executive branch of government. We actually believe that, for a parliamentary system to work effectively, you must have accountability of the executive to the parliament. The most accountable minutes of any parliamentary day are in fact those of the very exercise that we are now engaged in. It is the one time of the parliamentary day that commands the more or less full attention of members on both sides of the House.

That research so presciently done by somebody reveals some very interesting things—including what I might call a remarkable productivity improvement. In fact, I am so impressed I might refer it to the Productivity Commission for a full report! It demonstrates—and I think all members of the House will be interested in these figures—that between March 1983, which you will remember is when the Hawke Labor government came to power, and March 1996, a period of some 13 years when the Australian Labor Party was in office, a total of 9,248 questions without notice were asked. I might inform the House that between March 1996 and 26 June 2002, which is the current term of the coalition government—and that is a period of less than half the number of years that the Hawke and Keating governments were in office—there has already been a total of 7,811 questions asked. In other words, if we keep going at that rate and if the Australian people were to continue to repose their confidence, it is pretty obvious that the productivity of this government in terms of answering questions far outstrips that of either the Hawke or Keating governments.

I should say, in fairness to my predecessor in office but one, that the performance of the Hawke government was infinitely better than the performance of the Keating government. It is instructive that, in terms of questions asked of prime ministers, in the term of the Fraser government there were 1,621 questions asked of the Prime Minister, and during the Hawke government there were 1,551—despite the fact that Mr Hawke was Prime Minister for about 18 months longer than Mr
Fraser. But the real bobby-dazzler, the piece de resistance—or should I say the ‘Paul de resistance’—is from 1992 to 1996, under the Keating government. In four years and three months there were 719 questions asked. In the time that I have been Prime Minister—just on six years and three months—a total of 1,798 questions have been asked. It is now 1,800.

The point of this should not be lost on those who take a close interest in these issues. In the end, the real determinate of the accountability of a government and of a prime minister is their willingness to front up here day after day to answer questions. My predecessor treated parliament with contempt. He introduced the magisterial, contemptuous approach to parliament of having a parliamentary question time for the Prime Minister only two days a week. It was a metaphor for the contempt he felt for his parliamentary colleagues. He not only regarded the Senate as unrepresentative swill, he also treated his parliamentary colleagues—including those on his own side—with complete contempt.

I said when we were campaigning for office in 1996 that one of the things we would do would be to restore the importance of parliament in the political life of the nation. In the end, it is what governments are held accountable for in this parliament at this time which is the greatest expression of the Australian form of parliamentary democracy. On that measure this government has been more representative, more responsive, more democratic and more in touch with the aspirations of the Australian people than any of its predecessors.

**Trade: Banana Imports**

Mr FITZGIBBON (2.49 p.m.)—My question is to the Minister for Agriculture, Fisheries and Forestry. Can the minister confirm that he recently gave Australian banana growers just 30 days to consider a 391-page technical report into the potential risk to our industry of importing bananas from the Philippines, when his own guidelines stipulate 60 days for an Australian industry to consider such a document? Would the minister advise the House why he has promised the Philippine authorities that he will have a draft import risk assessment ready for release on 30 June 2002 and why, by weakening this assessment process and increasing the risk of imported disease, he is putting the interests of growers in the Philippines ahead of the interests of Australian farmers?

Mr TRUSS—If I may just comment on the issue raised by the Prime Minister, it is not so much the 1,798 questions you received but the 1,798 great answers you have given—

The SPEAKER—The minister will come to the question.

Mr TRUSS—that are an important element of this. The 1,798 great answers—

The SPEAKER—The minister will come to the question or I will be forced to get him to resume his seat.

Opposition members interjecting—

The SPEAKER—If I oblige the minister to come to the question, it only seems reasonable to expect that the courtesy of listening to him will be extended.

Mr TRUSS—For several years, the government has been considering—or, more particularly, Biosecurity Australia has been considering—an application from the Philippines to import bananas into Australia. The application was lodged quite some time ago. There has been great difficulty in receiving the necessary technical information from the Philippines, because a lot of it was simply not available in that country. So that process has taken quite a long time. It is true that the Minister for Trade gave an assurance to the Philippines that we would have an import risk assessment published by the end of June, and I can inform the House that it is my understanding that the Director of Quarantine intends to release that draft import risk assessment on Monday morning.

The particular technical document referred to by the questioner is not a formal part of the import risk assessment process. We have not normally provided that kind of detailed document, which addressed some of the formula issues associated with calculating elements of risk and the like. Every element of the process required under our import risk assessment has been met and the full times have been allowed in relation to this banana...
investigation. Indeed, since this government has come to office, in stark contrast with what happened under the previous government, this process is now a very open and consultative one.

There has been consultation with all interested parties and there have been numerous meetings with the banana industry, with the applicants and with others to assess all of these issues. The paper associated with the issues, upon which there is a requirement to respond within a certain number of days, was in fact distributed many months ago. This is a second paper that was distributed in addition to what is required under the process. The appropriate amount of time has been provided for the industry to respond to those issues. I am confident that Biosecurity Australia has dealt with this issue according to its usual professional standards. Australia’s conservative approach and determination to ensure that no diseases will enter this country as a result of imported food products—those high standards—will be maintained in relation to the import risk assessment.

Mr Fitzgibbon interjecting—

The SPEAKER—Mr TRUSS
Frankly, I am appalled at the interjections of the member for Hunter and the member for Corio. The Labor Party have form on this matter. Never forget the political donations that they have received from the Filipino banana lobby. How can they stand up in this House and ask questions on this issue while at the same time they are taking money from the banana lobby in the Philippines? They have no honesty or integrity in this matter. We will deal with the issues professionally and appropriately.

Mr Ripoll interjecting—

The SPEAKER—I warn the member for Oxley!

Trade: Exports

Ms LEY (2.54 p.m.)—My question is addressed to the Minister for Trade. Would the minister inform the House how Australia’s export performance has improved under the coalition government? How do local communities in electorates such as my electorate of Farrer benefit from Australia’s export efforts?

Mr VAILE—I thank the honourable member for Farrer for her question. I will answer the second part of it first. I have a one-word answer: jobs, particularly in regional Australia and particularly in electorates like the electorate of Farrer represented by the member asking the question. Since 1996, as I have continually outlined in this House, our export earnings have gone from $99 billion in 1996 to $154 billion last year. That constitutes about 20 per cent of Australia’s economic wealth. Our export and trade policies, along with our sound economic management, have seen the creation of 972,000 jobs in Australia in that time. So we have seen exports rise to $154 billion and we have seen 972,000 new jobs. One in five of those jobs is generated by exports, and one in four is in regional Australia, in electorates like the member for Farrer’s.

I will quickly run through a few sectors. The automotive sector has been the subject of great debate in the parliament this week and will be the subject of debate in coming weeks, no doubt, when we look at the PC report that is being released as I speak. There is an automotive company in Albury, in the member for Farrer’s electorate, called BTR Engineering. In the last 18 months, BTR Engineering have created 300 new jobs as a result of their exports, particularly to the Ssangyong company in the automotive sector in Korea. Earlier this year I had the opportunity of visiting that factory with the representatives of BTR. Those exports have created 300 new jobs in that area.

In the primary industry sector, earnings have increased by about $10 billion, or 43 per cent, over the last six years—and not just in the high-profile primary industry sectors. For example, there is a company in the electorate of the member for Hinkler called AusChilli. It is a family owned business that exports chilli and capsicum products across the world to the food services industry. They employ 50 people in the electorate of Hinkler. These are all jobs being created in the regions of Australia.

I cannot miss the opportunity of mentioning the now world famous Australian wine
industry. In 1996, wine sector earnings from exports were $550 million. Last year, export wine sales earned $1.75 billion for the Australian economy. Australia is the single largest exporter of wine outside the European Union and in April this year our wine export sales for a 12-month period exceeded domestic sales for the first time in history. While I am talking about the wine industry, I would like to mention that one of the outstanding companies contributing to the export effort is from your own electorate, Mr Speaker—the electorate of Wakefield. BRL Hardy, with their prime brand Banrock Station, in the Speaker’s electorate, just happened to be the exporter of the year last year. They have really achieved some outstanding statistics. In 1997 Banrock Station exported only 218,000 cases of wine. Last year that rose to two million cases of wine and they are well on track to achieve their target of 2.6 million cases this year.

The services sector has grown—the member for Cunningham will be interested in this—and is now earning $31.3 billion for the Australian economy. Part of the services sector is education, and I know that the minister for education is very engaged in driving the export growth in education: $4.2 billion in 2001. The great example of that is the University of Wollongong in the member for Cunningham’s electorate. The University of Wollongong has one of the largest proportions of international students in an Australian university: 4,400 out of the university’s 15,000 students currently enrolled come from more than 70 international countries. That is helping earn $4.2 billion in education services. Those members representing the Hunter Valley, particularly the member for Shortland. They also employ 12 staff in Mackay in the member for Dawson’s electorate. Because of export growth, they have been able to make a contribution to that growth of 972,000 jobs over the last six years or so.

In conclusion, this government has one of the most ambitious trade policy agendas of any government in Australia’s history. We are renowned across the world as being very aggressive in our pursuit of advocating trade liberalisation across the world. We will remain so. It is only this coalition government that will continue to have the courage to pragmatically pursue export efforts across the world.

Foreign Affairs: Nauru

Mr CREAN (3.00 p.m.)—My question is the Minister for Foreign Affairs, and it relates to an issue I raised with him three days ago concerning money laundering and Nauru. Can the foreign minister confirm that the Minister for Justice and Customs has admitted this week that, at the January 2002 meeting of the Financial Action Task Force, Australian officials ‘suggested reconsideration of the imposition of countermeasures against Nauru’? Can the minister confirm that the advice from the National Crime Authority as recently as this month was that Nauru remains ‘a vulnerable place for money laundering’—a fact confirmed by the Minister for Justice and Customs two days ago? Minister, why was the government lobbying as early as January to get Nauru removed from the OECD’s money laundering black list when Nauru is still not compliant, according to the National Crime Authority?

Mr DOWNER—I thank the Leader of the Opposition for his question. I draw the Leader of the Opposition’s attention to the press release that Senator Ellison released on 25 June in response to questions that the Leader of the Opposition asked about this matter. The first thing that Senator Ellison said, contrary to the allegations made by the Leader of the Opposition in the parliament three days ago, was that he, Senator Ellison, had never lobbied the Financial Action Task Force, the FATF, or the OECD, for that matter, about Nauru.
Mr Crean interjecting—
The SPEAKER—The Leader of the Opposition has asked his question.
Mr DOWNER—If you listen you will learn more.
The SPEAKER—The minister will address his remarks through the chair.
Mr DOWNER—Furthermore, if he had read the press release, it would have saved me saying all this. Australia has not at any stage lobbied to have Nauru taken off the FATF’s list of Noncooperative Countries and Territories, which is known as the NCCT List. At January’s FATF meeting in Hong Kong, Australian officials sought to have FATF countermeasures against Nauru lifted on the basis that Nauru had passed anti-money-laundering legislation in December. I explained the other day to the Leader of the Opposition that the Attorney-General’s Department had provided some assistance to Nauru in drawing up that anti-money-laundering legislation. The officials did not seek to have Nauru removed from the Noncooperative Countries and Territories List. Countermeasures are a FATF measure that is additional to placement.
Mr Crean interjecting—
Mr DOWNER—You asked the question. I would have thought that, since this is the parliament, you might have some interest in the answer.

Mr Crean interjecting—
The SPEAKER—The Leader of the Opposition, the minister has the call.
Mr DOWNER—Since the facts of your question have been demonstrated to be entirely wrong, I would have thought that you should listen.
The SPEAKER—The minister will address his remarks through the chair.
Mr DOWNER—Let me repeat: the officials did not seek to have Nauru removed from the Noncooperative Countries and Territories List. Countermeasures are a Financial Action Task Force measure that is additional to placement on the NCCT List. Let me finally say that, at its annual meeting in Paris last week, the FATF decided to maintain countermeasures against Nauru because it had not fully addressed outstanding concerns of FATF members with respect to its anti money laundering laws. Australian officials supported this decision. They did not lobby to have countermeasures lifted or to have Nauru removed from the NCCT List.

Foreign Affairs: United States
Mr HAWKER (3.04 p.m.)—My question is also to the Minister for Foreign Affairs. Minister, would you give the House an update on the state of the relationship between Australia and the United States of America? Is he aware of any alternative approaches?
Mr DOWNER—I thank the member for Wannon for his question. It is a very important and a very significant question in terms of Australia’s national interest, and I know that the people of Wannon feel well represented by him in this parliament. This government has a strong and mature relationship with the United States of America. I think it is fair to say that our relationship with the United States has never been stronger. That was illustrated by the Prime Minister’s visit and the extraordinary access and welcome that he received when he was in Washington recently. I do not think that any of us can recall a visit by an Australian Prime Minister to Washington that has been more successful.

The government makes no apology whatsoever for Australia’s close relationship with the United States and the priority that we attach to the Australia-United States alliance. The ANZUS alliance makes a very significant contribution to the stability of the Asia-Pacific region. Our relationship is underpinned by our common values, and it is reflected very much in our support for the United States at the moment in the war against terrorism. Indeed, late last year, when the government invoked the ANZUS alliance, this was the first time that such an invocation had taken place since the signing of the ANZUS alliance 50 years earlier.

Australia and the United States also have a burgeoning trade and investment relationship, which is massively in the interests of the Australian people. The United States is Australia’s second largest trading partner, and our merchandise exports last year to the United States grew by eight per cent to
nearly $12 billion— that is, 10 per cent of our exports. Since the East Asian economic crisis, Australian exports to the United States have grown faster than to any other major trading partner.

The United States is importantly—and this is an aspect of the relationship which is fundamental to jobs in this country—Australia’s second-largest source of investment after the European Union, if you take all 15 countries of the EU as a whole. The US is now host to over 50 per cent of Australia’s direct investment overseas, having superseded the United Kingdom in 1998 as the leading destination for Australian foreign direct investment. When you look at the importance of this economic relationship and take into account that in 1980 the United States was about 25 per cent of global GDP, whereas today the United States is around 34 per cent of global GDP, you can see the value that Australia would get if we were able to negotiate successfully a comprehensive free trade agreement with the United States. While we have no doubts about the difficulty of the task that lies ahead in negotiating a satisfactory agreement, the benefits that we would get from such integration with 34 per cent of the global economy would be simply massive.

All of this is not to say that we do not from time to time have policy differences with the United States. It is well known that the government was very critical of the decision the United States made recently on steel tariffs. But the other side of that argument is that the strength of the relationship that we have with the United States was fundamental to our getting a successful outcome to our problems on steel with the United States. If we had taken a dismissive and negative approach to the United States, I can guarantee the House that it would have been impossible to get the deal that we got with the United States on steel for steel workers in Australia. We are still working to further progress the issue of steel with the United States, but the success we have had is an achievement unprecedented in Australia’s trading relationship with the United States. We took on the United States over lamb in the World Trade Organisation, and we won the case. I think I am right in saying that our lamb exports have continued to grow successfully with the United States.

Opposition members interjecting—

Mr DOWNER—The mockery, the interjections and the sneers from the opposition illustrate a point that I have argued for many years, not just while I have been Minister for Foreign Affairs, and that is that the Labor Party at its heart has always been equivocal about the relationship with the United States. I think that has been very manifest in the last few days. Without wishing to walk across ground that has been heavily trodden, I can only say that it is an extraordinary—

Mr Crean—What did you step in?

The SPEAKER—If the Leader of the Opposition persists in this way, I will warn him!

Mr DOWNER—What would I have stepped in? Indeed. It certainly illustrates a very important point here, that Australia’s interests are very much tied up with having a strong relationship with the United States. Labor is equivocal about that relationship. Even on the issue of the free trade agreement, the Labor Party has had four different positions in three months. This is a fundamental relationship for Australia. It is in Australia’s interests for our jobs, for our living standards and for our security. It is a relationship about which Labor is both confused and equivocal.

Environment: Kyoto Protocol

Mr RUDD (3.11 p.m.)—My question is addressed to the Minister for Foreign Affairs. Minister, I refer to your comments made at Tuesday’s economist conference concerning the Kyoto protocol. Minister, is it still your assessment that the Kyoto protocol is:

A political stunt and not a serious way of addressing the issue.

Minister, do you recall telling another business gathering in May 1998:

The Kyoto Protocol is a major step forward. It is an agreement which provides the framework for environmentally effective, equitable and durable action to address climate change.

Minister, given it is your previously stated policy of often agreeing with yourself, do you agree with the version of yourself that
spoke in 1998 or do you agree with the version of yourself that spoke last Tuesday?

Mr DOWNER—This government have made it clear all along that, first, we regard the issue of climate change as a serious issue that the international community needs to address on a global scale. We do regard that as a serious issue that needs to be addressed. That was our view in 1998 and that was the view I expressed, but it was not reported, to the economist conference on Tuesday.

Mr Rudd interjecting—

The SPEAKER—The member for Griffith has asked his question.

Mr DOWNER—The second point is that it was our hope and expectation, which we have frequently articulated, that, if there were to be a successful conclusion to the Kyoto negotiations, it would be a conclusion where specific commitments to stabilise greenhouse gas emissions by the target period of 2008-12 would be made by not only Annex 1 or developed countries but also developing countries. By the way, we also made it clear that our expectation and hope was that the United States would make a commitment as well.

The fact of the outcome of Kyoto so far—is disappointing because, firstly, and most importantly, developing countries, particularly major emitters such as Brazil, India, China and so on, have made no commitment to stabilise their greenhouse emissions. If developing countries make no commitment to deal with this problem, then this problem—which is a global problem—will not be effectively dealt with through the Kyoto mechanism. It will of course be dealt with but not effectively dealt with. As the CSIRO has made fairly clear on a number of occasions, if we are going to achieve stability in global temperatures in the years ahead, CO2 emissions will have to be reduced by between one-half or two-thirds in order to achieve that temperature stability. Kyoto as it currently stands is likely to make a contribution to reduce greenhouse emissions by the target period 2008-12 by around one per cent. The point here is that the Kyoto mechanism has not been effective in dealing with—

Mr Rudd—Mr Speaker, I raise a point of order on relevance.

The SPEAKER—The member for Griffith will resume his seat.

Mr Rudd—The question was clear—

The SPEAKER—The member for Griffith will resume his seat or I will deal with him!

Mr DOWNER—I have given the House a lot of information—including the Leader of the Opposition, whose constant interjections I can only say disappoint those of us who thought he was going to raise the standards of the House—on an important issue and have made it perfectly clear that where Kyoto currently stands is extremely disappointing in terms of the objectives that were originally set for it.

Environment: Snowy Mountains Scheme

Mr NAIRN (3.16 p.m.)—My question is addressed to the Minister for Industry, Tourism and Resources. Minister, as you are aware, Australia’s national icon the Snowy Mountains Scheme is vital to Cooma and the Snowy region of my electorate, providing jobs and attracting tourists to the area. Would the minister inform the House of measures the government has taken to protect the long-term future of the Snowy scheme? Are these measures going to provide greater certainty to the rights of farmers along the Murray and Snowy rivers?

Mr IAN MACFARLANE—I thank the member for Eden-Monaro for his question. He is a keen supporter of issues in his electorate. Certainly, he has been of great assistance in the corporatisation of the Snowy Mountain Authority. In fact, he came over to my office and assisted me in the signing of some 49 agreements to bring about this very significant change. As the member for Eden-Monaro said, the Snowy Mountains Scheme is one of the nation’s icons. It was very fitting, in 1999, for us to proudly commemorate and celebrate the work of over 100,000 people who contributed to this scheme—particularly people from postwar Europe who came here as part of the immigration program that took place in that time. This con-
struction was one of the most pivotal events in Australia’s history. It is therefore fitting that, tomorrow, another historical event takes place.

It gives me much pleasure to be able to announce that the Snowy Mountains Scheme will start a new chapter in its history tomorrow through the corporatisation of the Snowy Mountains Hydro-Electric Authority, which has been a drawn out process over some 10 years. We have finally reached agreement with New South Wales, Victoria and South Australia. Tomorrow, 28 June, we will see the Snowy Mountains Hydro-Electric Authority replaced by Snowy Hydro Ltd. The scheme continues to make an important contribution to the Australian economy and is one of the largest renewable generators in mainland Australia. The launch of Snowy Hydro Ltd tomorrow will ensure the Snowy scheme continues its pre-eminence as a source of hydro-electricity and water supplies for both irrigation and environmental purposes.

Opposition members interjecting—

Mr IAN MACFARLANE—It should not go unreported that the Commonwealth arrangements also provide for the repayment of Commonwealth loans that were used to construct the scheme. Almost $900 million will be returned to the government in the coming months. For the benefit of the member for Eden-Monaro and those in the House who can be bothered to listen, I should also mention the future prospects of Snowy Hydro Ltd and its employees. It will remain a significant regional employer, and the headquarters of the company will remain in Cooma. The almost 50 intergovernmental agreements signed between the three governments have also secured an environmental benefit to bring about a win-win solution. Not only will the irrigators in the Murray not lose a drop of water as a result of these agreements, there will be significant environmental flows to both the Murray River and the Snowy River.

Mr Latham—Mr Speaker, the minister has been going for what seems like half an hour and he is only halfway through the statement.

The SPEAKER—The member for Werriwa will resume his seat unless he has a point of order. If the member for Werriwa has a point of order, he will state it.

Mr Latham—This is a ministerial statement—

The SPEAKER—The member for Werriwa will indicate his point of order or resume his seat!

Mr Latham—My point of order is that this is a ministerial statement, Mr Speaker, and it should be conducted as such in the House.

The SPEAKER—The member for Werriwa will resume his seat. The standing orders do not allow a question to be asked that calls for a policy to be stated. The minister’s answer is, of course, entirely relevant to the question asked. I consider it much more desirable that statements like this ought to be made by way of ministerial statement, but that does not alter the fact that it is not outside the standing orders.

Mr Fitzgibbon—Mr Speaker, further to the point of order, I would encourage you to consult the Hansard, where you will see that the minister clearly announced that today in the House during question time he would be making an announcement. This is clearly a ministerial statement.

The SPEAKER—The member for Hunter will resume his seat. Anyone who had been listening to my earlier pronouncement would have heard that it is out of order for someone to ask a question for government policy to be announced. The answer as given, while not desirable, is not outside the standing orders.

Mr IAN MACFARLANE—Can I say in making this announcement, the most important facet of this occurrence tomorrow is that it was brought about through the cooperation of Labor Party people. But guess what! Through none of those sitting over there. No, this came about through the cooperation of John Della Bosca and Candy Broad, who have a far better approach to good government and good policy than the people who sit there.
Mr Martin Ferguson—Mr Speaker, I ask that the minister table the ministerial statement that he was reading from before.

The SPEAKER—The member for Batman will resume his seat. Was the minister quoting from a confidential document?

Mr Ian Macfarlane—Yes, Mr Speaker.

Nuclear Energy: Lucas Heights Reactor

Mr Kelvin Thomson (3.23 p.m.)—My question is to the Minister for Science. When did the government first become aware that a fault line had been discovered beneath the proposed Lucas Heights nuclear reactor and when did it make this information available to the public? When did the government agencies ANSTO, ARPANSA and Geoscience Australia first learn that there was a fault line beneath the proposed reactor? When did they convey this information to the government and to the public?

Mr McGauran—This is part of the opposition's scare campaign, drawing on a tradition of many years of opposing the replacement research reactor at Lucas Heights. Any reason to cloud the true scientific and research issues surrounding this project will be seized upon by the opposition. In any event, let me provide some essential information to the House. Geotechnical consultants IGNS are presently conducting site investigations at Lucas Heights and will prepare a full report for ANSTO. The report will assess the significance of a fault discovered during excavations for the replacement research reactor. This report will be available to the independent regulator—the Australian Radiation Protection and Nuclear Safety Agency—which will conduct a thorough review of the information, taking full account of international experience in reactor siting. ARPANSA will make all of its findings public. Site investigations during excavation of the reactor foundations were required by the chief executive of ARPANSA to identify any faults.

Mr Tanner interjecting—

The SPEAKER—The member for Melbourne!

Mr McGauran—These investigations complement the extensive study of the seismic characteristics of the site in ANSTO's application for a construction licence for the reactor and in ARPANSA's review of that application. In other words, the independent statutory body is overseeing this aspect of the construction of the research reactor, as it has all other stages leading to this point. I am advised that, by way of preliminary investigations, faults are common geological features and usually do not signify a seismic hazard. Current geotechnical investigations will determine the significance and implications of the fault.

Mr Rudd—When did you get told?

The SPEAKER—To meet the request of the member for Griffith, I warn him!

Mr McGauran—A senior ARPANSA officer said on ABC radio on Friday that the discovery of the fault 'does not automatically mean that the site is not suitable.' It is very unfortunate that groups opposed to the research reactor would scaremonger on this issue, as has the opposition. Every precaution is being taken in regard to the construction of the reactor. It is due to the thorough nature of the process that the fault has been discovered. ANSTO is acting and will continue to act in accordance with the highest traditions of safety and not the political opportunism that is the record of the opposition.

Mr Tanner interjecting—

The SPEAKER—The member for Melbourne is warned!

Mr McGauran—Three times they have taken on the Liberal member for Hughes, the Minister for Veterans' Affairs, who three times has stood by the scientific, social and medical need for a replacement research reactor. And three times she has prevailed in the seat of Hughes and won the overwhelming endorsement of her electorate with her vote going up increasingly at each election, due in no small measure to her stand on this issue.

The SPEAKER—Minister!

Mr McGauran—Contrast that with the Labor Party who, when Gareth Evans, invited by the chief executive of ANSTO to visit back in 1998, wrote a letter dated 11 March—
Mr Beazley—Mr Speaker, I rise on a point of order going to relevance. They were very specific questions—

The SPEAKER—The member for Brand will resume his seat. The member for Brand has a valid point of order. He must have noted that I interrupted the minister and that, when the minister went to a quote from former senator Gareth Evans I was not sure whether it was immediately relevant to the site of the nuclear reactor.

Mr McGauran—The Labor Party’s views on the need for, and siting of, the research reactor are entirely relevant. He said to the executive director:

On the new reactor, I am afraid the realities of politics in an election year, and in particular our need to win Hughes, have led us to a position of opposing a new reactor as difficult as that may be to justify on objective safety-focused terms. I am sorry I could not have been more helpful.

Mr Kelvin Thomson—Mr Speaker, I rise on a point of order. I asked the minister a very specific question about when the government became aware—

The SPEAKER—The member for Wills will resume his seat or I will deal with him.

Multicultural Affairs: Community Harmony

Mrs Bronwyn Bishop (3.29 p.m.)—My question without notice is to the Minister for Citizenship and Multicultural Affairs. Would the minister outline the Howard government’s approach to community harmony in Australia and any threats that undermine this approach?

Mr Hardgraves—I thank the member for Mackellar for her question. Australia is one of the most successful multicultural nations in the world, with a social cohesion which is the envy of virtually all other countries around the world. The Living in Harmony grants round for 2002-03 is now open and the purpose of this program is to promote community harmony at the local level. It is yet another example of an election promise delivered on time, on budget and in full by this government and it stands in stark contrast to the offerings from those opposite, who produced absolutely nothing at all in the most recent election campaign—no commitment to community harmony.

The aim of the grants is to encourage Australians to take a stand against racism, prejudice and intolerance and to set an example for our children to practise traditional values of justice, equality, fairness and friendship. I would remind the House of the great Martin Luther King, who said, amongst many good things:

Don’t hate, it’s too big a burden to bear.

Here are four examples of funding over the last few years from this marvellous program. Last year funding went to projects such as ‘Living harmoniously: rural and regional’ in the Townsville region—the member for Herbert’s electorate; a youth anti-racism peer mentoring program in Footscray; the Australian Turkish Association’s project on ethnic youth gangs at Mordialloc in Victoria; and—this is very timely, as the World Cup soccer is on at the moment—a program, developed jointly by the Australian Professional Footballers Association and the Victorian Soccer Federation, called ‘Australian soccer: celebrating equality and harmony’, aimed at reducing intolerance in that sport and in sport in general. They developed a code of conduct for clubs, officials and players. To highlight the code they used a red card with the slogan, ‘Give racism the red card.’ These are obviously very creative, relevant, local ideas that are backed by this government because we trust the people.

I invite community organisations to consider how this funding could help them make a difference in their own communities and to apply for Living in Harmony grants by the closing date of 26 July. The guidelines for the kits are available on the Living in Harmony web site. The grants are intended for incorporated not-for-profit organisations and schools. I do not mind reminding all members in the House that political parties are not eligible. This could be unfortunate for the Australian Labor Party, which may have much need for an injection of harmony, in particular in the Werriwa branch.

Industry: Book Printing

Mr Gibbons (3.32 p.m.)—My question is directed to the Minister for Industry,
Tourism and Resources. Does the minister recall the written agreement with the book printing industry for the assistance schemes to run to the end of June 2003 and June 2004—namely, the Printing Industry Competitiveness Scheme and the Enhanced Printing Industry Competitiveness Scheme? Is the minister aware that McPherson’s Printing Group in Maryborough made a heavy commitment in 2001 to double the size of its business by purchasing another printing operation and investing in new plant and equipment based on the expectation that both agreements would be honoured? Minister, given that both schemes were cancelled in the May budget without any warning or consultation with the industry, what measures will you now implement to secure the future of this very important industry?

Mr IAN MACFARLANE—The printing industry is a very important and vital industry to Australia, and in terms of the issues that have just been raised—

Ms Macklin interjecting—

Mr IAN MACFARLANE—Do you want the answer or not?

Mr Crean—Yes.

Mr IAN MACFARLANE—Good. In terms of the issue raised by the member for Bendigo, I can assure him that the government is giving the issue very close consideration and that I will be very shortly writing—

Opposition members interjecting—

The SPEAKER—The minister will resume his seat. There is an obligation on all members to hear others in silence.

Mr IAN MACFARLANE—As I was saying, I will be very shortly writing to the people who came and visited me informing them of the outcome of those discussions, which I am sure will interest not only the member for Bendigo but in fact all members in this House.

Tourism: Small Business

Mrs DE-ANNE KELLY (3.34 p.m.)—My question is addressed to the Minister for Small Business and Tourism. Can the minister inform the House of any information that shows regional tourism is recovering from the events of September last year? Minister, what does this recovery mean for small business employment growth in the tourism sector? Is the minister aware of any impediments that may prevent small businesses creating more jobs in Dawson? Minister, how does the make-up of the parliament help small business during parliamentary debate on these matters?

Mr HOCKEY—I recently spent two days with the member for Dawson in her electorate. It was like a honeymoon, in fact; it was fantastic. It was great visiting the islands, the Whitsunday Passage and all those great tourism operators up there—and importantly also Bowen, where the Labor mayor was very happy to see us. He thought he had an outstanding local member. He was almost prepared to change from the Labor Party to the National Party. They are pretty happy up in the member for Dawson’s electorate because tourism numbers are up. There has been a five per cent increase in visitor nights in regional areas in the first three months of this year. In the member for Dawson’s electorate, where 7,600 Queenslanders are employed in tourism and where tourism generates around $320 million a year in income to the electorate, tourism is vitally important and it is important that we help to keep the numbers up.

The member for Dawson’s small business and tourism operators raised a number of issues in relation to small business but the overwhelming issue was unfair dismissal laws. They want to be exempt from the unfair dismissal laws. They said it was an impediment to further employment in the tourism industry. The member for Dawson is a great advocate for small business. She was a small business owner for many years. She has spoken in the House on behalf of local small businesses 29 times in six years. Compare that to the member for Bowman—he lurks up there in the dark shadows—who has been in here for 13 years and has mentioned small business on just six occasions. It is a 10-to-one beating from the member for Dawson, so it is no surprise that it is an important issue. It is quite clear that the Labor Party does not care about small business. The member for Rankin said:
Labor needs to be relevant to them—
small business—

We need in the first instance to be demonstrably supportive of small business.

I am looking for a small business operator in the Labor Party who really cares. In fact, I am looking for someone who supports small business. I went back to the web site of the federal member for Lyons. Mr Speaker, you will recall that I have talked about the web site for the member for Lyons previously. On his web site entry he says:

As your representative in the Federal Parliament I strive to keep you up-to-date with the issues that I deal with ...

This is a new site ... so please feel free to visit this site often ...

To find out what I have been doing ... click on the go button.

I clicked on small business and up came the menu for small business and, again, a blank page! Dick has wiped off the menu. It is the best dietary advice I have ever had. All the aspirations of Australia’s 1.2 million small businesses rest in the hands of Senator Barney Cooney, who has only 24 hours left in the Senate. Of the 28 Labor senators, he is the only Labor senator who has ever worked in small business, and he has to retire in 24 hours. When the unfair dismissal law goes up to the Senate, before Senator Barney Cooney leaves they should take a DNA swab. They should jar that swab because the Labor Party will have no-one left with any small business experience in the Senate. When it comes to a crucial bill for Australia’s small businesses, when it comes to a crucial vote about creating more jobs for Australia’s small businesses, there will not be one Labor senator who has ever worked in a small business or been associated with a small business. That vote is vitally important because it creates jobs. We are about jobs in the Liberal and National Parties. The Labor Party is opposed to job creation and it is opposed to small business.

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

**QUESTIONS TO THE SPEAKER**

**Question Time: Interjections**

**Mr Abbott** (3.39 p.m.)—As you may have noticed, Mr Speaker, during question time the Leader of the Opposition has got into the habit of making a series of snide interjections, and today they included things like ‘Down, dog’, ‘What did you tread in?’, ‘goof’, as well as taking the name of the Almighty in vain—

**Opposition members interjecting**—

**Mr Latham**—On a point of order, Mr Speaker—

**The Speaker**—The member for Werriwa will resume his seat. The member for Werriwa’s performance at the dispatch box does not justify me recognising him. The member for Werriwa knows the comments he made at the dispatch box, which were not audible.

**Mr Swan**—On a point of order, Mr Speaker: the member for Werriwa is well within the standing orders to ask you to take a point of order on the Leader of the House, and you should allow him to do so.

**The Speaker**—The Manager of Opposition Business will resume his seat. I am also well within the standing orders to require the member for Werriwa to resume his seat, as I have done. I call the minister.

**Mr Abbott**—And from the member for Werriwa: ‘brownnose’, ‘wipe your nose’—

**Honourable members interjecting**—

**The Speaker**—The minister will resume his seat. There are members on my left who I will very quickly eject from the chamber—and on my right, if they behave in the same way—if this level of interjection continues.

**Mr Swan**—Mr Speaker, on a point of order which is very simple: you should recognise the member for Werriwa because it is his wish and right as a member of this House to take a point of order. His point of order was not heard by you. It was certainly not heard by us. He has the right to articulate that point of order and then you have the responsibility to rule on that point of order. I
ask you to call the member for Werriwa so he can exercise his right—

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

Mr Latham interjecting—

The SPEAKER—The member for Werriwa will resume his seat and at least allow me to respond to the Manager of Opposition Business.

An opposition member—There’s the yellow card!

The SPEAKER—The member for Corio may well find that that is right.

Mr Gavan O’Connor—I never said anything!

The SPEAKER—In that case, I have misrepresented the member for Corio—whoever made the statement. Does the member for Batman—

Mr Martin Ferguson interjecting—

The SPEAKER—The member for Batman! I was merely exercising a courtesy assuming you were seeking the call so I started to say, ‘member for Batman.’ Was that reciprocated? No.

Mr Martin Ferguson—I thought you were going to call me to order here.

The SPEAKER—I understand what you thought; I am merely pointing out that I had offered you a legitimate opportunity which you then unintentionally but, nonetheless, under the standing orders abused. The Manager of Opposition Business is aware that I have never denied anyone the right to a point of order, sometimes to my own disadvantage. In the case of the member for Werriwa, he came to the dispatch box and made a comment that was distinctly out of order, as he is aware and so am I. For that reason, I required him to resume his seat, as he has done and as the standing orders allow me to do. I recognise the minister.

Mr ABBOTT—Mr Speaker, interjections from the member for Werriwa included ‘wipe your nose’—

Mr Latham—Mr Speaker, I rise on a point of order. Under the standing orders, if a member takes offence at anything that is said in the House, he or she should rise in his or her place at the time and bring it to your attention. This is just a political exercise by the manager of government business. It is not justified under the standing orders and should be ruled out of order.

Mr Danby—He’s trying to verbal us.

The SPEAKER—The Leader of the House has a question to me. I am accommodating him on indulgence. He will not refer to specific statements made by members opposite.

Mr ABBOTT—Mr Speaker, I would like to ask you whether you could facilitate the Hansard record incorporating some of the grubby statements that have been made by members opposite in the course of question time today: ‘your undies are too tight’, ‘you’ve used lots of Vaseline’—

Mr Danby—He thinks he’s Roger Ros-son!

The SPEAKER—Would the member for Melbourne Ports like an early minute or hour?

Mr Swan—Mr Speaker, I rise on a point of order. The minister was clearly defying your ruling—

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

Mr Swan—and I ask you to admonish him.

The SPEAKER—The Manager of Opposition Business will resume his seat or I will deal with him. As will be obvious to everyone in the House, I have dealt with the minister and required him to resume his seat—as was self-evident. I know this is the last sitting day and last sitting days are always a little like today, but that does not alter the fact that there is a requirement on all of us, generally shared, to raise the standard. As I have commented a number of times in the last fortnight, it is a requirement warmly endorsed by the overwhelming majority of members in front of me.

PERSONAL EXPLANATIONS

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

Mr Crean interjecting—
The SPEAKER—I warn the Leader of the Opposition. Does the honourable member claim to have been misrepresented?

Ms GRIERSON—Yes.

The SPEAKER—Please proceed.

Ms GRIERSON—On 4 June 2002, when speaking to the appropriation bills, the member for Paterson made a personal attack on me because he said the New South Wales government had not allocated $22 million for the redevelopment of the Energy Australia Stadium—

Mrs Bronwyn Bishop—Mr Speaker, I rise on a point of order. That is debate; it is not a personal explanation.

The SPEAKER—The member for Mackellar will resume her seat. I will determine what is debate and what is a personal explanation.

Ms GRIERSON—The member for Paterson did say that I, the member for Newcastle—

Mr Baldwin—Mr Speaker, I rise on a point of order. Under standing orders, the member should have raised this at the first possible opportunity after that.

The SPEAKER—The member for Paterson will resume his seat or I will deal with him. The member for Newcastle has the call.

Ms GRIERSON—Thank you, Mr Speaker. The member for Paterson said that I, as the member for Newcastle, had no ability to deliver dollars to my area. That is clearly not true, as today the New South Wales Labor government allocated $23.6 million.

The SPEAKER—The member for Newcastle has indicated where she was misrepresented.

QUESTIONS TO THE SPEAKER—Question Time

Mr ABBOTT (3.50 p.m.)—I have a further question to you, Mr Speaker.

Mr Beazley—Mr Speaker, I rise on a point of order. I draw your attention to House of Representatives Practice and the question of who may or who may not put a question in this place. It says quite clearly here of the people who may put questions:

Any private Member may ask a question of ministers.

Ministers do not ask questions, either of other Ministers, or where permitted, of private Members.

The only part of House of Representatives Practice which deals with a member of the executive in this regard says that, under certain circumstances, parliamentary secretaries have been able to put questions to the Speaker. Ministers, by convention in this place, ask no questions of anyone else in this House, either other ministers or private members conducting business before the House, or you.

The SPEAKER—I believe I would have acted had I thought that the member for Brand had a valid point of order. I would have not heard the minister. I believed actually that in the House of Representatives Practice there was a facility to allow questions to be asked of the Speaker. I will consult House of Representatives Practice—or perhaps the Clerk might care to consult House of Representatives Practice while I deal with a couple of other issues before the chair.

Question Time: Parliamentary Language

Mr FITZGIBBON (3.51 p.m.)—I have a question for you, Mr Speaker. I seek clarification on comments made by you during question time which I thought may have constituted a ruling. The member for Corio asked a very good question, I thought, of the Minister for Agriculture, Fisheries and Forestry. During the question, he made reference to Senator Bill Heffernan in a way which you ruled to be unparliamentary. What intrigues me is that the member for Corio then rephrased his question and dropped the word ‘wild’ but retained the word ‘disgraced’. My question is: are we now to understand that, in this place, the word ‘wild’ is considered unparliamentary but, with reference to Senator Heffernan, the word ‘disgraced’ is considered parliamentary?

The SPEAKER—I would simply remind members of standing order 75, which says:
No Member may use offensive words against either House of the Parliament or any Member thereof ...

Any substantial accusation against a member of either house should be by substantive motion. I did not find the question particularly desirable, even as it was reframed, but I did think that it was more offensive than it was tolerable in its original form and I would have thought that would have been universally endorsed.

QUESTIONS WITHOUT NOTICE:
ADDITIONAL ANSWERS

Industrial Relations: Reform

Mr IAN MACFARLANE (Groom—Minister for Industry, Tourism and Resources) (3.53 p.m.)—Mr Speaker, I seek the indulgence of the chair to add to an answer.

The SPEAKER—The minister may proceed.

Mr IAN MACFARLANE—As I said in answer to a question from the Leader of the Opposition, I was constrained until 3.30 p.m. in regard to commenting on the PC position paper. I gave the commissioner, Gary Banks, an undertaking that his embargo would be respected. I had hoped everyone else who was given a copy would do the same. In answering the question from the Leader of the Opposition, I would just say that the PC paper did, in fact, mention the issue of workplace relations. One of the statements it made was that the enterprise bargaining process has been derailed by the unions’ targeting of the vehicle industry to pursue their preferred national scheme, ManuSafe. Also, in that question from the Leader of the Opposition he stated that I had said, ‘we will have to go so far as ...’ I did say at the time that I always need to check the comments of the Leader of the Opposition because you can never trust that he will give you an exact quote.

The SPEAKER—The minister is adding to an answer and will do it quickly.

Mr IAN MACFARLANE—I just want to put on the record that that was not what I said.

Mr Crean—What did you say?

Mr IAN MACFARLANE—What I said was, ‘Will we have to go so far?’ and I table my press release to ensure the record is correct.

The SPEAKER—The House would be greatly facilitated if members could keep their comments brief.

PERSONAL EXPLANATIONS

Ms HALL (Shortland) (3.55 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Ms HALL—Yes, I do.

The SPEAKER—Please proceed.

Ms HALL—I rise on the same matter as the member for Newcastle. The member for Paterson made a personal attack on me in his speech on the appropriation bills on 4 June this year. In that speech he referred to the Energy Australia Stadium—home of the Newcastle Knights—and he said that I, the member for Shortland, have absolutely no ability to deliver dollars to my area. It stands in its own right. Today the state Labor government gave $23.6 million to the Newcastle Knights home stadium.

The SPEAKER—The member for Shortland has indicated where she was misrepresented and will resume her seat.

QUESTIONS TO THE SPEAKER

Question Time

The SPEAKER (3.57 p.m.)—Before I recognise the Leader of the House, it would clearly be out of order for me to recognise him without clarifying the matter raised by the member for Brand. As is often the case with the standing orders, neither of us is necessarily right or wrong. I remind the member for Brand of standing order 152, which says: At the conclusion of the question period, questions without notice may be put to the Speaker relating to any matter of administration for which he or she is responsible.

I would concede that the question asked by the Leader of the House steps outside the area of administration. I am also, however, caught by the fact that a number of questions asked of me on an almost daily basis are be-
yond the simple administration of the House and it was in that context that I had allowed the question to stand. Does the member for Brand want to make a further comment?

Mr BEAZLEY—Further to that point of order, Mr Speaker, you of course may interpret standing orders in any way you see fit; that is your business. But I would submit to you that it is always wise to be guided by what *House of Representatives Practice* says beyond the standing orders because it says, as evidenced by the size of the book, a great deal more. On page 520-21 there is a pretty clear set of behaviours which go beyond the standing orders but guide any interpretation of the standing orders. The area which deals with the minister’s situation is quite explicit, and it says:

Ministers do not ask questions, either of other Ministers, or where permitted, of private Members.

That may be thought to perhaps be silent, at least on the question of questions to the Speaker, except as you go down the list of the behaviours that must be exhibited, in terms of rights to ask questions or not ask questions, the matters are not silent on questions to the Speaker. So when you get down to parliamentary secretaries and how they may behave, or what questions they may ask, they are left in a situation where, again according to *House of Representatives Practice*:

Parliamentary Secretaries do not ask questions, either of Ministers, or where permitted, of private Members.

But it does go on and say:

Parliamentary Secretaries have, however, asked questions of the Speaker.

So this section of *House of Representatives Practice* anticipates the way in which questions are distributed or asked throughout the House and incorporates within it the practice of asking questions of yourself. Clearly, the writer of this book considered it important to place the situation of the parliamentary secretaries in terms of their rights to ask questions of you.

I would have thought in those circumstances, were it the right of a minister to ask a question of you, then they would have similarly made clear and explicit within this book the rights of ministers to ask you questions, as well as that of parliamentary secretaries. However, they have chosen not to do so and they rule members of the executive out of the capacity to ask questions altogether and that is reasonably the case. I would ask, therefore, that you would invite the Leader of the House to approach you in other ways over a cup of tea—as you have done with many members of parliament—if he has a particular problem with the conduct of the House, not to confront you with it here on the floor of the chamber but in the other forums that are available to him.

The SPEAKER—I respond to the member for Brand by indicating that I have—not many but a few—advantages over him. One is that sitting here I was able to instantly consult the author of *House of Representatives Practice*, and the author of *House of Representatives Practice* did not take quite as literal an interpretation as the member for Brand had in mind. I am sure that the member for Brand is aware that, if I were to apply the practice as he wishes, at least half or two-thirds of the questions directed to me by members would fall outside the standing orders. They would have been directed by backbenchers—a fair observation by the member for Brand—but they would, of course, be beyond matters of administrative concern.

**Hansard: Interjections**

Mr ABBOTT (4.01 p.m.)—Would it be possible to facilitate the recording by Hansard of the sorts of cross-chamber interjections that we have had so that the Australian public will know the true character of the Leader of the Opposition and the people he—

Opposition members interjecting—

The SPEAKER—the Leader of the House will resume his seat. I inform the Leader of the House that I am an admirer of Hansard. I have no intention of taking any action on the way in which Hansard records the parliamentary record. Every member in this House is grateful to Hansard for taking a number of statements and speeches that would otherwise be statements and speeches
they did not particularly want on the record and tidying them up.

PERSONAL EXPLANATIONS

Mr SCIACCA (Bowman) (4.02 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Mr SCIACCA—I do.

The SPEAKER—Please proceed.

Mr SCIACCA—During question time today, the Minister for Small Business and Tourism, in answering a dorothy dixer from the member for Dawson, tried to impute that I do not support small business. In case the minister does not know, over a period of some 30-odd years I have been in small business, and I have employed from one to 50 people in my small business. I do not have to make speeches and pontificate here; when small business asks for my help, they get it.

The SPEAKER—The member for Bowman has indicated where he was misrepresented and will resume his seat.

Mr FITZGIBBON (Hunter) (4.02 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Mr FITZGIBBON—I do indeed.

The SPEAKER—The member for Hunter may proceed.

Mr FITZGIBBON—With respect to the matters raised by the members for Newcastle and Shortland, it is ditto for me. Now the Howard government has an opportunity to match the funding the state government has put forward for Energy Australia Stadium.

The SPEAKER—The member for Hunter knows that a personal explanation should not be addressed in that way.

QUESTIONS TO THE SPEAKER

Question Time

Mr DUTTON (4.03 p.m.)—Mr Speaker, my question follows on from the statements you made in response to the member for Hunter’s previous question. As a new member in this House, I would ask you for some direction in relation to how I should respond to what I count as disgraceful comments made in this chamber by the member for Werriwa. There were plenty of examples in question time today, and they obviously go on the back of the appalling comments that he has made outside the chamber.

The SPEAKER—If the member for Dickson, as a new member, genuinely wants to know what facilities there are in the House to have any offensive remark withdrawn, he will simply refer to the standing orders and draw my attention to those offensive remarks. I cannot think of an instance in which I have heard offensive remarks and not required them to be withdrawn. I can think of many instances in which I have heard remarks of which I did not exactly approve and I have actually tolerated them, I think to the House’s disadvantage.

Question Time

Mr McMULLAN (4.04 p.m.)—Mr Speaker, I have a question for you, and I apologise for not raising it a few minutes earlier.

The SPEAKER—You did not actually have an opportunity, I suspect.

Mr McMULLAN—I did not jump up previously, and I should have. My question relates to your ruling—which I am not challenging—as it relates to the minister asking you a question. I am actually concerned about the precedent that has been created, although I accept the ruling and do not, in any way, challenge it before today’s proceedings. Could you check whether there is any precedent for a minister asking Speakers questions and consider the implications for that section of chapter 11 of the standing orders and pages 520 and 521 of House of Representatives Practice if we allow ministers to ask questions in the future under that ruling, and could you perhaps report back to the House or to the Procedure Committee or some such appropriate forum? While I accept it facilitated the business—and you made a ruling on advice today—I think there is a very important precedent involved, and I
simply ask you to check on that matter and report back to us.

The SPEAKER—I will, of course, follow the matter up. In fact, I am sure the member for Fraser would concede that I would have followed it up even without his request. I will also report back to the House to ensure that we know what future practice will be. I acted on what I considered to be, I think you would concede, sound advice. Whether or not someone has an opportunity to address the chair is, of course, entirely a matter for indulgence ultimately, anyway.

PERSONAL EXPLANATIONS

Ms HOARE (Charlton) (4.06 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Ms HOARE—Yes, I do.

The SPEAKER—The member for Charlton may proceed.

Ms HOARE—On 4 June 2002, when the member for Paterson was speaking in the appropriation bill, he indicated that members representing the Hunter region had no ability to deliver dollars to their region. I am proud to announce today—and am honoured to be representing the Hunter region—that—

The SPEAKER—The member for Charlton will come to her personal explanation.

Ms HOARE—the Carr government has announced $22.6 million to the Energy Australia Stadium.

The SPEAKER—The member for Charlton will resume her seat.

QUESTIONS TO THE SPEAKER

Questions on Notice

Mr STEPHEN SMITH (4.07 p.m.)—Mr Speaker, under standing order 150, would you write to the Treasurer seeking reasons for his failure to respond to question No. 280, first placed on the Notice Paper by me on 21 March this year?

The SPEAKER—I will follow up the matter as the standing orders provide.

PERSONAL EXPLANATIONS

Mr BALDWIN (Paterson) (4.07 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Mr BALDWIN—I do.

The SPEAKER—Please proceed.

Mr BALDWIN—Today in the chamber the members for Charlton, Hunter, Shortland and Newcastle claimed that I misrepresented them. That is not the truth. At the time, they had no knowledge of the New South Wales state Labor—

The SPEAKER—The member for Paterson will resume his seat.

Mr LATHAM (Werriwa) (4.08 p.m.)—Mr Speaker, you are a good man—thank you. I seek to make a personal explanation.

The SPEAKER—The member for Werriwa may proceed.

Mr LATHAM—You have got to ask me whether I claim to have been misrepresented.

The SPEAKER—The member for Werriwa may proceed!

Mr LATHAM—During question time the Minister for Children and Youth Affairs claimed that I supported cuts to disability support. As I have pointed out to the House previously, this misrepresents the position put in those speeches and statements where I supported increased government funding for rehabilitation, employment programs and transport for disabled people.

QUESTIONS TO THE SPEAKER

Parliamentary Standards

Mr LATHAM (4.09 p.m.)—Mr Speaker, four times in the last sitting week you have had to sit down the Minister for Employment and Workplace Relations and Leader of the House because he was out of order. Normally when this happens on our side of the House stronger action is taken. I would ask you to consider suspending the minister if he again transgresses and if the unprecedented action of being sat down by the Speaker—

The SPEAKER—The member for Werriwa will resume his seat. For those who are unhappy about the frequency with which
they are mentioned in the House or the frequency with which people are removed from the House, I would be very happy—indeed, exceedingly happy—to accommodate them so that anyone who is drawn to my attention on more than three occasions has instant action taken against them. That, for me, would make management of the House exceedingly easy and there would be no opportunity for anyone to dispute what I was saying. Instead of that, I attempt to recognise those occasions on which people may in some way be provoked and those occasions on which I think they are responding to an unreasonable interjection, and to be tolerant. I would expect that general sentiment to permeate the House.

Parliament: Chamber Sound Level

Ms ELLIS (4.10 p.m.)—Mr Speaker, I was wondering whether I could ask for your assistance during the break from parliament that we are now going into in relation to the sound in this chamber—specifically, in this part of the House. It is a serious point.

The SPEAKER—I am not disputing the seriousness.

Ms ELLIS—We have very severe difficulty in hearing anybody who speaks from the other end of our side of the House—namely, the member for Bass or the member for Lingiari and through that section of the building. We can hardly hear what they say, despite the additional help with their volume in some cases. There is a problem with the speakers in this part of the chamber. I would ask if we could have the sound engineers check that during the break. I would appreciate your assistance.

The SPEAKER—The member for Canberra must be aware that I see it as a serious question. Any suggestion of hilarity was that it is not, of course, from my perspective, always difficult to hear the members she nominates. Furthermore, as she would be aware, I have frequently had people complain about the level of sound, asking that it be turned down. The sound engineers do an excellent job in this chamber. The chamber has superb acoustics—better than some of us would want. I will follow up the matter raised by the member for Canberra because clearly there is just a directional problem there.

PERSONAL EXPLANATIONS

Mr ANTHONY (Richmond—Minister for Children and Youth Affairs) (4.12 p.m.)—Mr Speaker, I wish to make a personal explanation.

The SPEAKER—Does the Minister for Children and Youth Affairs claim to have been misrepresented?

Mr ANTHONY—Yes, most grievously.

The SPEAKER—Please proceed.

Mr ANTHONY—The member for Werriwa claims that I misled him. I would like to table the actual words that the member for Werriwa stated, where he believes that there are over 400,000 people who are not eligible for the disability support pension.

The SPEAKER—The minister has tabled the document.

QUESTIONS TO THE SPEAKER

Wilton, Mr Greg

Mr FITZGIBBON (4.12 p.m.)—Mr Speaker, this is a broad ranging question but I know that you will give me some latitude on this. You will be aware that we had some difficulty with the photograph of our former colleague Greg Wilton, which formerly hung in the gymnasium but, because of climatic conditions in there, was experiencing some difficulty—it was steamy on a regular basis. I want to thank you and staff members of the Joint House Department for facilitating the relocation of that photograph, which will now appear in the reception area of the gymnasium.

The SPEAKER—I thank the member for Hunter. This is not being pedantic, but this was probably something that I ought to have extended indulgence to him for because it was not in fact a question. But I thank him for that, and I hope that it proves to be an appropriate place in which to hang that photograph.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Insurance: Medical Indemnity

Mr ANDREWS—Mr Speaker, I seek the indulgence of the chair to add to an answer
which the Minister for Immigration and Multicultural and Indigenous Affairs gave to the member for Fremantle in which he indicated that he would seek further information from the Minister for Health and Ageing. I propose to provide that further information from the minister.

The SPEAKER—The minister may proceed.

Mr ANDREWS—The question was about the Bourke and Walgett Aboriginal Health Services. I can confirm for the member that both the Bourke and Walgett Aboriginal medical services have secured medical indemnity insurance and services are operating as usual. Services provided by medical officers and other health care professionals have not been curtailed in any way. I can also assure the member that the government is committed to ensuring that service delivery in the Aboriginal medical services is not adversely affected by current difficulties in the insurance industry.

To this end, the Office of Aboriginal and Torres Strait Islander Health is working closely with the National Aboriginal Community Controlled Health Organisation to identify the size and scope of any problems experienced by Aboriginal medical services in securing appropriate insurances, including any increases in premiums that may have occurred. Those doctors working in Aboriginal medical services who are currently members of United Medical Protection/Australian Medical Insurance Ltd will be covered by the Commonwealth’s guarantees to the provisional liquidator in relation to UMP.

AUDITOR-GENERAL’S REPORTS

Report No. 63 of 2001-02

The SPEAKER—I present the Auditor-General’s audit report No. 63 of 2001-02 entitled Performance audit: Management of the DASFLEET-tied contract.

Ordered that the report be printed.

PAPERS

Mr ABBOTT (Warringah—Leader of the House) (4.17 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:


Government Response to the Report of the House of Representatives Standing Committee on Procedure—The Second Chamber: Enhancing the Main Committee

Debate (on motion by Mr Swan) adjourned.

SPECIAL ADJOURNMENT

Mr ABBOTT (Warringah—Leader of the House) (4.18 p.m.)—Before I move the procedural motions, I indicate to members that it is proposed that there will be a dinner break between six and eight o’clock this evening. I move:

That the House, at its rising, adjourn until Monday, 19 August 2002, at 12.30 p.m., unless the Speaker or, in the event of the Speaker being unavailable, the Deputy Speaker fixes an alternative day or hour of meeting.

Question agreed to.

BUSINESS

Mr ABBOTT (Warringah—Leader of the House) (4.18 p.m.)—by leave—I move:

That standing order 48A (Adjournment and next meeting) and standing order 103 (New business) be suspended for this sitting.

Question agreed to.

LEAVE OF ABSENCE

Mr ABBOTT (Warringah—Leader of the House) (4.18 p.m.)—I move:
That leave of absence be given to every Member of the House of Representatives from the determination of this sitting of the House to the date of its next sitting.

Question agreed to.

PAPERS

Mr ABBOTT (Warringah—Leader of the House) (4.19 p.m.)—I present papers on the following subjects, being petitions which are not in accordance with the standing and sessionsal orders of the House.

Requesting that the Government increase the Widow’s Allowance and introduce certain concessions and rebates for recipients of the Widows Allowance—from the member for Macarthur—63 Petitioners

Concerning Government funding for pay increases for community workers—from the member for Calare—487 Petitioners

Supporting the availability of pharmaceutical agents for osteoporosis on the Pharmaceutical Benefits Scheme—from the member for Perth—4903 Petitioners

MATTERS OF PUBLIC IMPORTANCE

Social Justice

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

The failure of the Howard Government to invest in the security of Australian families and to provide a plan for a fairer Australia.

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 CREAN (Hotham—Leader of the Opposition) (4.20 p.m.)—I thought we would never get to this this afternoon, but as we are sitting late there is plenty of time to debate this issue.

The SPEAKER—I wondered as well, I might say to the Leader of the Opposition.

Mr CREAN—Before we get to the detail, I want to make a comment about the sanctimony from that side of the House about the need to restore and improve order in this chamber. I have written to the Prime Minister from the beginning of this year proposing changes to standing orders which, together with the election of an independent speaker, would vastly improve the running of this chamber. We have not had a response from the government.

The SPEAKER—The Leader of the Opposition has made his point. I think he understands the obligation he has to come to the matter of public importance. I am happy to accommodate him as a matter of indulgence outside the matter of public importance, but currently he is straining the standing orders just a little.

Mr CREAN—Seven months after the election and re-election of the Howard government, we still have a government with no third-term agenda—a government that plays politics, a government that creates diversions and a government that runs fear over hope. When I was elected leader, I said that I wanted to have the opposition recognised by the initiatives that it proposed. In that seven months, Labor has marked out an agenda that advantages working families, an agenda that brings fairness back into the community and an agenda that shares the benefits of economic growth for the whole of the community, not just for the privileged few.

What we have is a Prime Minister who has been tough on the weak but weak on the strong—a Prime Minister who will not stand up for Australia and its interests overseas, as seen by his recent grovelling, obsequious visit to the United States. There is a recognition on the government’s part that the majority of Australian people think that the government is not standing up for Australia, so much so that ministers have had to come into this chamber over the last three or four days to explain what it is they have been doing. They have not been doing anything at all, but the Labor Party will stand up for Australia and for Australia’s families. Our goal is simple: the strong economy has to be for the purposes of a fair society.

Australia does deserve better. What we are about is this package of initiatives, announced by the Labor Party. It is a package for working families to ease their financial burdens and to help them manage the bal-
ancing act between work and family life. We have proposed a package that involves a tax cut for working families through tax credits. We have proposed a tax cut that will also lift the living wage of ordinary Australian families. We have also proposed measures to protect 100 per cent of workers entitlements for everyone, not just those people that happen to be fortunate enough to be working for the Prime Minister’s brother’s company. We have also proposed the introduction of paid maternity leave without impost on the small business community. We have also proposed a superannuation tax cut for every Australian, not just the wealthiest three per cent. It was only the Labor Party that introduced superannuation for the whole of the workforce; it will be only the Labor Party that improves superannuation for the whole of the work force.

We have also proposed fair dismissal laws—not the government’s unfair dismissal laws, but fair dismissal laws. The government wants it to be easier to sack people. You have got to get the balance right by protecting people who have been dismissed in unfair circumstances and by ensuring procedural fairness and expedition for the business community. It is Labor’s private member’s bill that does that. The government’s proposals are unfair, they are one-sided and they will not work, and that is why we continue to oppose them—but we put up positive proposals in their place. This is a government that has no commitment to distributing the benefits to the whole of the community.

We have also put forward initiatives that get the proper balance between protecting our borders and compassion for the refugees who come here. You do not protect your borders by surrendering them. You should be proud and stand up for Australia and defend Australia, not surrender Australia. The excision across the northern borders surrenders Australia; Labor says, ‘Defend Australia. Stand up for Australia.’ We also want laws that process asylum seekers in the country they first land in, not the country that they choose to head to, and that requires an international framework which this government refuses to engage as it should. It comes in here and tries to tell us about the discussions, but where is the framework it has put in place? It passed up the opportunity at CHOGM, it passed up the opportunity at international fora; it is a government that wants to play fear and politics with the refugee issue and not look for a solution.

We want the people smugglers arrested before they leave Australia; that is the best deterrent of the lot. Don’t have them coming down here and trying to pretend that, if they land on an island, they are excised! Arrest the people smugglers in the country that they are leaving from by negotiating agreements with those countries. Impound the boats! Imprison the smugglers! That is the solution of deterrence. We also want a US style coastguard to protect and patrol our borders. We want a cop on the beat that is defending Australia, standing up for Australia—not surrendering Australia. And, on the compassion front, we want the kids taken out from behind the razor wire. We want the kids and their mothers to have a decent opportunity for education.

We are also proposing that we invest in the future of this country. We have just heard the announcement of the sale of Kingsford Smith Airport, yielding something like $5.6 billion. The government says, ‘All of that money goes to retiring debt.’ Yet Treasury says, ‘The government needs to be looking at issuing paper to secure the bond market.’ What Labor says, and what Labor would have done, is to spend part of the proceeds of the sale of Sydney airport on renewing our national infrastructure. This proposition is quite simple. Why shouldn’t the nation that gets a return on what it has invested in in the past be prepared to use those proceeds and invest in our future? That is the simple proposition, and that is what Labor is proposing—but not this government. The infrastructure that this nation enjoys was created by our parents and grandparents. Every generation has a responsibility to invest in the future. We have had the
government talking about an intergenerational report, but it wants this generation to stop investing in its future. Labor disagrees, and we say that part of the proceeds of that sale should go to reinvesting in our future.

We also as a nation need to understand what has made us strong, and that has been strength and commitment to a population policy through a sensible balance between sustainable immigration in this country and natural birthrates. We need a comprehensive population policy—one that will build the regions and help us plan for future health and education needs, one that will enable us to protect our environment and one that is sustainable. Immigration has been unequivocally good for this country. It has made us strong economically, strong culturally and strong socially. We should learn from those strengths. We should build upon them—not cringe on them or raise fear campaigns about them, but stand proud of them. We should understand the inclusiveness that this nation has developed and build upon it.

We also want to make our communities safer by working with the states to provide more resources to tackle crime in communities with high crime rates. Our proposal for community safety zones goes down this path. It is time someone in Canberra stood up for the victims of crime and did something to protect our communities from the drugs, violence and guns and did not just wash their hands of the problems by saying, ‘This is a matter for the states.’ It is a matter for all of us, because all governments have a responsibility to address this issue, and that is why Labor is proposing that, at the national level, we get in with state and local governments to build protection into communities.

In the wake of the child sex abuse controversy surrounding the Governor-General, I have called for a new national commissioner to protect children and for checks on people who work with kids. I have also made mention of the need to improve parliamentary standards through correspondence—now six months old—to the Prime Minister. We have not even had the decency of a response, and we get the sanctimony of the Leader of the House here today. I tell you what, Mr Deputy Speaker, he may want to try and include the interjections from our side, but we do not need his interjections to be recorded to determine his character and his approach in this place, with the abuse that he hurrs and the misuse that he allows this chamber to fall into.

Also, in terms of the budget speech-in-reply, I challenged the government’s prescription proposals hiking up the price of pharmaceuticals by 30 per cent and knocking people off disability support pensions. I proposed alternatives to funding the budget without those measures. More than five weeks ago, I challenged the government to have our proposals costed, to release the details of those costings and to come back and have a discussion with us. They have not done so. The only costings they released were in relation to our superannuation initiatives—wrong costings, as it turns out, which were released by the Treasurer, as confirmed by evidence in the Senate estimates. The real costings, which were released to the Treasurer, have not been released. What have the government got to hide? They go around talking about the need to address this problem for the future, Labor puts up a constructive alternative and the government hide and are unprepared to act in relation to it.

Labor has put in place a suite of measures over the last seven months—some through private members’ bills and many through statements and commitments made in public. These are important initiatives because they are about fairness in the community. They are about securing our community. They are about addressing the concerns and fears that people legitimately have in the communities in which they live. That is the Labor approach, but we do not see any of it from the other side. All we have seen from the government are the fear campaign and diversions—and, of course, the preening of the would-bes on the front bench as to who will take over when the Prime Minister finally decides to retire.

It reminds me of those all-breed best-in-show dogs: the Minister for Foreign Affairs reminds me of the prize poodle with three generations of breeding; the Minister for Employment and Workplace Relations, the
rottweiler with the studded dog-collar; and Brendan Nelson, the Minister for Education, Science and Training, Scooby-Doo—a afraid of his own shadow, this guy! Then there is Mal Brough, the Minister for Employment Services, the trained seal who entered the wrong show; and the Minister for Immigration and Multicultural and Indigenous Affairs, the dog that changed his breed. Everyone thought he was the old english sheep-dog nice and cuddly—but he is now trying to convince the judges that he is the pit bull. We have, of course, the Treasurer, whom prominent Victorian judges think just does not deserve to be classified by a breed at all—he just has the generic name ‘dog’. We saw him today trying to pretend that he is a Keating-ite in terms of the Pharmaceutical Benefits Scheme. He is not a Keating-ite; he is a Keating-light—a Kmart Keating and a person who does not deserve the leadership of this country. (Time expired)

Mr Anthony (Richmond—Minister for Children and Youth Affairs) (4.35 p.m.)—It is extraordinary that the Leader of the Opposition started his diatribe by talking about setting standards. He started by commenting on how the standards in this House should be raised. His contribution and, most importantly, his last couple of remarks demonstrate his hypocrisy: he preaches one thing but does exactly the opposite. I would like to deal with his seven months of failure. He tried to outline a vision for Labor. The only person who should be worried about their vision is the Leader of the Opposition, because of his absolute failure to project the ALP as an alternative government. He talks about standards, yet he has failed to ensure that one of his shadow spokespersons respects the use of proper language.

This MPI is all about the alleged failure of this government to invest in the security of Australian families and to provide a plan for a fairer Australia. Labor have failed to set standards. Through their invective, their lack of disciplinary action, particularly in respect of the member for Werriwa, and their outrageous language they diminish the standards not only of this parliament but also of public office holders. Frankly, the last remarks of the member for Hotham demonstrate his total unfitness to be an alternative Prime Minister. He talks about there being no third-term agenda and about fear and hope. Their only policy is fear because they have no policy of hope or opportunism. The only policy that they can come up with is a policy of being objectionable—

Mr Hatton interjecting—

Mr Anthony—And you are right—being opportunistic for opportunistic’s sake. They talk about an agenda for working families. They do not have an agenda for working families. The only families that they are interested in are their trade union families—and, my goodness, aren’t they going through a messy separation at the moment? Their agenda for working families—if they were still in power like they were for the last 13 years—would be to see more working families out of work, to see record unemployment and to see more families under strain as they cannot balance their budgets because of the Labor Party’s failure in both monetary policy and fiscal policy, which saw an explosion in interest rates and mortgages and, most alarmingly, their failure to set standards. Even people in the member for Werriwa’s electorate were outraged at some of the language that he used. Maybe later on, I will outline some of the comments about what the Labor Party think about standards or the lack of standards, which needs to be highlighted.

The member for Werriwa talks about the government allegedly being tough on the weak and weak on the strong—how outrageous! It is this government that has been making the hard decisions to ensure not only that Australia is competitive but also that we are providing an adequate safety net for those people who are less fortunate than perhaps the members of this parliament. It is about giving them a hand up, not necessarily a handout. It is about giving a sense of responsibility and a sense of security. We have done that, of course, through major economic reforms, through industrial relations and through the taxation system. What we are embarking on now, which is Australians Working Together, focuses on people’s capacity. Isn’t it interesting that it is a coalition government doing this, which now represents all Australians, particularly working
Australians? That is a hallmark of this government, unlike the Labor Party. All they are concerned about is their own power play within their ranks and the dysfunctional relationship that they have. Very few members actually represent the community; they just represent tribalism and hatred, which comes through from the trade union movement.

They talk about grovelling. That is one of the most outrageous comments. Not only has the Leader of the Opposition failed to discipline the member for Werriwa; now he is also actively endorsing the words that he used. This is allegedly an alternative prime minister and yet the standards that he is putting forward are in the gutter. He talks about grovelling—that is interesting. Looking at the comments that Piers Akerman wrote in the *Telegraph* today, he claims that Mr Howard’s remarks on the US relationship are genuine and certainly no more flowery than those made in the past by former Labor Prime Minister, Bob Hawke, or former opposition leader, Kim Beazley. They know, as we know, that of course it has to be a robust but professional relationship with the United States. Quite frankly, if it were not for the intervention and the strong representation that the Prime Minister, the Minister for Foreign Affairs and the Minister for Trade gave, we would never have been able to secure 85 per cent of the steel quota that we now have for Australia.

They talk about us being subservient. Isn’t that interesting? The very issue that we are debating is the World Trade Organisation, to which the Labor Party signed up quite willingly back in the early nineties. This is a relationship that is built on respect. I will tell you what: if any Australians were watching the presentation by the Leader of the Opposition, there certainly was no respect. All he is playing to are the court jesters behind him. He is not, as he claims, playing to high values and setting up hope, respect and a vision. He has none of those.

They talk about their package for work and family. It is pathetic! It is so shallow. The package that the government has delivered has meant real tax cuts and more disposable income in people’s pockets—something the Labor Party never did. Indeed, what they did was through stealth: through indirect taxation and through the ramshackle wholesale sales tax regime, where they continued, though a very regressive tax, to raise revenue because of their irresponsible spending patterns. The most vulnerable are those who are on low incomes or working families. It was this government that introduced the family tax benefit—$2 billion, which is a substantial increase. I may have to correct the record, but the average Australian family now receives through the family tax benefit well over $4,000 or in child-care benefit well over $1,500.

They talk about this wonderful maternity leave policy. We have done that. We introduced the baby bonus; we introduced family tax benefit part B, which gives families choice. Of course, that is what we are on about: giving families choice so that one parent can stay at home or, if there is a necessity for both parents to work, as there has been in the past because of the enormous interest rates they had to pay under Labor, both may work. Today we still have some of the lowest interest rates that we have seen in the past 30 years.

They talk about their unfair dismissal laws. How outrageous! Everyone, I can assure you, Mr Deputy Speaker, recognises the necessity to have the small business unfair dismissal laws passed. They are still the engine room, particularly for regional and remote communities—even for those in the electorate of Riverina. Small business must have the option—if they are going to put someone on and it does not work out—so that they are not dragged through a legal structure, which disadvantages them considerably and in which there is no incentive, because of fear, to put on new people, particularly young Australians. This legislation, which we are putting to the Senate again tonight, needs to be passed because this is a fair dismissal law. It is not being held accountable to an irrelevant organisation now, which is the trade union movement, which does not represent the majority of Australians—it represents 25 per cent, and falling, of working people. Is it any wonder that they are upset with the Leader of the Opposition and the Australian trade union movement?
The Leader of the Opposition talks about crime. The only crime to consider is that he is Leader of the Opposition! It is interesting when you hear others such as Senator George Campbell, who is on notice, saying that perhaps we might see a resurrection of the member for Brand—and I see we have some of the left-wing members coming in now. It is a very good observation, I might add. Crime in the streets is a state responsibility, and people are scared. It is unusual that we will now see the Commonwealth moving directly into an area of state responsibility. I can understand why the Leader of the Opposition is saying that. He knows that all the states, which are now controlled by Labor, have failed in their principle objective in law enforcement and crime. And of course that is a major consideration for the security of Australian families, not just financial security but the security of their own personal space and personal sovereignty.

When the Leader of the Opposition talks about border protection and the policies that they have now all of a sudden—

Mr Hartsuyker—What policies?

Mr ANTHONY—A very good point I hear echoed by my National Party colleagues—they do not have any policies. Their policy was to abdicate Australia’s sovereignty to people smugglers. Isn’t it extraordinary that prior to the last election—and there has been much comment in this House about this—the differences between the government and the Labor Party were paper thin. The opposition knew that the Australian public was backing the coalition and its strong border protection policy.

The first thing families are concerned about is the sovereignty of their own country, and that was enforced by the efforts and the incredible stewardship of the Minister for Immigration and Multicultural and Indigenous Affairs, who brought legislation before the House in the last parliament and in this parliament to ensure that those people who are involved in people-smuggling—racketeers who used to be involved in the drug trade—are not allowed or encouraged to bring those unauthorised border entries into this country. We will stand firm on that. We are now seeing a total policy backflip and weakness by the Leader of the Opposition as he panders to the Chardonnay left-wing set, which does not represent the majority of views. No wonder we won a majority of votes in the last election, particularly from working-class Australians, because they recognise that the Howard-Anderson government is best placed in relation to providing financial security for their families and border protection policy.

It is extraordinary that the Leader of the Opposition started his speech on a high lofty note about better standards. We know that the Leader of the Opposition is restraining himself. We know what his true colours are but he is trying to take on this high statesmanship role. But he cannot help himself—when you let the dog off the leash, doesn’t he bark! What I am concerned about is that he is allegedly trying to set high standards, yet for the last couple of minutes of his failed MPI he spent the time in personal invective against members of the front bench. Here is an alternative leader and all he can do is make snide character assassinations of this party. No matter what political differences we may have and after all the debate that we have had in the last two days, and particularly today, he still cannot restrain himself.

The Leader of the Opposition has failed to restrain the member for Werriwa in the language that he used. When we talk about security, the real fear for Australian families is the way we treat each other, our fellow neighbours, even if we have differences. The language that the member for Werriwa used, which he tried to justify, was outrageous, and he continued to try to make a virtue out of it. Some of his remarks have now even entered into Australian dialogue and become part of the colloquialism of the western suburbs of Sydney. Today on 2BL with Angela Catterns the member for Werriwa was interviewed by Dave Mark, who then went on to interview four residents. One resident said:

I thought it was inappropriate to use that type of language and, basically yes, people can use all kinds of language to describe things and you can use any kind of words to describe any sentiment, but in public and using these words as a politician as a professional, I think it is highly inappropriate and in particular if he says that it reflects the kind of language that we use. In this electorate we do
not. This may be used at a private level or personal level but not at a professional level and in many ways it is insulting to suggest it is a reflection of this electorate.

The interviewer asked resident No. 2:
Do you think Mark Latham’s language was inappropriate?
The resident replied:
It is just not the way you speak to people for starters.

Another question was asked:
Is this the sort of language that’s used in Western Sydney? Is it what many people in the electorate are using?
The resident replied:
No, I think it is not at all.

The very essence of this MPI by the Leader of the Opposition was about setting standards for families and about setting standards within this parliament. We know the opposition have been an absolute failure when it comes to financial and fiscal responsibility. What is even worse is that he has been unable—(Time expired)

Mrs IRWIN (Fowler) (4.50 p.m.)—Can you really believe the comments that the Minister for Children and Youth Affairs has just made? He goes on about the member for Werriwa but he never mentions the Minister for Employment and Workplace Relations. In the six years that the Howard government has been in power working families in Australia have seen their economic and social security hacked away by this government. If there was one set of words that described Australia before the Howard government it was the words ‘fair go’. But in just over six years, this government has killed off those words and all that they stood for. We are no longer the country of the fair go. We have become a country where wealth and privilege count for more than fairness when it comes to access to services like health and education. And this government’s agenda is to make access to these even less fair.

What we have seen in this government’s term of office has been an agenda which puts more and more funds into wealthy private schools and ignores the needs of public schools. Is that fair for working families? We have seen a government that subsidises the contributions of the wealthy to private health funds but fails to fund public hospitals. Is that fair to working families? We have seen a government which has failed to close the loopholes that allow millionaires to get the age pension but slugs working families with higher charges when they go to the chemist. We have seen a government that wants to give tax breaks to overseas executives on million dollar salaries but lets bracket creep eat away at the take-home pay of working families. Is that what you would call a fair go for Australia’s working families? For more than six years we have seen attack after attack on Australian families, from cuts to child care to putting the goods and services tax on clothing and other essentials. This has been a government whose agenda has been to attack working families at every turn.

It is interesting to see that every time the government has to defend itself in these debates, it trots out the tired old argument about interest rates. I want to tell the House about a growing concern among people of my age—people whose children are starting out in life with their own families, buying homes and thinking about having children. I heard the other day that the average new mortgage for a home in Sydney is now $300,000. If you work out the repayments on that, they would be around $2,000 per month—that is around $500 a week. On top of that, credit card debt has blown out to an all-time high. So if you want to look at interest rates, you will have to look at affordability and not just the rates themselves.

If you are wondering what working families are worried about, what they see as their main security concern, then income security must rank at the top of the list. But what is this government doing to make working families feel more secure? For a start, it wants to make it easier for the more than two million Australians who work for small businesses to get the sack, and it wants to make it easier for those in casual employment to lose their jobs. How does that add up to the security of working families? For those working families where the main breadwinner suffers an illness or an injury, how is this government going to make the family secure? We know it is going to make
it a lot harder to get a disability support pension. When all is said and done, thousands of families will face the uncertainty of life under this government’s income support policies.

It is not surprising to see that working families are delaying having children and are having fewer children. But they do not have to worry. It seems that the member for Mackellar has come up with a plan to help working families cope with a full-time career and manage the home as well.

Ms Roxon—Really?

Mrs IRWIN—Yes. In an article in the *Sydney Morning Herald* last Saturday, the member for Mackellar described her plan to address the falling fertility rate for Australian women. For a start, it seems the member for Mackellar does not like the idea of paid maternity leave. She thinks this would only give limited help and be an inappropriate use of public funds. But what great and fair scheme does the member for Mackellar propose? According to the article by Michelle Grattan, the member for Mackellar wants to see:

... tax deductibility for domestic help, including child care at home and “outsourced services” such as garden maintenance, would give women the capacity “to run households, work, have a fulfilling family life, and enjoy security” ...

That sounds like something from a 1950s *Women’s Weekly* that she found when she pulled up the lino. But, no—it was not the 1950s but last week. The article noted that the member for Mackellar could not put a cost on her proposal. I could not help thinking about how that proposal would work in practice. Just imagine it: having tax deductibility for domestic help, a gardener to look after the lawns, a cook to prepare the evening meal, a chauffeur to wash the car, a nanny to look after the children and, of course, we cannot forget a butler to greet you at the door with a nice glass of chardonnay.

I thought about how that proposal might benefit the average working family in my electorate of Fowler. I could just imagine Mrs Tran, coming home after a hard day gutting chickens at the Ingham’s chicken factory. She is picked up after work and driven home by the chauffeur. The butler greets her at the door with a crisp white wine. Cook tells her that dinner will be served at seven—but Mrs Tran is hoping that it is not going to be Chicken Tonight. And, of course, nanny brings the children downstairs to meet her, homework done, bathed and ready for bed. What a picture of domestic bliss—and all tax deductible! That shows us how government members think they can make life for working families fairer. That is their plan for a fairer Australia.

If you think that making domestic help tax deductible is fiction, it is not that far away from what this government is doing with its baby bonus. The baby bonus will of course give maximum benefit to mothers or fathers who earned more than $53,000 dollars a year before they left the work force to look after their children. Parents in working families who earn less than that or do not have an income will see their bonus scaled down to $500 per year. Families with high-income parents will benefit most from non-means tested family allowances. That is how this government is making life fairer for working families!

But the most unfair of this government’s policies are those that set one Australian against another. This is a government which promotes downwards envy. It tells low-income families that those on Centrelink benefits are the undeserving poor. It divides communities between those with little and those with nothing at all. But when it comes to the other kind of envy—upwards envy, Minister—it tells us that is a sin. While its mates get away with tax breaks almost as generous as the ones proposed by the member for Mackellar, it tells us that is fair. It tells us it is fair to give even more money to wealthy private schools, while kids from disadvantaged backgrounds miss out on special learning classes. It tells us it is fair to subsidise private dental insurance so that the richest in the community can get their teeth capped but kids from poor families will have to suffer a lifetime of poor dental health under this government. And it tells us that is fair. *(Time expired)*

Mr ROSS CAMERON *(Parramatta—Parliamentary Secretary to the Minister for Family and Community Services)* *(5.00 p.m.)*—Today we are talking about security
and fairness, and I want to begin with a reflection on the nation of security. The great philosopher and thinker of the 19th century G.W.F. Hegel argued that the unfolding story of civilisation was the story of freedom and of the individual emerging from the vast, faceless collectives of the feudal and medieval world.

The human genome has recently been mapped and what we find is that the human genome contains 40,000 different genes, each of them expressing the uniqueness of each individual. This is a government in the spirit of Hegel and of freedom that believes security comes from citizens having the greatest possible capacity to take charge of their own affairs. It believes that citizens should have the greatest capacity to exercise choice and that they should be most free from interference and direction from external sources—particularly government. That is the ultimate form of security. Self-reliance is security. This is the kind of freedom where we want to see Australian citizens emerge in the 21st century with the skills, with the capacity and with the confidence to reach out and grab the enormous opportunities that a country like Australia presents.

If you look at the impact of that strategy over the last six years, we have a good story to tell. If we talk about fairness, we note that the average earnings in the bottom 20 per cent of Australia’s citizens over the past five years have grown by 8.4 per cent. For the first time, this coalition government has turned around the declining purchasing power of the poorest 20 per cent of Australians.

If you look in the area of employment, ultimately the greatest form of security is to have a job; to be able to generate your income. When I was elected as the member for Parramatta in 1996 the unemployment rate was just under 14 per cent. I can assure you that those 14 per cent of my community were feeling desperately insecure. They were feeling that all of these vast external forces were controlling their destiny and direction because there simply was not a climate for the creation of jobs, for the taking of risks and for the making of investment. I am delighted to say that the unemployment rate in my electorate of Parramatta has fallen by 10 per cent since the day John Howard was elected Prime Minister of Australia.

Mr Slipper—You are a good member.

Mr ROSS CAMERON—Thank you, Parliamentary Secretary. I cannot take all the credit for that result personally. I have to confess that it is the result of a collaboration by the extraordinarily gifted and committed leadership of the Howard government, who have followed this sustained, coherent philosophical approach of creating opportunity for all Australians, wherever they fall—from the most humble to the most exalted. What we have seen in the area of job creation—the foundation of security—in the last six years is that 976,000 jobs have been created in Australia. In this government, we do not say, as the former government did, that we created those jobs. No, we do not have that tone of arrogance in the margins of our account to the Australian people. We say that the Australian people created those jobs—the small risk taking entrepreneurs like the famous Turkish kebab shop owner in Parramatta Mall, who puts at risk his capital and who is there from early in the morning till late at night and in front of the hot stove cleaning out the fat at the end of the day, because he has a dream for a better world for himself and for his children. This government stand behind him. We are not in the business of loading him up with ever higher costs and taxes.

In six consecutive budgets this government, under Treasurer Costello, have brought down six consecutive budget surpluses. We are communicating a message; leading by example. We are saying that, if we expect Australians to live within their means, we must likewise as a government live within our means. When we came to government there was a Commonwealth debt of $96 billion. The sale of the airport this week will see that debt reduced by $61 billion. If you want to talk about fairness, we think about fairness in intergenerational terms. We are not just thinking about fairness to today’s taxpayers; we are thinking about the future: about unborn Australians. As the Intergenerational Report and the budget show, we are looking out to 2041. We want
to ensure that a young Australian born in 2041 is not loaded up with the massive debts of profligate spending by the generations that preceded him or her. We have wiped out $61 billion in debt, not because we like a pretty set of books but because we believe in the principle of fairness. We believe in the principle of opportunity for all generations.

If you look in the area of health, it is true that we have encouraged Australians to take out private health insurance—those with the capacity—because we believe that those who will continue to be reliant on the public health system ought to be relieved of the burden of those who are in a position to take responsibility for their own health. So we are encouraging Australians to take a greater level of responsibility, and they are responding in their thousands.

If you look then at the issue of education, we have supported a strong public education system. This government has increased its annual transfers to the states for public education. We have maintained a consistently higher rate of spending on public education than any state or territory government in Australia. At the same time, we have upheld this principle of choice because we believe that, for those parents who want to choose the character of the school their children attend, they should not be prohibited by a heavy-handed and paternalistic directive Commonwealth government that refuses to allow the creation of new schools. We say that it is fair for parents to choose the school where their children are educated. They should have that opportunity.

If we look at the area of refugee policy, we face the difficult challenge of having something in short supply for which there is a massive demand. You must have a rule system—the rule of law upon which all good government is based—so you can somehow have consistency in approach. There are 20,000 Chinese parents, the children of many of whom were given permanent residence under an amnesty after the Tiananmen Square incident. Their children are in Australia and they have now retired in China. Their grandchildren are growing up in Australia and they want to come to this country. At the moment, we only have the capacity to bring 500 of them a year. How do I explain to the other 19,500 why they cannot come to Australia when somebody else can get on a boat and simply turn up and present themselves? Under the rather adventurous and relaxed approach of some of our courts, they can be virtually assured of jumping to the front of the queue.

In fairness, we should enforce a firm policy on unauthorised boat arrivals to this country. We have to be able to tell the same story to all of those who want to come—and why wouldn’t you want to come to Australia? After six years of the coalition, it is today a land of opportunity virtually unmatched anywhere in the world. For example, if you look at the area of retirement income and savings, we want Australians to get to the end of their working lives and have enough accumulated savings to be able to live with a degree of comfort and security. It is fantastic to be able to say that the All Ordinaries Index shows that the value of Australian equities in private and public Australian companies has been growing by 15 per cent a year since the coalition came to office. That is not just an accounting figure. It means that when Australians reach the end of their savings lives, because we have practised low interest rates, because we have had low inflation and an environment of increased competition and productivity in Australian companies, because crane rates have lifted from 15 per hour when we were elected to nearly 30 per hour today, all that is putting money into the superannuation funds of private Australian citizens who will have to live on that for the rest of their lives after they retire.

That is our approach to fairness. At the last election, Labor’s plan was a bureaucracy led recovery. Labor planned the creation of 44 new federal bureaucracies and 220 inquiries. That is not my idea of leadership. We have to drill down to the fundamentals and stick to the basics. We have to lift Australia’s productivity and we have to govern with modesty, discretion and respect for the dollar that the taxpayer contributes. We have to drive down costs and we have to create a future of opportunity and freedom. That is
the best form of security that any Australian
can ever hope for.

The DEPUTY SPEAKER (Hon. B.C. Scott)—Order! The discussion is now con-
cluded.

DELEGATION REPORTS
ASEAN Interparliamentary Organisation
Thailand, September 2001

Ms PLIBERSEK (Sydney) (5.10 p.m.)—by leave—I present the report of the Austra-
lian Parliamentary Delegation to the 22nd AIPO General Assembly held in Thailand
from 2 to 5 September 2001, visits and briefings in Bangkok from 6 to 8 September
2001 and bilateral visit to Singapore from 9 to 13 September 2001, and seek leave to
make a short statement.

Leave granted.

Ms PLIBERSEK—The 22nd General
Assembly of the ASEAN Interparliamentary
Organisation, AIPO, was held in Bangkok in
September 2001. The parliamentary repre-
sentatives of eight ASEAN countries, two
special observer countries and eight observer
countries attended the assembly. We, of
course, are an observer country. The AIPO
assembly provided an excellent forum for us
to have discussions with our ASEAN neigh-
bours about closer ASEAN integration by
bridging the social and economic develop-
ment gaps among ASEAN members. The
Australian delegation hosted a very interest-
ing dialogue session and the issues discussed
included Australia’s response and coopera-
tion in combating cross-border trafficking;
the CER-AFTA proposals; teacher training
investment in ASEAN countries by Australia
and bilateral education programs; assistance
by Australia in technical expertise to combat
the Asian haze, and the need for ASEAN
countries to maintain their strong national
and cultural identities.

In addition to the AIPO conference, we
met a number of Australian representatives
in Thailand. We met the Australian Federal
Police regional coordinator at the Australian
embassy and the Australia Thailand Cham-
ber of Commerce and the Narcotics Control
Board. My most valuable experience in
Thailand was visiting the Human Develop-
ment Foundation in the Klang Toey slum in
the port district of Bangkok, where I saw the
excellent work being done by Sister Joan, an
Australian working with slum dwelling chil-
dren who have HIV or AIDS whose parents
most often have died, leaving those very
young children as orphans. Her work is to be
commended and I hope that other Australian
dellegations to Thailand would make a spe-
cial effort to visit that very important hu-
manitarian project in the poorest part of
Bangkok.

We subsequently went to Singapore on a
bilateral visit from 10 to 13 September. The
dellegation met with the Speaker of the Sin-
gapore parliament, the Minister of State for
Foreign Affairs, the Minister of State for
Defence, Information and the Arts, and with
the Singapore-Asia Pacific Rim Parliamen-
tary Group and the Government Parliamen-
tary Committee on Foreign Affairs and De-
fence. We were briefed by a number of offi-
cers from nine Singapore boards and
authorities. The Public Housing Board and
some of the public housing that we toured
was particularly interesting for the delega-
tion.

On behalf of the Australian dellegation, I
would like to thank the parliamentarians of
the AIPO nations, the representatives of the
organisations that met with us in Bangkok
and the parliamentarians of the Singapore
parliament and representatives of the Singa-
pore organisations who met us. All these
friendly and helpful people ensured the suc-
cess of the dellegation’s visit. I would also
like to thank the committee secretary, Rick
Williams, who organised the whole trip with
extraordinary equanimity. It was a very suc-
cessful trip overall.

COMMITTEES
Publications Committee
Report

Mr RANDALL (Canning) (5.14 p.m.)—I
present the second report from the Publica-
tions Committee. Copies of the report are
being circulated to honourable members in
the chamber.

Members’ Interests Committee Report

Mr HAASE (Kalgoorlie) (5.15 p.m.)—As required by resolutions of the House, I table copies of notifications of alterations of interests and a statement of registrable interests received during the period 11 April 2002 to 26 June 2002.

DELEGATION REPORTS
Australian Parliamentary Delegation to Finland and Germany, April 2002

Mrs ELSON (Forde) (5.18 p.m.)—by leave—I present the report of the Australian Parliamentary Delegation to Finland and Germany from 7 to 19 April 2002, and seek leave to make a short statement in connection with the report.

Leave granted.

Mrs ELSON—A parliamentary delegation visited Finland and Germany between 7 and 19 April 2002 and undertook a series of meetings, inspections and discussions on issues of current relevance and importance. The central objective of the delegation’s visit was to renew and reinforce the existing good relations between the Australian parliament and the Finnish and German parliaments. The delegation was headed by the President of the Senate, the Hon. Margaret Reid, and comprised senators Winston Crane and Sue Mackay, and members of the House of Representatives Mr Michael Danby, Mrs Margaret May and me.

The delegation’s program in Finland, from 7 to 12 April 2002, was hosted and arranged by the Finnish parliament. The delegation held meetings on a range of political, economic and social issues with the President of the republic, the Speaker of the parliament, members of the Finnish parliament, the Speaker of the Sami parliament, the Prime Minister, government officials, and civic and business leaders.

The delegation’s program in Germany was hosted and arranged jointly by both chambers of the German parliament, the Bundesrat and the Bundestag, and included visits to Berlin and the new German states of Brandenburg and Thuringia between 13 and 19 April 2002. In Berlin the delegation met with members of the Bundestag and Bundesrat, the President of the state parliament of Berlin, and senior members of the ministry and the civil service. The members of the delegation participated in a very informative forum on German-Australian collaboration in science, education, IT and the arts, arranged by the Australia Centre. The delegation visited Potsdam, the capital of Brandenburg, and Erfurt, the capital of Thuringia, to meet with members of the state parliaments and ministers responsible for European affairs. The delegation was shocked and saddened to hear of the tragic shooting of many students and teachers at a high school in Erfurt just one week after our visit there. The leader of the delegation wrote to the President of the state parliament to express our deep sorrow and sympathy.

I would like to extend my personal thanks to the German government for the special arrangements made that allowed us to visit the Allied war cemeteries. I would like to take a moment to recount a personal highlight. It is a measure of the enduring gratitude we have for those who have served our nation in war. I appreciate that these arrangements were made for us to visit one of the Allied war cemeteries in Berlin. For it was there that I had the honour to lay a rose at the grave of Flying Officer Michael Corcoran of Canungra. Flying Officer Corcoran paid the supreme sacrifice during the Second World War. I take this moment to remember a young man—one of many—who served Australia bravely, and whose memory we respect and honour. It was a moving experience, and we were all impressed with the way the cemetery was beautifully maintained. In a wonderful footnote, I published a photo of this visit in my local newsletter and was contacted by Flying Officer Corcoran’s sister, who still resides in my electorate. She was very pleased to be able to see the final resting place of her brother, which her family had always wondered and worried about. I will be meeting with her shortly to give her photos and videos of the memorial.

During the delegation’s visit to Finland, the Speaker of the parliament, Mrs Riitta Uosukainen, was presented with a formal letter from the President of the Senate and
the Speaker of the House of Representatives inviting her to visit the Australian parliament. In Germany, the delegation presented letters to the presiding officers of the Bundestag, President Wolfgang Thierse, and the Bundesrat, President Klaus Wowereit, inviting them to visit the Australian parliament. The delegation is pleased to note that President Wowereit was able to respond almost immediately and visited us in May this year.

The delegation is indebted to many people in Canberra, Germany and Finland for the success of their visits to both countries. A full list of those to whom we wish to express our gratitude is included in the report. But today I would like to especially thank the leader of the delegation and President of the Senate, Margaret Reid. I have no doubt that the rest of the delegation would want me to thank her on behalf of them. Margaret is a delightful person who shared responsibilities equally with all of us, and under her leadership we gained so many valuable experiences and opportunities whilst, at the same time, we learnt much about the true value of professional, diplomatic relationships.

I also extend our thanks to the President of the Senate’s very helpful private secretary, Don Morris, and I would like to place on record our thanks to delegation secretary, Wayne Hooper, who was always friendly and readily at hand with any information that we required. Wayne is a credit to his profession. Thanks also to the staff of our embassies in Berlin and Stockholm and to Dr Ditta Bartels, Managing Director of the Australian Centre in Berlin. The delegation is indebted to the governments of Finland and Germany for the opportunity to meet with a variety of government, business and community members and to be given the opportunity also to experience the beauty of both of their countries. We have gained many wonderful experiences to last us a lifetime.

Mr DANBY (Melbourne Ports) (5.24 p.m.)—by leave—The member for Forde expressed it very well when she said that the delegation was a pleasure to be a part of and was extremely instructive. It was largely due to the leadership of Senator Margaret Reid, the President of the Senate. Her deputy was Senator Sue Mackay, a colleague from the opposition. The whole delegation, I think, made a big impression in both Finland and Germany and took a great deal away from the experiences, including an understanding of the political and economic systems in those countries.

In particular, I want to say a couple of things about some of the people who the member for Forde did not mention, who I believe, in addition to the very helpful activities of people she did mention, played important roles in Australia’s relations with those two countries. The first person I want to particularly focus on is the extraordinary clerk of the Finnish parliament, Mr Seppo Tittonen. Mr Tittonen accompanied us on practically all of our very high-level meetings with the Prime Minister, the President of Finland—who had just returned from Korea but who saw us immediately afterwards—the Grand Committee and the Foreign Affairs Committee. We certainly had the inside track to all of the leading opinion makers in Finland because of Mr Tittonen’s involvement. His understanding and explanations to us of Finnish culture, whether it was at the level of the sauna or at the level of the president, were extraordinary. I appreciated his involvement, as I appreciate the involvement of the Australian Ambassador to the Scandinavian countries, Mr Stephen Brady, who organised the most extraordinary high-level and exhaustive program.

One of the particular pleasures of being there was to visit the headquarters of one of the world’s most successful telecommunications companies, Nokia. A presentation by one of their leading world executives, in particular, made me understand why it is that in Australia we do not have the same level of expertise in telecommunications that they do—25 per cent of all Finnish graduates from university graduate in engineering. That factor alone is very important in determining Nokia’s leading role in world telecommunications. We also had an opportunity to present an appropriate Australian honour to Mr Martti Ahtisaari, the former President of Finland, who played a leading role in releasing Australian captives from Serbia. Mr Ahtisaari was a very gracious host who entertained us in his home, where the Austra-
lian ambassador presented him with the highest Australian award possible for his humanitarian intervention with the then Yugoslav authorities.

In Germany we had a very instructive visit. I particularly enjoyed meeting the President of the Bundesrat, the Mayor of Berlin, Klaus Wowereit. As the member for Forde said, he returned here to Australia recently with a very powerful and interesting German delegation. I happened to come especially to Sydney and Canberra to see the delegation with the President of the Senate. Again, it was very important for relations between our two countries to follow up our visit to Germany with that immediate visit from the Germans.

In a brief break in the program, I also had the opportunity to visit my grandparents’ house in Rostock, to visit a memorial to them in the Rostock cemetery and to meet the extraordinary academics from a privately funded project the Max Samuel House, which preserves the memories of all of those people who perished at the hands of the Nazis. I pay great tribute to these two academics—Dr Frank Schroder and Wolfgang Weiskirche. They have continued their interest in what basically is an antiracism project in their area of what was East Germany. They explain to the young people of Mecklenburg in North Germany what these people who, like my grandparents, used to live there before Germany became occupied by the Nazis did. This approach makes it very personal to the young people in their area and it is an insightful explanation of what happened during the Hitler period.

I conclude by repeating the thanks that the member for Forde gave to all of the members of the delegation. Also, thanks to the member for Forde’s husband, David, Margaret May’s husband and all of the people in the delegation. Their involvement meant that all of the program was tackled with great enthusiasm. It was one of the most productive overseas visits that I think an Australian delegation has participated in. I would also like to conclude by thanking Wayne Hooper and Don Morris and all of the staff at the Australian embassies in both Germany and Finland.

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**JURISDICTION OF COURTS LEGISLATION AMENDMENT 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’s amendments**—

1. Schedule 2, item 10, page 8 (line 34) to page 9 (line 2), omit the item.
2. Schedule 2, item 25, page 16 (lines 8 and 9), omit subitem (3).

Question agreed to.

Bill, as amended, agreed to.

**Third Reading**

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (5.30 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**BILLS RETURNED FROM THE SENATE**

The following bills were returned from the Senate without amendment or request:

- International Criminal Court Bill 2002
- International Criminal Court (Consequential Amendments) Bill 2002
- Disability Discrimination Amendment Bill 2002
- Criminal Code Amendment (Suppression of Terrorist Bombings) Bill 2002
- Australian Protective Service Amendment Bill 2002
- International Tax Agreements Amendment Bill (No. 1) 2002
- Taxation Laws Amendment Bill (No. 2) 2002
- Therapeutic Goods and Other Legislation Amendment Bill 2002
- Statute Law Revision Bill 2002
- Bankruptcy (Estate Charges) Amendment Bill 2002
HEALTH INSURANCE COMMISSION
AMENDMENT BILL 2002
First Reading

Bill received from the Senate, and read a first time.

Ordered that the second reading be made an order of the day for the next sitting.

COMMITTEES

Reports: Government Responses

The DEPUTY SPEAKER (Hon. B.C. Scott)—For the information of honourable members, on behalf of the Speaker, I present a schedule of outstanding government responses to reports of House of Representatives and joint committees, incorporating reports tabled and details of government responses made in the period between 14 February 2002, the date of the last schedule and 26 June 2002. Copies of the schedule are being made available to honourable members and it will be incorporated in Hansard.

The schedule read as follows—

THE SPEAKER’S SCHEDULE OF OUTSTANDING GOVERNMENT RESPONSES TO REPORTS OF HOUSE OF REPRESENTATIVES AND JOINT COMMITTEES

(also incorporating reports tabled and details of Government responses made in the period between 14 February 2002, the date of the last schedule, and 26 June 2002)

27 June 2002

THE SPEAKER’S SCHEDULE OF OUTSTANDING GOVERNMENT RESPONSES TO COMMITTEE REPORTS

On 26 June 2002, the Government presented its response to a schedule of outstanding Government responses to parliamentary committee reports tabled in the House of Representatives on 14 February 2002.

It is Government policy to respond to parliamentary committee reports within three months of their presentation. In 1978 the Fraser Government implemented a policy of responding in the House by ministerial statement within six months of the tabling of a committee report. In 1983, the Hawke Government reduced this response time to three months but continued the practice of responding by ministerial statement. The Keating Government generally responded by means of a letter to a committee chair, with the letter being tabled in the House at the earliest opportunity. In 1996, the Howard Government affirmed the commitment to respond to relevant parliamentary committee reports within three months of their presentation. The Government also undertook to clear, as soon as possible, the backlog of reports arising from previous Parliaments.

The attached schedule lists committee reports tabled and Government responses to House and joint committee reports made since the last schedule was presented on 14 February 2002. It also lists reports for which the House has received no Government response. A schedule of outstanding responses will continue to be presented at approximately six monthly intervals, generally in the last sitting weeks of the winter and spring sittings.

The schedule does not include advisory reports on bills introduced into the House of Representatives unless the reports make recommendations which are wider than the provisions of the bills and which could be the subject of a government response. The Government’s response to these reports is apparent in the resumption of consideration of the relevant legislation by the House. Also not included are reports from the Parliamentary Standing Committee on Public Works, the House of Representatives Committee of Members’ Interests, the Committee of Privileges, the Publications Committee and the Selection Committee. Government responses to reports of the Public Works Committee are normally reflected in motions for the approval of works after the relevant report has been presented and considered.

Reports of the Joint Committee of Public Accounts and Audit primarily make administrative recommendations but may make policy recommendations. A government response is required in respect of such policy recommendations made by the committee. However, responses to administrative recommendations are made in the form of an Executive Minute [until recently a Finance Minute] provided to, and subsequently tabled by, the committee. Agencies responding to administrative recommendations are required to provide an Executive Minute within 6 months of tabling a report. The committee monitors the provision of such responses. The schedule includes reports with policy recommendations.
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<td>Unlocking the Future: The report of the Inquiry into the Reeves Review of the Aboriginal Land Rights (Northern Territory) Act 1976</td>
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<td>Nineteenth Report: Second interim Report for the s.206(d) Inquiry - Indigenous Land Use Agreements</td>
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Notes:

1. The date of tabling is the date the report was presented to the House of Representatives. In the case of joint committees, the date shown is the date of first presentation to either the House or the Senate. Reports published when the House (or Houses) are not sitting are tabled at a later date.

2. If the source for the date is not the Votes and Proceedings of the House of Representatives or the Journals of the Senate, the source is shown in an endnote.

3. The time specified is three months from the date of tabling.
4. The government is further consulting stakeholders in an effort to reach agreement on reforms to the act.
5. The response is expected to be tabled shortly.
6. The response is under consideration and a response is expected to be tabled in the 2002 Spring sittings.
7. The report is being considered and a response will be provided as soon as possible.
8. The response will be completed once a number of issues relating to the development of streamlined management arrangements for the interstate rail network are finalised. It is anticipated that the response will be tabled shortly.
9. The response is currently being prepared. It is expected to be completed soon.
10. As the report does not contain recommendations, a response is not required.
11. The response is being finalised. It is expected to be tabled as soon as possible.
12. The report is being considered and a response will be provided as soon as possible.
13. Many of the issues raised in this report are being considered as part of a comprehensive strategy for mature age workers. Accordingly, the government’s response to the report will not be tabled until the strategy has been developed.
14. Responses have been received from most jurisdictions and a response is being finalised. The response will be completed shortly.
15. Issues are being negotiated between portfolios and it is anticipated that a draft response will be completed shortly.
16. The response is being prepared to take into account not only the two reports, but also changing strategic circumstances and additional White Paper considerations. The response should be tabled in the next period of sittings.
17. The response is under consideration.
18. The response was tabled in the House of Representatives on 7 August 2001 as ‘Government response to the report of the Joint Standing Committee on Foreign Affairs, Defence and Trade on the 14 December 2000 Australian Government Loan to Papua New Guinea’.
19. The response is being finalised and is expected to be tabled in the near future.
20. A draft response is under consideration.
21. The recommendations are being considered in the light of current practices in the Houses.
22. The response to the report has been overtaken by the Cloning Implementation Working Group report to COAG via Australian Health Ministers’ Advisory Council.
23. The response is under consideration and is expected to be tabled as soon as possible.
24. The response is under consideration and is expected to be tabled in due course.
25. The response is expected to be completed in the 2002 Spring sittings.
26. The response is expected to be tabled in the 2002 Spring sittings.
27. The government is considering the report.
28. It is expected that a response will be tabled early in the 2002/03 financial year.
29. The draft response is being updated to take into account developments since the election, including changes to portfolio responsibilities. The response will be tabled in due course.
30. An International Criminal Court Bill 2002 was introduced into the House of Representatives on 25 June 2002 and passed on 25 June 2002. The Bill is still awaiting consideration by the Senate.
Mr BAIRD (Cook) (5.34 p.m.)—I am pleased to rise tonight in support of the government’s excellent piece of legislation. I was very pleased to hear the member for Banks express in his speech the degree of bipartisanship which existed between the government and the opposition on this most important piece of legislation. Obviously, there has been much discussion in the interim since the Proceeds of Crime Bill 2002 was initially introduced. I believe that the bill is stronger as a result of those discussions.

Certainly, it is the clear will of the House that the government takes action in relation to those people who have been convicted of crimes and when there is fair certainty that they are guilty of crimes. Their assets should be confiscated, because for far too long criminals have simply gotten away with the proceeds of crime. They have served out prison sentences to later enjoy the fruits of their ill-gotten gains as they live on their yacht or overlooking the harbour in some excellent mansion. Those days are over. The message is out to the criminals who consider that they can simply acquire assets and funds by illegal means and enjoy their fruits for some time into the future. It is very clear in the agreed determination of this House that there will be a confiscation of assets.

In my role as Chairman of the Joint Standing Committee on the National Crime Authority and also as a member of the government’s Attorney-General, Justice and Customs Legislation Committee, to a small degree I have had some input into this bill in its current form. Obviously, crime remains a significant factor for people living in Australia. We are fortunate that our crime levels are not as high as they are in some countries. Nevertheless, the degree of concern is significant. A survey I carried out some nine months ago within my own electorate showed that the number of people who were concerned about crime had jumped from 12 per cent to 24 per cent in three years. There are many reasons for that: the concern that they have regarding offences in the street, the level of burglaries and assaults that have occurred and some of the more violent crimes that have occurred within my electorate and around Sydney overall.

So, as to the background of this bill, it is firstly a response to the Law Reform Commission report of 1999, *Confiscation that counts*, which said that the Commonwealth’s current powers of confiscation were inadequate and in need of reform. It also implements the government’s election promise—the government committed itself to ensuring that the Commonwealth has sufficient power to confiscate the proceeds of crime and that these confiscated proceeds are dedicated to support programs combating crime, particularly drug treatment and diversionary programs. It does turn the tables against organised crime. For years people involved in organised crime have been profiting from others and at the expense of other people in the community.

On the election commitments that the government gave following the September 11 attacks, on 30 October a number of initiatives were outlined by the Prime Minister, including ‘A Safe and More Secure Australia’. This included a comprehensive $135 million package offering effective law enforcement initiatives, which included encouraging the highly successful program of Federal Police cooperation with overseas law enforcement agencies. Thanks to this commitment, the Australian Federal Police will soon have 58 fully funded overseas liaison officers working to combat the traffic of illegal substances into this country. Secondly, there will be more money to support undercover Federal Police work on the infiltration of criminal organisations. Thirdly, there will be considerable funds given to boost the rapid response capability of the Australian Federal Police by constructing remote command centres with full operational facilities. Fourthly, and importantly in terms of this legislation, the ‘A Safe and More Secure Australia’ document promised that this leg-
islation would be reintroduced—hence, today’s debate.

The government’s record has been strong in this area. The initiatives include the successful Tough on Drugs initiative; the delivery of the Crimtrac automated fingerprint system, which has been applauded by police commissioners around Australia; the DNA database of criminals convicted of certain criminal offences, which ensures that Australian law enforcement agencies have the most up-to-date forensic abilities at their disposal; and the national firearms licensing and registration system.

I turn now to the actual operational aspects of the legislation. As I noted earlier, the bill proposes a new regime to allow the confiscation of unlawfully acquired money or assets. The regime is broadly set up on the 1997 New South Wales legislation—that is, a civil forfeiture regime, where a court decides that it is more probable than not that a person committed a serious criminal offence some time in the previous six years and that property has been derived from that conduct. So it differs from the existing system in that civil forfeiture does not require a conviction for the assets to be confiscated.

As well as the civil forfeiture regime which underpins the whole bill, the bill makes changes in a number of other areas. Firstly, in terms of terrorism, this bill obviously has a focus on ensuring that we react to crime in the community, particularly terrorism offences. To this end, the legislation provides that terrorist offences attract the most severe retaliation in regard to the restraint of assets and their later forfeiture, as is only appropriate. The legislation provides that terrorist offences attract the most severe retaliation in regard to the restraint of assets and their later forfeiture, as is only appropriate. The bill includes a provision to enable a civil restraint of the actual instruments of suspected terrorist offences. Importantly, it also excludes the six-year limitation provided for other crimes under this legislation if the appropriate application is made. The legislation sends out the clear signal that we are tough on crime and that we mean to confiscate assets. In particular, for those who have been found to be involved in terrorist organisations and who have been found guilty of terrorist offences, some of the other provisions—such as the six-year limitation—have been removed. I am sure that all Australians would agree with this very strong line on terrorist offences.

Secondly, in terms of dispersal of confiscated assets, the revised legislation allows confiscated proceeds of crime to be directed toward supporting national community programs that fight against crime, particularly drug treatment and diversionary programs. Without this provision, of course, it would go to the Treasury’s bottom line—I am sure the Treasurer would be delighted. But it is important that we do send the signals out that the money that has been confiscated is certainly not going to go toward buying that additional yacht for those criminals in our community. Rather it will go into a fund that will be used to fight crime around Australia, particularly through drug treatment and diversionary programs. I have had the experience recently of spending 3½ days in Long Bay jail—not, I am pleased to say, as a detainee of that place, but as part of a Kairos program. Certainly, one of the things that becomes obvious through contact with the prisoners is how much of a part drugs play in the incarceration of a number of people in there. Programs that attempt to limit the offences in this area and that improve drug treatment are obviously welcome.

Thirdly, in terms of legal assistance, the provisions concerning legal assistance have been greatly simplified from the original legislation. Previously, three schemes were set out and this was obviously complicated. This has been replaced by one scheme. Those whose assets have been confiscated are still eligible for legal aid and their restrained assets are not taken into account. I think that is only fair—you cannot take away their assets but include them in reckoning whether they are eligible for legal aid or not. The next aspect is the restriction of derivative use immunity. The legislation removes prosecution immunity from information derived from providing evidence during a compulsory examination. For this to occur, a magistrate has to have reasonable suspicion that a person is in possession of documentation that could be used to track property. This is also appropriate in regard to having access to the information regarding the property.
Finally the bill extends the power of the National Crime Authority to obtain a warrant to intercept telecommunications they believe may relate to proceeds of crime forfeiture actions. Currently the NCA has to get a warrant to intercept telecommunications in criminal proceedings but not in civil forfeiture matters. This legislation brings the powers of the NCA in line with those of the Federal Police and the state police forces around Australia, an area in which my committee has a very strong interest in terms of the National Crime Authority. This change is important for tracking down the criminal Mr Bigs through mobile phones and other means, as they do not usually leave a clear trail behind them. It is therefore worthwhile to have a record of the voices that can be used to convict them in court.

The Proceeds of Crime (Consequential Amendments and Transitional Provisions) Bill 2002, which is being considered in cognate with the Proceeds of Crime Bill 2002, contains all the consequential amendments that flow from the main bill. It sets out the arrangements for the phasing out of the existing Proceeds of Crime Act 1987 and puts in place more effective prosecution options for money-laundering offences. On the question of revenue, it is difficult to estimate the additional costs incurred, but whatever this small amount is it will simply be outweighed by the great benefit of being able to confiscate these assets and use them in very strong, effective diversionary programs.

In summary, this piece of legislation is about indicating the government’s viewpoint—and I am glad to see that the member for Banks has indicated the strong support of the opposition—on getting tough on crime. This issue concerns all electorates around Australia. There is a level of concern, and we have very fine police men and women around Australia who are doing their best to combat crime. The level of drug offences means that there are major incentives for people to be involved in criminal activities. We need to work harder to provide real disincentives for people to continue their criminal activities and to show them not only that they are likely to lose their own personal freedom but also that everything they have worked for in their illegal activities in terms of building up assets will be taken away so that they will be left with nothing. While some people may have sympathy for those who are left in this state, the warning is on for all who have the ability to consider the implications. As soon as these bills are passed—and there are clear indications from the opposition that they will be supporting them—they will come into law, and it is very clear what the implications will be from that time on. Assets can be confiscated. While legal aid can be provided, there is a fairly dismal outlook for those who are convicted of crimes or are under reasonable suspicion. For those who are harbouring the assets, the days of enjoying the fruits of their ill-gotten gains are over.

It is interesting that Ian Haberfield illustrated in the Melbourne Herald-Sun some months ago why this legislation is so important. Mr Haberfield pointed out the amazing list of items confiscated as proceeds of crime, including over $200 million in cash and assets over the last two years, by state and federal police—luxury yachts, Ferraris, penthouse apartments, shares, jewellery and gold bullion. These bills turn that situation around. The days of luxury penthouses and luxury yachts sitting there waiting for these people is over. The government’s clear intention to get tough on crime around Australia is absolutely significant. The word must go out that this is the new regime, this is the new legislation and this is the government that means to be tough on crime. Those who want to continue their days of living in splendour may well find themselves down on the banks of the Yarra River in a tent rather than in a luxury penthouse on the banks of Sydney Harbour. I commend these bills to the House and congratulate those members of both the government and the opposition and those from the department who put them together.

Mr BRENDAN O’CONNOR (Burke) (5.50 p.m.)—I rise this evening quite happily to agree with much of the content of the speech by the member for Cook. The government and the opposition, both in the parliament and in committee stages, have worked constructively on a very important
area of law that has been lacking. The Proceeds of Crime Bill 2002 and the Proceeds of Crime (Consequential Amendments and Transitional Provisions) Bill 2002 will, let us hope, go some way towards ensuring that organised crime will be tackled very strenuously.

It is important to note that the Proceeds of Crime Bill replaces an earlier government bill, the Proceeds of Crime Bill 2001, that lapsed last year. The bill substantially takes up Labor’s 10-point plan to tackle Australia’s drug problem. It is also important to recognise that, only last year, the member for Denison introduced as a private member’s bill the very similar Criminal Assets Recovery Bill 2001, which was founded on the New South Wales Criminal Assets Recovery Act 1990. Indeed, members on this side of the House have had concerns about the need for this form of legislation. As a new member, having watched the antics in this House over a number of parliamentary sessions—and certainly since I have been in this House—I have to say that I would prefer to see the government make more effort to work with the opposition on such important matters rather than to play politics with very important issues. I commend this bill.

As already indicated, the civil regime is a move away from the current system, which currently requires a criminal conviction before assets can be seized. In short, this bill reduces the standard of proof to the civil standard and provides for the restraint and confiscation of property and assets which are the proceeds of crime. Reducing the standard of proof and shifting the onus is an exceptional situation, and contrary to the norms of Australian law and to that well-founded principle of an accused being presumed innocent until proven guilty beyond reasonable doubt. Parliament should only consider limiting these principles in exceptional circumstances, and I think it is fair to say that this area of law is indeed one of those exceptions.

It might be well to remember that the Proceeds of Crime Bill 1987 was part of a series of bills, each of which was intended to battle the very difficult war against organised crime. Five years ago, the Attorney-General referred an inquiry into the 1987 act to the Australian Law Reform Commission. In particular, it was asked to report on, among other things, the relationship between forfeiture and restitution or compensation to victims of crime; the control of restrained assets and the prevention of unreasonable dissipation on legal expenses; other provisions in Commonwealth law for non-conviction based forfeiture, including whether the civil forfeiture regime contained in the Customs Act 1901 should be integrated into the Proceeds of Crime Act; the adequacy of powers of law enforcement agencies; the possible legislation to cover literary proceeds and appropriate recognition for the rights of third parties.

This inquiry also should be seen in the light of Australia’s international obligations. In 1988, the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds of Crime were passed. The Australian Law Reform Commission concluded:

... a solely conviction based regime fails to meet either the objectives of the POC Act or public policy expectations.

Further, the commission found that the aforesaid act:

... is inadequate to bring to account the profits obtained by means of continuous or serial wrongdoing, particularly activities related to drugs, fraud and money laundering.

It added that it was:

... in no doubt that the POC Act and Customs Act regimes have fallen well short of depriving wrongdoers of their ill-gotten gains.

Against this historical backdrop, clear deficiencies of current law were apparent, and this bill comes before the parliament to rectify those deficiencies. As I indicated from the outset, this is in the main a bipartisan approach to the substantive provisions of the bill. I think it is important to note the Attorney-General’s comments on the bill, because I believe all members of the House would concur. He said that the bill:

... is to greatly strengthen and improve Commonwealth laws for the confiscation of proceeds of crime.
He also said that, in the post September 11 environment, the bill:
... also makes special provision for the confiscation of property used in, intended to be used in, or derived from terrorist offences ...
He went on to say:
The primary motive for organised crime is profit. Each year in Australia, drug trafficking, money laundering, fraud, people-smuggling and other forms of serious crime generate billions of dollars.
This money is derived at the expense of the rest of the community. It is earned through the harm, suffering, and human misery of others.
I do not disagree with any of those comments, and nor does any member of the opposition; hence, the bipartisan approach that has been taken. I do believe it is important that we strike the right balance between fighting and punishing criminal offenders and protecting the rights of those accused of benefiting from the proceeds of crime.
In today’s climate, I consider it even more important that parliament temper society’s inclination, on occasion, to excess. Our role is to ensure that laws are effectively capable of deterring crime or, if required, of bringing criminals to justice. But we must undertake this task without removing unnecessarily the civil rights and liberties that our society cherishes. We will have lost our fight against organised crime if we fail to stop their criminal activity but also if we introduce draconian laws that may punish the innocent along with the guilty. With this view in mind, I share the concerns of others that we do not turn our justice system on its head unnecessarily in order to apprehend offenders or to ensure that criminals do not benefit from crime. It is not an easy task to get the balance right but I think that—through the great efforts of the Senate committee, those members of the government, the shadow minister, the member for Denison and other contributors to this process—this bill now reflects a reasonable balance between these competing interests that are critical for us to protect and preserve the society in which we live.

The prime feature of this bill is the proposal to introduce a civil forfeiture regime, which I and the opposition support in toto. Having read the Senate Legal and Constitu-
thional Legislation Committee’s report and some primary submissions that were put to them, I note that some concern was raised in evidence about the confiscation of assets from a person without first establishing that the person was guilty of the crimes of which they are accused. Indeed, the New South Wales Bar Association challenged the need for a civil forfeiture regime and suggested that the weaknesses of the conviction based approaches might have more to do with the failure to adequately allocate resources rather than the limitations of the law per se. The association further raised concerns about the paucity of evidence of the Australian Federal Police, as they cited perhaps not as many cases as one would have liked to support their proposition that civil forfeiture was necessary. The Australian Federal Police certainly refuted that and pointed to the occasions on which they used enormous resources with little or no benefit.

Sitting suspended from 6.00 p.m. to 8.00 p.m.

Mr BRENDAN O’CONNOR—I rise to resume some comments on the Proceeds of Crime Bill 2002 before this House. I indicated just before the break how dealing with this matter has been a constructive example of the opposition and the government predominantly working well together to ensure proper legislation. I indicated that, in the evidence before the Senate Legal and Constitutional Legislation Committee, the Australian Federal Police had refuted the fact that there were too few examples and, indeed, had raised the point that they had expended enormous resources without any benefit—that is, without any success in achieving the forfeiture of proceeds of crime. Although it does now seem conclusive that conviction based forfeiture is not working, it is important for us to put in proper safeguards.

The other matter that I have had concerns with is the area of legal assistance, and I think there have been some commitments to redress this. There appears to be some uncertainty about the application and operation of legal assistance through the legal aid commissions. We are yet to be able to fully consider the implications of the provisions
relating to legal assistance with the benefit of guidelines that are to be agreed between the legal aid commissions and the Commonwealth but, as the shadow minister pointed out, there will be a review of this area. That review will be conducted and we will ensure that there is a decent outcome with respect to this matter.

Perhaps most critically, I was concerned about the standard of proof of forfeiture. Indeed, the earlier draft of subclause 41(1)(c) purported to allow a court to make an order that property specified in the order is forfeited to the Commonwealth if there were reasonable grounds to suspect that a person was engaged in conduct constituting one or more serious offences—offences that were not terrorism offences—committed within the last six years. I agree with the New South Wales Bar Association and others that to forfeit property on the basis of a mere suspicion is a far lower threshold for forfeiture than is reasonable. Indeed, the New South Wales legislation, to which I have referred, does not maintain that forfeiture can be ordered based merely on suspicion but that a person must have committed a serious crime and that it would be more probable than not that that crime had been committed by that person. Their legislation demands proof that it is more probable than not that the accused engaged in such activity. That provides a more stringent and, I think, a more preferable test than that provided in this bill. I am happy to note that the government now agrees. Indeed, this week the bill is to be amended to reflect a better standard of proof—namely, that that standard be ‘on the balance of probabilities’.

Another area of concern that I had earlier with the bill, which I think has also been dealt with very constructively, related to literary proceeds. On the face of it, a law should ensure that no criminal ordinarily benefits whatsoever from the commission of a crime, but the Law Reform Commission quite rightfully recommended that the court ‘should have regard to’ this—however, the bill used the word ‘may’ until the acceptance by the government that there would be a better standard. The Law Reform Commission, on seeing the first draft, had remarked:

It seems fitting that the law provides the court with a discretion as to what should be treated as profits, having regard to the criteria of public interest, social and educational value, and the nature and purpose of the publication, production or entertainment, including its use for research, education or rehabilitation purposes.

I welcome the government’s concession to this argument, and I now accept that the provision in this bill is, indeed, a reasonable provision.

I think it is important to recognise that this bill is under consideration against the background of several other bills dealing with terrorism following the awful events of September 11. Given this environment, it is perhaps not surprising that the Australian Federal Police, the National Crime Authority and the DPP have argued for the expansion of their use of intercepts in matters of civil recovery. As the shadow minister highlighted earlier, the Senate committee and the Labor senators alone had raised concerns with respect to telephone intercepts. In its current form, information gained through telephone interception would be useful only in criminal matters; it would not be useable in civil matters. Any amendments introduced relating to telecommunication intercepts should be appropriately referred to the Senate committee. Against the backdrop of September 11, we must be vigilant to carefully protect individual liberties and rights when in pursuit of criminals.

With legislation of this kind—that is, law incorporating exceptional provisions in order to achieve particular objectives—the opposition would wish to see provision for the formal review of the operation of the legislation within three years from its commencement. Given the nature of the legislation—the potential of offending the rights and freedoms of citizens—a review is critical and essential. The review should have regard to the operation of the provisions relating to the removal of the derivative-use immunity and the guidelines relating to legal assistance and examination by the DPP.

This bill is the culmination of significant work by many members, senators and extra parliamentary bodies. It originally had some weaknesses, most of which, I think it is fair
to say, have been rectified by very constructive discussions between government members and opposition members. Some areas of the bill require review, as I have said, to properly assess the effectiveness of the provision that, potentially at least, sacrifices an individual’s rights and freedoms. I conclude by saying that there does not seem to be anybody in this parliament who would argue that organised crime is not a problem within this country—as it is in many others—and that it is important that the laws are made effective so that the authorities are able to ensure that people do not profit from the proceeds of crime. In doing that, we have to ensure also that the rights and liberties of people are protected. I think this bill has gone a long way to ensuring the right balance in that objective.

Debate (on motion by Dr Washer) adjourned.

BUSINESS

Days and Hours of Meeting

Mr ABBOTT (Warringah—Leader of the House) (8.09 p.m.)—If I could, on indulgence, update the House on our likely sittings and what is likely to happen this evening—at least for those members who are here and anyone who is listening! There are five legislative packages on which messages are likely to come back from the Senate: a security package, social security veterans entitlement legislation, a tax bill, and two workplace bills. It is proposed to deal with the security package now. Then it is proposed that we will go on to the Proceeds of Crime Bill 2002. Then the Minister for Children and Youth Affairs will introduce a disability bill. But at different times during the evening, messages will come back from the Senate and we will need to deal with them as they come back.

The bad news is that, according to the Senate program, they are not anticipating finishing their initial consideration of one of the workplace bills until after midnight. So I deeply regret the fact that it is likely to be a long and arduous night for us, but that is the way it is on nights at the end of a parliamentary sitting.

SECURITY LEGISLATION AMENDMENT (TERRORISM) BILL 2002 [No. 2]

Consideration of Senate Message

Bill returned from the Senate with amendments.

Ordered that the amendments be considered forthwith.

Senate’s amendments—

(1) Clause 2, page 2 (after table item 8), insert:

8A. The latest of:

Schedule 1, item 19

(a) the start of the day after the day on which this Act receives the Royal Assent; and
(b) the start of the day after the day on which the Border Security Legislation Amendment Act 2002 receives the Royal Assent; and
(c) the start of the day after the day on which the Criminal Code Amendment (Suppression of Terrorist Bombings) Act 2002 receives the Royal Assent; and
(d) the start of the day after the day on which the Suppression of the Financing of Terrorism Act 2002 receives the Royal Assent.

(2) Page 3 (after line 22), after clause 3, add:

4 Public and independent review of operation of Security Acts relating to terrorism


(2) The review must be undertaken as soon as practicable after the third anniversary of the commencement of the amendments.

(3) The review is to be undertaken by a committee consisting of:

(a) up to two persons appointed by the Attorney-General, one of whom
must be a retired judicial officer
who shall be the Chair of the Com-
mmittee; and
(b) the Inspector-General of Intelligence
and Security; and
(c) the Privacy Commissioner; and
(d) the Human Rights Commissioner;
and
(e) the Commonwealth Ombudsman;
and
(f) two persons (who must hold a legal
practising certificate in an Austra-
lian jurisdiction) appointed by the
Attorney-General on the nomination
of the Law Council of Australia.

(4) The Attorney-General may reject a
nomination made under subsection
(3)(f). If the Attorney-General rejects a
nomination, the Law Council of Aus-
tralia may nominate another person.

(5) The committee must provide for public
submissions and public hearings as part
of the review.

(6) The committee must, within six months
of commencing the review, give the
Attorney-General and the Parliamentary
Joint Committee on ASIO, ASIS and DSD a written report of the
review which includes an assessment
of matters in subsection (1), and alter-
native approaches or mechanisms as
appropriate.

(7) The Attorney-General must cause a
copy of the report to be tabled in each
House of the Parliament within 15 sit-
ting days of that House after its receipt
by the Attorney-General.

(8) Before the copy of the report is tabled
in Parliament, the Attorney-General
may remove information from the copy
of the report if the Attorney-General is
satisfied on advice from the Director-
General of Security or the Commis-
sioner of the Australian Federal Police
that its inclusion may:
(a) endanger a person’s safety; or
(b) prejudice an investigation or prose-
cution; or
(c) compromise the operational activi-
ties or methodologies of the Austra-
lian Security Intelligence Organisa-
tion, the Australian Secret Intelli-
gence Service, the Defence Signals

(9) The Parliamentary Joint Committee on
ASIO, ASIS and DSD must take ac-
count of the report of the review given
to the Committee, when the Committee
conducts its review under paragraph
29(1)(ba) of the Intelligence Services

(3) Schedule 1, item 1, page 4 (line 8), omit
“integrity and”.

(4) Schedule 1, item 2, page 4 (lines 20 to 25),
omit paragraphs (a), (b) and (c), substitute:
(a) causes the death of the Sovereign,
the heir apparent of the Sovereign,
the consort of the Sovereign, the
Governor-General or the Prime
Minister; or
(b) causes harm to the Sovereign, the
Governor-General or the Prime
Minister resulting in the death of the
Sovereign, the Governor-General or
the Prime Minister; or
(c) causes harm to the Sovereign, the
Governor-General or the Prime
Minister, or imprisons or restrains
the Sovereign, the Governor-General or
the Prime Minister;
or

(5) Schedule 1, item 2, page 5 (after line 15),
after subsection (1), insert:
(1A) Paragraphs (1)(e) and (f) do not apply
to engagement in conduct by way of, or
for the purposes of, the provision of aid
of a humanitarian nature.

Note: A defendant bears an evidential
burden in relation to the matter
in subsection (1A). See subsec-
tion 13.3(3).

(1B) Paragraph (1)(h) does not apply to for-
mation of an intention to engage in
conduct that:
(a) is referred to in paragraph (1)(e) or
(f); and
(b) is by way of, or for the purposes of,
the provision of aid of a humanitar-
ian nature.

Note: A defendant bears an evidential
burden in relation to the matter
in subsection (1B). See subsec-
tion 13.3(3).
(6) Schedule 1, item 3, page 7 (lines 20 to 26), omit the definition of **terrorist act**, substitute:

**terrorist act** means an action or threat of action where:

(a) the action falls within subsection (2) and does not fall within subsection (2A); and

(b) the action is done or the threat is made with the intention of advancing a political, religious or ideological cause; and

(c) the action is done or the threat is made with the intention of:

(i) coercing, or influencing by intimidation, the government of the Commonwealth or a State, Territory or foreign country, or of part of a State, Territory or foreign country; or

(ii) intimidating the public or a section of the public.

(7) Schedule 1, item 3, page 7 (lines 28 and 29), omit paragraphs (a) and (b), substitute:

(a) causes serious harm that is physical harm to a person; or

(b) causes serious damage to property; or

(8) Schedule 1, item 3, page 7 (after line 29), after paragraph (2)(b), insert:

(ba) causes a person’s death; or

(9) Schedule 1, item 3, page 8 (after line 7), after subsection 100.1(2), insert:

(2A) Action falls within this subsection if it:

(a) is advocacy, protest, dissent or industrial action; and

(b) is not intended:

(i) to cause serious harm that is physical harm to a person; or

(ii) to cause a person’s death; or

(iii) to endanger the life of a person, other than the person taking the action; or

(iv) to create a serious risk to the health or safety of the public or a section of the public.

(10) Schedule 1, item 3, page 8 (lines 15 to 17), omit subsection (1), substitute:

(1) This Part applies to a terrorist act constituted by an action, or threat of action, in relation to which the Parliament has power to legislate.

(11) Schedule 1, item 3, page 8 (lines 18 to 20), omit “an action, or threat of action, gives rise to an offence under this Part to the extent that”, substitute “this Part applies to a terrorist act constituted by an action, or threat of action, if”.

(12) Schedule 1, item 4, page 10 (lines 4 to 21), omit section 101.2, substitute:

### 101.2 Providing or receiving training connected with terrorist acts

(1) A person commits an offence if:

(a) the person provides or receives training; and

(b) the training is connected with preparation for, the engagement of a person in, or assistance in a terrorist act; and

(c) the person mentioned in paragraph (a) knows of the connection described in paragraph (b).

Penalty: Imprisonment for 25 years.

(2) A person commits an offence if:

(a) the person provides or receives training; and

(b) the training is connected with preparation for, the engagement of a person in, or assistance in a terrorist act; and

(c) the person mentioned in paragraph (a) is reckless as to the existence of the connection described in paragraph (b).

Penalty: Imprisonment for 15 years.

(4) A person commits an offence under this section even if the terrorist act does not occur.

(5) Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against this section.

(6) If, in a prosecution for an offence (the **prosecuted offence**) against a subsection of this section, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence (the **alternative offence**) against another subsection of
this section, the trier of fact may find the defendant not guilty of the prosecuted offence but guilty of the alternative offence, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

(13) Schedule 1, item 4, page 10 (lines 22 to 31), omit section 101.3.

(14) Schedule 1, item 4, page 11 (lines 1 to 16), omit section 101.4, substitute:

101.4 Possessing things connected with terrorist acts

(1) A person commits an offence if:
   (a) the person possesses a thing; and
   (b) the thing is connected with preparation for, the engagement of a person in, or assistance in a terrorist act; and
   (c) the person mentioned in paragraph (a) knows of the connection described in paragraph (b).

Penalty: Imprisonment for 15 years.

(2) A person commits an offence if:
   (a) the person possesses a thing; and
   (b) the thing is connected with preparation for, the engagement of a person in, or assistance in a terrorist act; and
   (c) the person mentioned in paragraph (a) is reckless as to the existence of the connection described in paragraph (b).

Penalty: Imprisonment for 10 years.

(3) A person commits an offence under subsection (1) or (2) even if the terrorist act does not occur.

(4) Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against this section.

(5) Subsections (1) and (2) do not apply if the possession of the thing was not intended to facilitate preparation for, the engagement of a person in, or assistance in a terrorist act.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5) (see subsection 13.3(3)).

(6) If, in a prosecution for an offence (the prosecuted offence) against a subsection of this section, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence (the alternative offence) against another subsection of this section, the trier of fact may find the defendant not guilty of the prosecuted offence but guilty of the alternative offence, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

(15) Schedule 1, item 4, page 11 (line 17) to page 12 (line 2), omit section 101.5, substitute:

101.5 Collecting or making documents likely to facilitate terrorist acts

(1) A person commits an offence if:
   (a) the person collects or makes a document; and
   (b) the document is connected with preparation for, the engagement of a person in, or assistance in a terrorist act; and
   (c) the person mentioned in paragraph (a) knows of the connection described in paragraph (b).

Penalty: Imprisonment for 15 years.

(2) A person commits an offence if:
   (a) the person collects or makes a document; and
   (b) the document is connected with preparation for, the engagement of a person in, or assistance in a terrorist act; and
   (c) the person mentioned in paragraph (a) is reckless as to the existence of the connection described in paragraph (b).

Penalty: Imprisonment for 10 years.

(3) A person commits an offence under subsection (1) or (2) even if the terrorist act does not occur.

(4) Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against this section.

(5) Subsections (1) and (2) do not apply if the collection or making of the docu-
ment was not intended to facilitate preparation for, the engagement of a person in, or assistance in a terrorist act.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5) (see subsection 13.3(3)).

(6) If, in a prosecution for an offence (the prosecuted offence) against a subsection of this section, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence (the alternative offence) against another subsection of this section, the trier of fact may find the defendant not guilty of the prosecuted offence but guilty of the alternative offence, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

(16) Schedule 1, item 4, page 12 (line 11), omit the heading to Division 102, substitute:

Division 102—Terrorist organisations

(17) Schedule 1, item 4, page 12 (lines 12 to 24), omit Subdivision A, substitute:

Subdivision A—Definitions

102.1 Definitions

(1) In this Division:

member of an organisation includes:

(a) a person who is an informal member of the organisation; and
(b) a person who has taken steps to become a member of the organisation; and
(c) in the case of an organisation that is a body corporate—a director or an officer of the body corporate.

recruit includes induce, incite and encourage.

terrorist organisation means:

(a) an organisation that is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not the terrorist act occurs); or
(b) an organisation that is specified by the regulations for the purposes of this paragraph (see subsections (3), (4), (5) and (6)).

(3) Before the Governor-General makes a regulation specifying an organisation for the purposes of paragraph (c) of the definition of terrorist organisation in this section, the Minister must be satisfied on reasonable grounds that:

(a) the Security Council of the United Nations has made a decision relating wholly or partly to terrorism; and
(b) the organisation is identified in the decision, or using a mechanism established under the decision, as an organisation to which the decision relates; and
(c) the organisation is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not the terrorist act has occurred or will occur).

(4) Regulations for the purposes of paragraph (c) of the definition of terrorist organisation in this section may not take effect earlier than the day after the last day on which they may be disallowed under section 48 of the Acts Interpretation Act 1901. That section has effect subject to this subsection.

(5) Regulations for the purposes of paragraph (c) of the definition of terrorist organisation in this section cease to have effect on the second anniversary of the day on which they take effect. To avoid doubt, this subsection does not prevent:

(a) the repeal of those regulations; or
(b) the cessation of effect of those regulations under subsection (6); or
(c) the making of new regulations the same in substance as those regulations (whether the new regulations are made or take effect before or after those regulations cease to have effect because of this subsection).

(6) A regulation specifying an organisation for the purposes of paragraph (c) of the definition of terrorist organisation in this section ceases to have effect when:

(a) the decision mentioned in paragraph (3)(b) ceases to have effect; or
(b) the organisation ceases to be identified as described in paragraph (3)(b).

The regulation does not revive even if the organisation is again identified as described in paragraph (3)(b).
(7) To avoid doubt, subsection (6) does not prevent:
   (a) the repeal of a regulation; or
   (b) the making of a regulation that is the same in substance as a regulation that has ceased to have effect because of that subsection.

(18) Schedule 1, item 4, page 13 (line 1) to page 14 (line 12), omit Subdivision B, substitute:

**Subdivision B—Offences**

102.2 Directing the activities of a terrorist organisation

(1) A person commits an offence if:
   (a) the person intentionally directs the activities of an organisation; and
   (b) the organisation is a terrorist organisation; and
   (c) the person knows the organisation is a terrorist organisation.

   **Penalty:** Imprisonment for 25 years.

(2) A person commits an offence if:
   (a) the person intentionally directs the activities of an organisation; and
   (b) the organisation is a terrorist organisation; and
   (c) the person is reckless as to whether the organisation is a terrorist organisation.

   **Penalty:** Imprisonment for 15 years.

102.3 Membership of a terrorist organisation

(1) A person commits an offence if:
   (a) the person intentionally is a member of an organisation; and
   (b) the organisation is a terrorist organisation because of paragraph (c) of the definition of **terrorist organisation** in this Division (whether or not the organisation is a terrorist organisation because of another paragraph of that definition also); and
   (c) the person knows the organisation is a terrorist organisation.

   **Penalty:** Imprisonment for 10 years.

(2) Subsection (1) does not apply if the person proves that he or she took all reasonable steps to cease to be a member of the organisation as soon as practicable after the person knew that the organisation was a terrorist organisation.

   **Note:** A defendant bears a legal burden in relation to the matter in subsection (2) (see section 13.4).

102.4 Recruiting for a terrorist organisation

(1) A person commits an offence if:
   (a) the person intentionally recruits a person to join, or participate in the activities of, an organisation; and
   (b) the organisation is a terrorist organisation; and
   (c) the first-mentioned person knows the organisation is a terrorist organisation.

   **Penalty:** Imprisonment for 25 years.

(2) A person commits an offence if:
   (a) the person intentionally recruits a person to join, or participate in the activities of, an organisation; and
   (b) the organisation is a terrorist organisation; and
   (c) the first-mentioned person is reckless as to whether the organisation is a terrorist organisation.

   **Penalty:** Imprisonment for 15 years.

102.5 Training a terrorist organisation or receiving training from a terrorist organisation

(1) A person commits an offence if:
   (a) the person intentionally provides training to, or intentionally receives training from, an organisation; and
   (b) the organisation is a terrorist organisation; and
   (c) the person knows the organisation is a terrorist organisation.

   **Penalty:** Imprisonment for 25 years.

(2) A person commits an offence if:
(a) the person intentionally provides training to, or intentionally receives training from, an organisation; and
(b) the organisation is a terrorist organisation; and
(c) the person is reckless as to whether the organisation is a terrorist organisation.

Penalty: Imprisonment for 15 years.

102.6 Getting funds to or from a terrorist organisation

(1) A person commits an offence if:
(a) the person intentionally receives funds from, or makes funds available to, an organisation (whether directly or indirectly); and
(b) the organisation is a terrorist organisation; and
(c) the person knows the organisation is a terrorist organisation.

Penalty: Imprisonment for 25 years.

(2) A person commits an offence if:
(a) the person intentionally receives funds from, or makes funds available to, an organisation (whether directly or indirectly); and
(b) the organisation is a terrorist organisation; and
(c) the person is reckless as to whether the organisation is a terrorist organisation.

Penalty: Imprisonment for 15 years.

(4) Subsections (1) and (2) do not apply to the person’s receipt of funds from the organisation if the person proves that he or she received the funds solely for the purpose of the provision of:
(a) legal representation for a person in proceedings relating to this Division; or
(b) assistance to the organisation for it to comply with a law of the Commonwealth or a State or Territory.

Note: A defendant bears a legal burden in relation to the matter in subsection (4) (see section 13.4).

102.7 Providing support to a terrorist organisation

(1) A person commits an offence if:
(a) the person intentionally provides to an organisation support or resources that would help the organisation engage in an activity described in paragraph (a) of the definition of terrorist organisation in this Division; and
(b) the organisation is a terrorist organisation; and
(c) the person knows the organisation is a terrorist organisation.

Penalty: Imprisonment for 25 years.

(2) A person commits an offence if:
(a) the person intentionally provides to an organisation support or resources that would help the organisation engage in an activity described in paragraph (a) of the definition of terrorist organisation in this Division; and
(b) the organisation is a terrorist organisation; and
(c) the person is reckless as to whether the organisation is a terrorist organisation.

Penalty: Imprisonment for 15 years.

(19) Schedule 1, item 4, page 14 (line 13) to page 15 (line 18), omit Subdivision C, substitute:
Subdivision C—General provisions relating to offences

102.9 Extended geographical jurisdiction for offences

Section 15.4 (extended geographical jurisdiction—category D) applies to an offence against this Division.

102.10 Alternative verdicts

(1) This section applies if, in a prosecution for an offence (the prosecuted offence) against a subsection of a section of this Division, the trier of fact is not satisfied that the defendant is guilty of the offence, but is satisfied beyond reasonable doubt that the defendant is guilty of an offence (the alternative offence)
against another subsection of that section.

(2) The trier of fact may find the defendant not guilty of the prosecuted offence but guilty of the alternative offence, so long as the defendant has been accorded procedural fairness in relation to that finding of guilt.

(20) Schedule 1, item 5, page 15 (lines 19 to 26), omit the item, substitute:

5 Application

For the purpose of making regulations specifying an organisation for the purposes of paragraph (c) of the definition of terrorist organisation in section 102.1 of the Criminal Code, it does not matter whether the relevant decision of the Security Council of the United Nations was made before or after the commencement of this item.

(21) Schedule 1, page 17 (after line 18), at the end of the Schedule, add:

Intelligence Services Act 2001

19 After paragraph 29(1)(b) Insert:

(ba) to review, as soon as possible after the third anniversary of the day on which the Security Legislation Amendment (Terrorism) Act 2002 receives the Royal Assent, the operation, effectiveness and implications of amendments made by that Act and the following Acts:

(i) the Border Security Legislation Amendment Act 2002;

(ii) the Criminal Code Amendment (Suppression of Terrorist Bombings) Act 2002;

(iii) the Suppression of the Financing of Terrorism Act 2002; and

Mr WILLIAMS (Tangney—Attorney-General) (8.11 p.m.)—I move:

That the amendments be agreed to.

I am pleased to present to the House the Security Legislation Amendment (Terrorism) Bill 2002, the Suppression of the Financing of Terrorism Bill 2002, the Border Security Legislation Amendment Bill 2002, and the Telecommunications (Interception) Legislation Amendment Bill 2000. The representation of the bills to this House follows the passage of the bills with amendments by the Senate earlier today. Australia will be in a much stronger position to defend itself against terrorism with the enactment of the government’s counter-terrorism legislative package. The government has initiated a thorough parliamentary and public discussion of these critical issues and has brought much needed focus to the need to strengthen our laws to provide a strong framework to combat terrorism.

While the Senate made a number of amendments to the bills that the government does not favour, the government is prepared to accept these amendments in the interests of securing the timely passage of these important bills. The government’s bills send a clear message to those who would commit or support acts of terrorism. The message is that we will not tolerate their activities in this country or overseas. We will shut down their organisations, we will stop them using Australia as a base to finance their activities, and we will be a very active participant in international cooperation against terrorism through the exchange of intelligence and the freezing of assets. The full force of the law will be available to prosecute those who commit terrorism offences. The package of legislation creates a comprehensive suite of new offences directed at catching and deterring terrorists.

I now turn to make some brief comments on each of the bills in the package. The Security Legislation Amendment (Terrorism) Bill 2002 contains important new offences that will be inserted in the Commonwealth Criminal Code Act 1995. For the first time, it will be a specific offence to commit a terrorist act, provide or receive training connected with terrorist acts, possess things, or collect or make documents connected with a terrorist act, and to do any other thing in planning or preparing for a terrorist act. Our courts will be able to find that organisations are terrorist organisations and we will also be able to list terrorist organisations identified as such by the United Nations Security Council such as Al-Qaeda. For the first time in Australia it would be an offence to intentionally be a member of one of those listed organisations knowing it is a terrorist organisation. Hefty penalties of up to 25 years jail
await those who direct—recruit for, train for or with, get funds to or from or provide support to—a terrorist organisation. In addition, we will have an updated crime of treason which better reflects modern realities.

The government implemented all of the recommendations of the Senate Legal and Constitutional Legislation Committee relating to that bill. A key feature of the government amendments in the Senate was the insertion of tough new offences directed against terrorist organisations. Even the opposition conceded in the Senate that the thoroughness of these new provisions rendered redundant the opposition’s own proposals for a new offence in this area.

The government also inserted provision for a review of the Security Legislation Amendment (Terrorism) Bill 2002, the Suppression of the Financing of Terrorism Bill 2002, the Border Security Legislation Amendment Bill 2002 and the Criminal Code Amendment (Suppression of Terrorist Bombings) Bill 2002. This will be conducted after three years by the Parliamentary Joint Committee on ASIO, ASIS and DSD.

The opposition gained minor party support for an amendment to provide for an additional review of the counter-terrorism bills by a committee established for that purpose. The government considered this amendment unnecessary, particularly as the additional review will not be able to consider important classified material to which the parliamentary joint committee will have full access. However, the government is prepared to accept the amendment in the interests of securing passage of the bill.

The opposition also gained support for changes to the government’s proposed listing provisions. The Senate debate on the Security Legislation Amendment (Terrorism) Bill revealed Labor’s confusion over the key issue of listing terrorist organisations. The government’s position has always been clear: the events of September 11 last year showed that we can no longer sit back and assume we are safe from terrorism. We need to be prepared and to take all reasonable steps to protect the community. The government has consistently argued that, in order to do this, we need strong laws to both deter and prevent terrorism as well as to punish those who plan or carry out terrorist acts. One of the key mechanisms that we believe is necessary to achieve this is the ability to identify terrorist organisations and stamp out their activities. (Extension of time granted)

The government proposed a regime that would allow us to do so in three ways: a court could determine whether an organisation is a terrorist organisation in the course of a criminal prosecution; the Attorney-General could identify a terrorist organisation by listing it in a regulation tabled in the parliament—either house would be able to veto this decision; and the Attorney-General could similarly introduce a regulation giving effect to the listing of a terrorist organisation by the United Nations Security Council—again, either house would be able to veto this decision. Each provision contained extensive safeguards. In both cases, the Attorney-General had to be satisfied that there are reasonable grounds to list an organisation, and any regulation under the two latter provisions could be challenged in the courts as well as in the parliament.

Unfortunately, the opposition and minor parties chose to use their numbers in the Senate to remove the Attorney-General’s ability to list terrorist organisations by regulation. The opposition says the ability of the Attorney-General to list a terrorist organisation, with parliamentary oversight, would undermine the United Nations Security Council. This is patently false. Australia has its own concerns, separate from the rest of the world. Australia should retain the right to respond to circumstances where an organisation poses a terrorist threat and deal with it under our domestic legislation. The opposition’s position provides no flexibility for Australia to deal with groups that may not come to the notice of the Security Council, such as those operating only in our region. Labor not only has no faith in the Australian parliament but also clearly has no faith in the Australian court system.

The opposition removed the provision allowing courts to determine that an organisation is a terrorist organisation for the purposes of prosecuting a membership offence. Instead, Labor made an amendment to link
the membership offence solely to the United Nations Security Council’s decisions on terrorist organisations. The opposition’s position on this is incomprehensible; it is an insult to our judicial and parliamentary systems. But the package as a whole is too important to hold up. The government takes its responsibilities seriously and we need to get on with the job of protecting Australia from terrorism. We stand by our position on the listing provision and the membership offence, despite the contradictory actions of Labor in acting to defeat these provisions.

Turning to the Suppression of the Financing of Terrorism Bill, our ability to deal with terrorist financing will be enhanced by increased penalties for providing assets to those engaged in terrorist activity. New powers are conferred on AUSTRAC, the AFP and ASIO to disclose financial transaction information regarding terrorist activity to foreign governments and law enforcement and intelligence agencies. The bill will also enhance the Commonwealth’s counter-terrorism legislative framework by creating an offence directed at those who provide or collect funds to facilitate terrorist activities and requiring cash dealers to report suspected terrorist related transactions. The measures in the bill implement obligations under United Nations Security Council resolution 1373 and the International Convention for the Suppression of the Financing of Terrorism, and will allow Australia to ratify the latter convention. This is a priority for the government.

The government amendments to the bill implemented all of the recommendations of the Senate Legal and Constitutional Legislation Committee in its report on the bill and addressed a number of issues that have been identified since the introduction of the bill into the parliament. In particular, the government has provided that regulations may be made setting out the procedures to be followed in relation to the freezing of assets, including procedures for notifying those whose assets are frozen.

One further bill passed the Senate today but, as it was not amended, it has not returned to the House of Representatives. This was the Criminal Code Amendment (Suppression of Terrorist Bombings) Bill 2002. That bill gives effect to the International Convention for the Suppression of Terrorist Bombings, which is a response by the international community to terrorist attacks using bombs and other lethal devices. Two new offences will be created to cover terrorist activities using explosives or other lethal devices and will carry a penalty of life imprisonment. A further element of the package, the Border Security Legislation Amendment Bill 2002, will increase national security by further protecting our borders. That legislation will improve border security in a range of areas including increased airport security, electronic reporting of passengers, reporting of in transit cargo and electronic reporting of mail.

Finally, changes in the Telecommunications (Interception) Legislation Amendment Bill 2002 will enhance the ability of our law enforcement and security intelligence agencies to investigate activities covered by the new terrorism offences. (Extension of time granted) The government’s view is that these provisions merely clarify the existing law in this area and that the approach adopted in the bill with respect to stored information is appropriate. However, to avoid holding up this important package of legislation, the government agreed to remove the stored communications provisions from the bill and to deal with the issue at a later date.

We have come out of the Senate debate with a strong set of bills. It remains for the opposition to show its commitment to community safety by completing the job and supporting the passage of the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 early in the next sitting. If the opposition does not, it will have to explain to the community why Labor is only willing to go halfway in protecting the community from terrorism. The counter-terrorism package, including the ASIO bill, provides our security and law enforcement agencies with the tools they need to identify and prevent terrorist acts wherever possible and if necessary punish those responsible.

The government appreciates the consideration given by parliament to this vital suite
of legislation. I take the opportunity to thank members of both the coalition and the opposition who have contributed to the development and ultimate passage of the legislation. The legislation is complex and it has been subject to considerable scrutiny. With the cooperation of the opposition—in particular, Senator Faulkner and the member for Banks—we now have a suite of strong antiterrorism legislation. I would also like to particularly put on record the excellent work done by officers of the Attorney-General’s Department and officers of ASIO. I would personally like to thank the advisers in my office who have had particular responsibility for this legislation.

The government take seriously their responsibility to ensure the safety and security of Australians and Australian interests. The resulting laws will allow us to get on with the job of protecting the community. I commend the bill and the amendments to the House.

Mr MELHAM (Banks) (8.24 p.m.)—This package of legislation, as amended, is designed to deal with the threat of terrorism, a threat brought home by the events of September 11 last year. When these bills were first introduced into the parliament on 12 March and rammed through this chamber the next day I made a number of observations, and I think it is worth while putting those back on the record as we conclude the debate on these bills. In my speech on 13 March, I said:

We—namely Labor—are 100 per cent committed to fighting terrorism and protecting national security, and we are 100 per cent committed to protecting the freedoms that we enjoy in our civilised society. The two must exist side by side, otherwise the terrorists win, freedoms go out the window and we all live in fear and insecurity. As I foreshadowed a few weeks ago, Labor is determined to subject the government’s antiterrorist laws to rigorous scrutiny. Our commitment to fighting the threat of terrorism is driven by our desire to protect the very systems and institutions that set us apart from the terrorists. I am talking about the reason for the war on terrorism in the first place: to protect the rights and privileges that we enjoy in a functioning democracy. It is about protecting such principles as the rule of law, freedom of speech and the right of free movement.

I worry that the freedoms we cherish are threatened by this government’s package of antiterrorism laws. I said before that Labor will not be writing the government a blank cheque on antiterrorism law. We will work with the government to tackle terrorism, but the government must proceed with caution. It must work with Labor to ensure we protect the freedoms that are the very signposts of democracy.

They were the tasks that we set ourselves in the Labor Party. They were the words that were uttered in this chamber in the second reading debate. Judge us by our actions.

As we debate the final passage of these bills through the House, our actions have lived up to our words. The principles we espoused from the beginning are maintained in these bills that the Labor Party totally support in their present form. But let us be very clear: this is a different package of bills from the package that was introduced into this House. As someone who has practised in the criminal law since I was first admitted as a solicitor in the late seventies and then as a barrister in practice as a public defender, this is a package of laws where I can look anyone in the community in the eye and say, ‘I have no problems in supporting it.’ The package of bills, as amended by the Labor Party and the minor parties in the Senate and accepted now by the government, maintain the presumption of innocence—maintain that golden thread that runs through our legal system and put the onus on the prosecution to prove their case to the required standards in our system of justice. It maintains our sovereignty. It does not diminish the rules that would result in innocent people being wrongly convicted.

Great reading, Mr Attorney: Michael Mansfield QC and a book called Presumed Guilty, which talks about the British legal system exposed. Mr Mansfield QC represented five of the Birmingham Six, and we remember what happened to the Birmingham Six and the Guildford Four and others who were convicted, spent years in jail and subsequently had their convictions quashed. What happened was that hysteria saw that they did not get fair trials.
In relation to this package of bills as now amended, I believe the Labor Party have lived up to what was proposed when we first laid down the markers when these bills came before the House. (Extension of time granted) I commend the government for coming to their senses, because from the very beginning the Labor Party were of the view that we did not want to play politics in relation to these laws. But we were not going to be wedged; we were not going to blink when it came to basic principles.

There have been a lot of emails and a lot of people in the community are concerned about this. However, look at the amendments and the completed bills and you will see that intent runs through all of them. Anyone who is taken to court in relation to these offences when they become law and who has the necessary intent or knowledge deserves to be dealt with according to the criminal law standards. These bills, as amended, will not pick up innocent citizens, and that is the way it should be. As a parliament, we can be proud about that.

As we assessed the government’s anti-terrorism legislation, Labor have a perspective. We have been determined to ensure that Australia and the international community are safeguarded from terrorism. We have been equally determined not to sacrifice any of the democratic freedoms that we cherish in Australia, and we successfully argued for extensive amendments to fix what we regarded as serious flaws in the bills. As a consequence, the main antiterrorism bill has been effectively rewritten. As I watched the Senate debate, I noted that the government still persisted with parliamentary proscription and, when it came to the Labor amendment to remove that proscription from these bills, I noted that the government supported that amendment. I applaud the government for doing that, because that was the final white flag of surrender for something that should never have been put there in the first place.

Australian Labor Party history is rich with our opposition to the Communist Party Dissolution Bill in the 1950s, and the law book is rich with the High Court’s decision in that regard. To try to repeat the history of the 1950s with proscription the second time around was always doomed to fail, and I congratulate those members of the government who, within their own party room and the committee, belled the cat on that and found it too rich. At the end of the day, when it came to the final vote in the Senate, the record shows that even this government did not vote for that proposal, and for that they deserve credit because it was not worthy of support. My reading of it is that, in the end, all parties voted for the Labor Party amendment removing domestic proscription.

We have ensured that humanitarian groups will not be affected by the sloppily drafted new treason offences. We have also ensured that the definition of terrorist act contains the necessary higher level of intent associated with the grave nature of terrorist offences. We have ensured that the bill will target only terrorists. The original definition proposed by the government was astonishingly wide. It did not distinguish terrorist violence from offences or forms of violence appropriately covered by other legislation. We successfully argued that the definition of terrorism had to be focused on the use of violence to influence government or to intimidate or coerce the public or a section of the public.

We have ensured that any possibility that legitimate protest or industrial action could be dealt with as terrorist offences has been removed. I notice that the Greens and the Democrats had something to say in the Senate about that. I say to them: ‘Read the definition carefully. Read the exclusion provision very carefully, and it is covered.’ The impeccable legal advice that the Labor Party has received states that any possibility that legitimate protests or industrial action could be dealt with as terrorist offences has been removed. Let us nail that misconception in the other place: read the bill carefully as amended. We have also ensured that the offences in the legislation target only terrorist activities and require the prosecution to prove knowledge of and intent to commit a terrorist act. Most importantly, we have ensured that the government’s proposal to give the Attorney-General arbitrary power to ban organisations never sees the light of day.

We have also been able to ensure that there will be a full, thorough, independent,
public review of these antiterrorism laws in three years time, and that is appropriate. *(Extension of time granted)* It should also be noted that, at the opposition’s insistence, the government has removed its controversial proposal for easier access to emails and SMS messages from its proposed amendment of the Telecommunications (Interception) Act.

The challenge in this debate has been to ensure that Australia will have comprehensive and strong laws to deal with terrorism without sacrificing key elements of our democracy. Labor took up this challenge and the bills have been vastly improved as a result. Labor has knocked out of these bills a number of very draconian measures which could have affected innocent Australian citizens. We have also strengthened the provisions of the bills by ensuring that they are comprehensive and tightly focused on the real terrorist threat. We have got the balance right, and I genuinely commend the amended package of legislation to this House.

The Attorney-General referred to the next bill that will come before the House. When parliament returns in August, we will have to do likewise in relation to the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill. Proposals to detain incommunicado persons not suspected of any wrongdoing involve fundamental questions of human rights and constitutional principle. The government can be assured that there will be no lessening of Labor’s scrutiny in respect of this further deeply flawed piece of national security legislation. To bring before parliament legislation that allows the detention of citizens not accused of any wrongdoing is amazingly draconian. Citizens not accused of any wrongdoing will be given fewer rights than people charged with murder, rape, armed robbery—the most vile of offences on our current statute books.

Mr Attorney-General, I assure you that the ASIO bill will receive scrutiny, hopefully by this House as well as the other place. Hopefully, this House will be able to participate in a proper committee debate, unlike the opportunity we were denied last time. You have that guarantee, Mr Attorney-General, and so has your government. As a party, we will go through our proper processes when we see the legislation, the amendments and the package as a whole, and when we have the opportunity to take proper advice. I believe that the process that the government and the opposition engaged in was constructive.

I applaud the officers of the Attorney-General’s Department. When they received proper, adequate and principled instructions, they were able to have the appropriate legislation drafted accordingly. The problem was that what they were being asked to do in the first instance was putrid in terms of the principles. That is why the legislation could not even pass the government party room una- mended. That is why you had a unanimous committee report out of the Senate. I should point out that all those suggestions of the Senate committee were picked up—and more. When you study this legislation, you find that the Labor Party’s insistence on further amendments and further improvements was subsequently accepted by the government.

I want to thank my staff and Senator Faulkner’s staff. In particular, I want to thank Dr Philip Dorling, who has given outstanding advice and service to the opposition in relation to this matter, and to the Australian community. We are the better as a community for the contribution that he has made to this debate. I want to thank the legal team that advised the Labor Party from day one, without charge, without fee, late into the night, day after day, night after night. A number of eminent senior counsels and junior counsels at the New South Wales Bar were in that team. I want to thank all those people who made submissions to the Senate legal committee: Liberty Victoria, Chris Maxwell QC and all those community organisations which, by their sheer weight of numbers and arguments, helped change what was a shocking series of bills into bills that we can all be proud of—bills that target the terrorists and now have all unintended consequences and sloppy drafting removed from them so that innocent Australian citizens can go about their business and have legitimate protest but not be smeared as terrorists or potential terrorists. I admit there was a bit of self-interest in this legislation, because, frankly, I probably would have been con-
Mr ANDREN (Calare) (8.39 p.m.)—I am not a barrister or a solicitor. Someone suggested to me the other day that perhaps, under the separation of powers, this place would be better without such personnel— with all due respect to the Attorney-General and the shadow Attorney-General. I, like many members, have had a huge amount of correspondence, emails and other contact over these bills. It is very complex, as the Attorney-General has said. I have watched the debate in the Senate and followed the amendments through as best I could. The consideration the Senate gave to this serious legislation, and the intricate detail in which they dealt with it, was described as the Senate at their very best.

However, I have a few problems with it and I wonder whether the Attorney-General and, indeed, the opposition spokesman could clarify them for me. I think it is important to put these problems on the record because, in the years ahead, when we are dealing with other situations outside the context of September 11, we must be aware that this law now contains a definition of 'treason' which includes anyone assisting or intending to assist an enemy at war with the Commonwealth, or another country or organisation involved in armed hostilities against the Australian defence forces.

Does this open up the possibility of non-military activities, such as journalism or film-making, being regarded as an act of treason? Does this mean that a documentary maker who wishes to cross the lines in a conflict like Vietnam and engage in professional coverage of the other side of the conflict could face charges of treason? Could the product of his work be barred from screening because it is regarded as treasonable? What if the material reveals, as was the case in Vietnam, corruption in the ruling puppet regime that we might be supporting at the time, and legitimises the struggle by our supposed enemy?

I also have problems with the definition of 'terrorist act'—not the definitions pertaining to serious risk to public health and safety but the fact that the wide range of activities that could be deemed as terrorism might conceivably involve what, to date, has been legitimate protest. I think it has been suggested elsewhere that the recent Greenpeace exposure of the lack of security at Lucas Heights might come into this category. I think there was a similar demonstration in the US at a military operation. I wonder whether, under all circumstances, such activities might be regarded as a terrorist act, or potentially a terrorist act, remembering that public demonstrations, covert acts and the like have led to the overthrow of extreme regimes of the left and the right, and have exposed safety risks and embarrassed, indeed toppled, governments around the world. I say this largely for the record but I would appreciate the minister and, indeed, the opposition spokesman responding.

In relation to the Suppression of the Financing of Terrorism Bill 2002, I have no problems with the overwhelming detail but I would like to record my concerns that we may here be transferring power to proscribe an organisation or individual from the parliament to the executive. As I understand it, proscribed matters will be determined by regulations but the minister will, by himself or herself, list the person or entity, if satisfied of the proscribed matters.

The opposition argues that the legislation is watertight, in that the UN resolutions deal with the listing of terrorists or groups and these resolutions inform the Governor-General’s regulations and the minister’s list. I have some difficulties with this. I know the regulations themselves are a disallowable instrument and are accountable to the parliament, but are other ministerial lists emanating from that process also accountable to parliament, or simply listed in the Gazete? I would like the minister or the Attorney-General to clear this up. Why isn’t the list itself made by regulations, as with the Security Legislation Amendment (Terrorism) Bill 2002 [No. 2], where organisations can only be proscribed by regulation? Those are the basic questions I have. I commend the way in which this parliament has dealt with this matter from—as was indicated by the opposition—a rushed process at the beginning, for such serious legislation, through to the report.
Mr ALBANESE (Grayndler) (8.44 p.m.)—I rise to speak in support of the amendments which have been carried by the Senate, and which have returned here and now have the support of both the government and the opposition. I want to take this opportunity to make a contribution to the debate because I was denied that when the bills were first introduced. These bills were rushed through this House in a manner that was entirely inappropriate. What we have seen in the Senate and what we are seeing tonight in the House of Representatives is the Australian parliament at its best.

There is no doubt that the most significant event in any of our lifetimes was September 11 last year. It has changed the way that we see ourselves, the way that we see our nations and the way that we see the international community. There is no doubt that we have to respond to this calamity but it is important that we acknowledge that the war on terrorism will not be won militarily. I could not have supported the original bills which were brought before this House. The war on terrorism can only be won ideologically. As we are seeing today in the Middle East, whether it be terror of individuals or terror by the state, terrorism cannot be stopped by security legislation. You have to win hearts and minds. In winning the war on terrorism, we need to ensure that we differentiate ourselves from those authoritarian societies, ideologies and individuals that would seek to break down and attack our democratic freedoms. In doing that it is critical that we support civil liberties and that we understand that to have a free society, a democratic society, means that we must uphold the rule of law and the rights of individuals to participate fully and freely in that society—there must be a presumption of innocence.

I congratulate the shadow minister for home affairs, Senator Faulkner, and the shadow minister for justice and customs, the member for Banks—my friends and colleagues—who have worked so hard to ensure that we have a result that is good for Australia but that also avoids the divisive wedge-politics game which the government was trying to play with its original legislation—just like it did with the asylum seekers. The amendments will ensure that legitimate protest and industrial action, legitimate full participation in our society, cannot be outlawed. The public review that will occur in three years time is a guarantee that there will be a full opportunity for public comment and that any concerns that people have with the operation in practice of this legislation can be addressed.

I particularly want to point out the issue of the proscription of organisations because that was a clause in the original Security Legislation Amendment (Terrorism) Bill 2002 [No. 2] that was simply unacceptable if left to the Attorney-General of the day. Labor’s amendments ensure that any basis of proscription of an organisation as a terrorist organisation will be on the basis of UN Security Council resolutions. September 11 was a disaster and it is certainly the case that one cannot really see anything positive coming out of it. But, if one thing positive can come out of it, it is the recognition that we all cannot live in isolation—that the international community must act as one in a cooperative way. (Time expired)

Mr SNOWDON (Lingiari) (8.49 p.m.)—I wish to support the amendments and very much identify myself with the comments of the previous speaker and of the shadow minister at the table. I wish to put what I think is an important issue into sharp relief—that is, the possibility of doing things wrongly under this legislation, or under potential legislation that might be passed in the future.

I want to go back a number of years to 1976 and talk briefly about East Timor. I want to talk about two incidents which happened in the Northern Territory relating to East Timor. The first was when a core of activists in the non-Timorese community in the Top End took what I think was a grave personal risk. One such person was Manny Manolas, who with three others sailed his boat The Dawn out of Darwin Harbour bound for East Timor in 1976. Remember, 7 December 1976 was the day that East Timor was in-
vaded and subsequently annexed by the Indonesian authorities. Shortly after this, the Fraser government gave de jure recognition of that occupation.

I use that as a backdrop because I think what happened subsequently is important to us and is a lesson. Manny Manolas, with three others, sailed his boat *The Dawn* out of Darwin Harbour. The purpose of that voyage was to deliver medical supplies to East Timor. It was intercepted before it got out of Australian waters. Those on the vessel were arrested and the boat was confiscated. The individuals on board were jailed overnight, bailed and then taken to the courts. Understand what I am saying here: these were Australian citizens attempting to take medical supplies to resistance fighters in East Timor. Where would they be under this legislation?

Subsequently, a group of Territorians operated an illegal radio. This illegal radio was the only form of outside communication with the East Timorese resistance fighters in East Timor. Their message was received in Darwin by this radio, which was being trooped around the bush by a group of people, including friends of mine, like Rob Wesley-Smith, and leading people in the peace movement and in the union movement in the Northern Territory, led by Brian Manning from the Waterside Workers Federation. They were providing a communications link to resistance fighters and others in East Timor at a time when an Australian government had given de jure recognition to the annexation of East Timor by Indonesia.

I ask the minister at the table: if this legislation had applied then, what would have been the position of these people? Where would they be under this legislation?

Subsequently, a group of Territorians operated an illegal radio. This illegal radio was the only form of outside communication with the East Timorese resistance fighters in East Timor. Their message was received in Darwin by this radio, which was being trooped around the bush by a group of people, including friends of mine, like Rob Wesley-Smith, and leading people in the peace movement and in the union movement in the Northern Territory, led by Brian Manning from the Waterside Workers Federation. They were providing a communications link to resistance fighters and others in East Timor at a time when an Australian government had given de jure recognition to the annexation of East Timor by Indonesia.

I ask the minister at the table: if this legislation had applied then, what would have been the position of these people? Bear in mind at that particular point, just after the invasion and annexation, this particular group of people were assisting resistance fighters. I have to ask you, Mr Attorney, where would they be? Where would the thousands of other Australians—including me, I might say—who, over the years, raised money when successive governments—including, to my shame, the Hawke government—gave de jure recognition of the occupation and annexation of East Timor by Indonesia? People like me and others, including very close friends of mine—East Timorese as well as Australian citizens—raised money for the resistance and supported the resistance in Australia. Under this legislation, what would happen to those people?

We were all too happy to go and parade in August 1999 after some very good work by Australia—it was belated, but it was good work—and now we have got the same resistance fighters as the president and senior cabinet ministers of a new republic of East Timor. I understand the nature of this legislation, and I support it—but let me be very clear about that. (Extension of time granted) But I want to know what this legislation means for those Australian citizens who are involved in providing support for and assistance to individuals and groups of people who might be involved in trying to achieve a democratic outcome against oppression. I ask you, Mr Attorney, what does it mean for them?

This is important legislation. As I said at the outset, I strongly identify with the words expressed by the previous speaker, the member for Grayndler, and the shadow minister. I take very seriously our responsibility as a parliament to protect the interests of Australian citizens, both at home and abroad. I accept the need for us to look seriously at how we might curtail the activities of terrorist organisations. But I want to be very certain. This is why I am very strongly in support of the amendments which prevented you, Mr Attorney, from having the right to proscribe organisations. Because this is what it is about. You could just imagine, could you not, Mr Attorney—

The DEPUTY SPEAKER—Order! The honourable member will address his remarks through the chair.

Mr SNOWDON—Through you, Mr Deputy Speaker, to the Attorney-General, you could just imagine what would have happened were the Attorney-General of a mind to proscribe those people supporting Fretilin or Falintil under this legislation in 1976, because the Fraser government had given de jure recognition to the annexation and occupation of East Timor by Indonesia, and because successive governments did the same thing. The Attorney-General would have had the capacity under the original leg-
islation to proscribe those people as terrorists. That is why I am pleased with this legislation. It has now been amended, thanks to the work of people identified by the shadow minister, to ensure that the sorts of things I have alluded to in my contribution—about the way in which people could have been victimised under the original piece of legislation—have been changed.

But we need to be very certain under any circumstances that we balance the interests of all Australians and that we accept our responsibility as parliamentarians and as legislators to ensure that we protect those Australians with appropriate laws. This law is now a good law. Originally, it was a bad law. I am very pleased at the way in which this piece of legislation now appears before us. I want to pay particular thanks to the two shadow ministers who have been involved and their adviser, Dr Dorling.

Mr BEAZLEY (Brand) (8.57 p.m.)—I want to support the Security Legislation Amendment (Terrorism) Bill 2002 and the amendments that have been put in place and take the same point of view as a number of speakers on this side of the House who have already had a chance to set down their views. I would not like to see these bills go through the House without an opportunity on my own part to support their content and support the rationale that lies behind them. Like the previous speaker, the member for Lingiari, I have nothing but praise for the activities of our shadow ministers. There is one in this House, and he has been appropriately praised here. I would like to extend that praise to Senator John Faulkner, who has worked extraordinarily hard on this.

Had we won the last election, Senator Faulkner would have been the minister for home affairs. That portfolio, like the new Department of Homeland Security in the United States, would have drawn together all the elements of government that are, one way or another, entailed in the fight against terrorism. Of course, there would have been some lying outside it but, by and large, all those elements that have an obligation to address the need to protect our society from a threat of terrorist acts would have been drawn under his aegis. It is, in fact, the right way, in contemporary political terms, insofar as these issues can be addressed organisationally, that that should be the case. The government have not chosen to do that. I suppose the government can say in the circumstances, given other debates going on at this stage, that they were not following the example of the United States. This is one of those occasions when I think that they should have followed the example of the United States and put in place a similar structure like that which we suggested. Senator Faulkner, nevertheless, approached this legislation in the way in which he would have done had he been the minister for home affairs in a Labor government.

I want to answer any questions in the minds of the Australian public, because I have received a lot of correspondence on this legislation. I would not like anyone to think for one minute that we would not have put forward antiterrorist legislation and that we did not acknowledge that there are substantial weaknesses in the current structure of our laws and in the current international arrangements to which we are party that did not require serious effort on the part of the government to address them. Indeed, many of the things that are contained in these bills and the international components of them, particularly in relation to financing, were all things that we laid down as part of our response in a 10-point plan in the immediate aftermath of those shocking events of September 11. We recognised then, as we recognise now, that there was an additional legislative and organisational response, both internationally and domestically, that required the participation of an Australian government if our people were to be properly protected.

Of course, it is highly desirable that, whatever legislation is put in place, that legislation carries the imprimatur of all sides of politics. I am very pleased that Senator Faulkner has been able to use the special position that applies to legislators in the Senate—this applies just as much when we are in government and the Liberal Party lead the opposition there—to ensure that optimal amount of bipartisanship in the devising of good law. What is going through this House
creates offences of terrorism in this country that are comprehensive, broadly based and go to intent. Nobody who participates in terrorist acts is going to do so unknowingly, or knowingly, and fail to be caught. None of those who give assistance to terrorists who are detected by our agencies, who have been given additional powers and additional resources, for want of effort on their part or the effectiveness of the law, is going to evade detection and, ultimately, punishment.

I believe that what are going through the House now are good laws. I also happen to believe that they are necessary laws. I state again my gratitude to Senator Faulkner and to the shadow minister at the table, the member for Banks, for their efforts in that regard. If the course of events on 10 November had been different, something very similar to this legislation would have been before this House—probably a little earlier than now, but nevertheless it would have been before this House. I trust that it would have enjoyed the bipartisan support which ultimately this legislation enjoys. (Time expired)

Mr WILLIAMS (Tangney—Attorney-General) (9.02 p.m.)—In replying to the debate on the Security Legislation Amendment (Terrorism) Bill 2002 I shall respond briefly to questions raised by the member for Calare and the member for Lingiari. The member for Calare asked whether the definition of treason opens up the possibility of journalists, film-makers and the like to being guilty of treason. The simple answer to that is no. The offence, as set out in the bills, will apply only to actual assistants of the enemy in hostilities against an Australian Defence Force; it will not apply to those activities to which he referred. He asked whether demonstrations, protests and the like could constitute terrorist acts under the legislation. This has been the subject of very extensive debate within the coalition and Labor party rooms, in the Senate committee and in the Senate. The simple answer is that there is a broad exemption for protest, advocacy and dissent, and there is no possibility of that being caught as a terrorist offence. He referred to the listing of assets and, in broad terms, asked why it is not done by regulation. This issue was dealt with at great length in the Senate. Australia, as a member of the United Nations, and under our Charter of the United Nations Act 1945, in effect is obliged to implement United Nations Security Council resolutions. Resolution 1373 requires the freezing of assets of organisations listed as terrorist organisations. The obligation that Australia has under the resolution is to:

Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts ... of ... associated ... entities.

If Australia does not freeze entities that are listed in that way, it would be in breach of its international obligations under Security Council resolution 1373 and, more specifically, in breach of the obligations imposed under the Charter of the United Nations Act 1945. If the listing were to be done by regulation, inserting a provision for disallowance would not put us in breach of our international obligations but the act of disallowance of a regulation would put us in breach if the listing has been properly made in line with our obligations. On that basis the government took the view that it was undesirable to insert a disallowance provision which, in relation to a properly made listing, would place Australia in breach of its international obligations unless and until the listing is reinstated.

The member for Lingiari raised some interesting questions in relation to the now more distant history of East Timor. I do not propose to answer those questions directly. It is inappropriate to apply legislation enacted now to events that occurred a long time ago; it is another version of an hypothesis. But I will say that the definitions in the bill of what constitutes a terrorist act are very tight. To commit an offence of committing a terrorist act, all the elements of that definition must be present, and one of them includes the intent to intimidate or coerce a government. This is a key feature of targeting offences of terrorism.

The terrorism offences also all require what lawyers refer to as mens rea—in this case, that the intention can be satisfied in some cases by proof of actual intention or, in other cases, by knowledge that the act or
thing related to terrorist activity or in some cases recklessness as to that connection. So the government is confident, and from what the opposition speakers have said I believe the opposition is also confident, that these offences will not apply in inappropriate circumstances. *(Time expired)*

Mr MELHAM (Banks) *(9.08 p.m.)*—The member for Calare posed similar questions to me. I concur with all that the Attorney has said in his reply to those questions. I think the definite answers in relation to the questions he asks both on treason and on the definition of terrorism are no and no. You are as safe as the Bank of England.

Question agreed to.

**SUPPRESSION OF THE FINANCING OF TERRORISM BILL 2002**

**Consideration of Senate Message**

Bill returned from the Senate with amendments.

Ordered that the amendments be considered forthwith.

*Senate’s amendments—*

(1) Title, page 1 (line 2), after “1995,”, insert “the Extradition Act 1988.”

(2) Clause 2, page 2 (table item 4, 2nd column), omit “The day on which”, substitute “Immediately after the start of the day after”.

(3) Clause 2, page 2 (at the end of the table), add:

7. Schedule 4 Immediately after the start of the day after this Act receives the Royal Assent

(4) Schedule 1, item 1, page 4 (line 7), omit “integrity and”.

(5) Schedule 1, item 2, page 5 (lines 6 to 12), omit the definition of *terrorist act*, substitute:

> **terrorist act** means an action or threat of action where:

(a) the action falls within subsection (2) and does not fall within subsection (2A); and

(b) the action is done or the threat is made with the intention of advancing a political, religious or ideological cause; and

(c) the action is done or the threat is made with the intention of:

(i) coercing, or influencing by intimidating, the government of the Commonwealth or a State, Territory or foreign country, or of part of a State, Territory or foreign country; or

(ii) intimidating the public or a section of the public.

(6) Schedule 1, item 2, page 5 (lines 14 and 15), omit paragraphs (2)(a) and (b), substitute:

(a) causes serious harm that is physical harm to a person; or

(b) causes serious damage to property; or

(7) Schedule 1, item 2, page 5 (after line 15), after paragraph (2)(b), insert:

(ba) causes a person’s death; or

(8) Schedule 1, item 2, page 5 (after line 28), after subsection (2), insert:

(2A) Action falls within this subsection if it:

(a) is advocacy, protest, dissent or industrial action; and

(b) is not intended:

(i) to cause serious harm that is physical harm to a person; or

(ii) to cause a person’s death; or

(iii) to endanger the life of a person, other than the person taking the action; or

(iv) to create a serious risk to the health or safety of the public or a section of the public.

(9) Schedule 1, item 2, page 6 (lines 2 to 4), omit subsection (1), substitute:

(1) This Part applies to a terrorist act constituted by an action, or threat of action, in relation to which the Parliament has power to legislate.

(10) Schedule 1, item 2, page 6 (lines 5 to 7), omit “an action, or threat of action, gives rise to an offence under this Part to the extent that”, substitute “this Part applies to a terrorist act constituted by an action, or threat of action, if”.

(11) Schedule 1, item 3, page 7 (after line 19), at the end of subsection (1), add:

> Note: Intention is the fault element for the conduct described in paragraph (1)(a). See subsection 5.6(1).

(12) Schedule 2, heading to Part 1, page 8 (lines 4 and 5), omit the heading.
(13) Schedule 2, page 10 (after line 3), after item 9, insert:

9A Subsection 27(1B)
Repeal the subsection, substitute:

(1B) Despite paragraph (1)(b), the Director may only authorise under that paragraph one of the following law enforcement agencies if the agency undertakes that it will comply with the information privacy principles set out in section 14 of the Privacy Act 1988 in respect of FTR information obtained under the authorisation:

(a) the Crime and Misconduct Commission of Queensland;
(b) the Anti-Corruption Commission of Western Australia;
(c) the Royal Commission (appointed by the Governor of Western Australia on 12 December 2001) into whether since 1 January 1985 there has been corrupt conduct or criminal conduct by any Western Australian police officer.

9B Saving of authorisations and undertakings
For the purposes of subsection 27(1B) of the Financial Transaction Reports Act 1988 as amended by this Schedule, neither of the following is affected by the amendments of that Act by this Schedule:

(a) an authorisation conferred on the Anti-Corruption Commission of Western Australia by the Director;
(b) an undertaking by that Commission to the Director.

(14) Schedule 2, item 14, page 10 (after line 25), after subparagraph (ii), insert:

(iii) ensuring that the information will be used only for the purpose for which it is communicated to the foreign country; and

(15) Schedule 2, item 14, page 11 (lines 10 and 11), omit subparagraph (ii), substitute:

(ii) controlling the use that will be made of it; and

(iii) ensuring that the information will be used only for the purpose for which it is communicated to the foreign country; and

(16) Schedule 2, page 11 (after line 36), after item 14, insert:

14A Paragraph 27(16)(d)
Repeal the paragraph.

14B Paragraph 27(16)(h)
Repeal the paragraph, substitute:

(h) the Crime and Misconduct Commission of Queensland; and

14C At the end of subsection 27(16)
Add:

; and (j) the Royal Commission (appointed by the Governor of Western Australia on 12 December 2001) into whether since 1 January 1985 there has been corrupt conduct or criminal conduct by any Western Australian police officer.

14D Paragraphs 27(17)(k) to (m)
Repeal the paragraphs.

14E Paragraphs 27(17)(t) and (u) (the paragraphs (t) and (u) inserted by item 7 of Schedule 6 to the Measures to Combat Serious and Organised Crime Act 2001)
Repeal the paragraphs.

14F Before paragraph 27(17)(v)
Insert:

(ua) a Commissioner of the Crime and Misconduct Commission of Queensland; and

(ub) an Assistant Commissioner, Senior Officer or member of the staff of that Commission; and

14G At the end of subsection 27(17)
Add:

; and (x) the person constituting the Royal Commission (appointed by the Governor of Western Australia on 12 December 2001) into whether since 1 January 1985 there has been corrupt conduct or criminal conduct by any Western Australian police officer; and

(y) a member of the staff of that Royal Commission.

(17) Schedule 2, item 18, page 12 (lines 33 and 34), omit subparagraph (ii), substitute:

(ii) controlling the use that will be made of it; and

(iii) ensuring that the information will be used only for the purpose for which it is communicated to the foreign country; and
(18) Schedule 2, Part 2, page 14 (line 2) to page 15 (line 30), omit the Part.

(19) Schedule 3, item 1, page 21 (after line 10), after section 22, insert:

**22A Regulations on procedures relating to freezable assets**

(1) The Governor-General may make regulations relating to procedures relating to assets that are, may be or may become freezable assets.

(2) The regulations may provide for procedures relating to information (including personal information) relating to such assets in circumstances involving:

(a) a listing, or proposed listing, of a person, entity, asset or class of asset under section 15; or

(b) a question whether an asset is or may become a freezable asset; or

(c) an application for, or grant of, permission under section 22.

(3) Subsection (2) does not limit subsection (1).

(20) Page 22 (after line 23), at the end of the bill, add:

**Schedule 4—Amendment of the Extradition Act 1988**

1 Section 5 (after subparagraph (a)(ii) of the definition of political offence)

Insert:

(iia) Article 2 of the International Convention for the Suppression of the Financing of Terrorism, done at New York on 9 December 1999; or

Mr WILLIAMS (Tangney—Attorney-General) (9.09 p.m.)—I move:

That the amendments be agreed to.

In doing that, I indicate that I have said all I propose to say in relation to the package. If there is no further debate on the bills, I invite the question to be put.

Question agreed to.

**BORDER SECURITY LEGISLATION AMENDMENT BILL 2002**

**Consideration of Senate Message**

Bill returned from the Senate with amendments.

Ordered that the amendments be considered forthwith.

**Senate’s amendments**—

(1) Schedule 4, item 14, page 14 (lines 20 to 29), omit the definition of terrorist act, substitute:

**terrorist act** means an action or threat of action where:

(a) the action falls within subsection (4) and does not fall within subsection (4A); and

(b) the action is done or the threat is made with the intention of advancing a political, religious or ideological cause; and

(c) the action is done or the threat is made with the intention of:

(i) coercing, or influencing by intimidation, the government of the Commonwealth or a State, Territory or foreign country, or of part of a State, Territory or foreign country; or

(ii) intimidating the public or a section of the public.

It is immaterial whether the action or threat, or any part of the action or threat or anyone or anything affected by the action or threat is within or outside Australia.

(2) Schedule 4, item 15, page 15 (lines 3 and 4), omit paragraphs (a) and (b), substitute:

(a) causes serious harm that is physical harm to a person; or

(b) causes serious damage to property;

or

(3) Schedule 4, item 15, page 15 (after line 4), after paragraph (4)(b), insert:

(ba) causes a person’s death; or

(4) Schedule 4, item 15, page 15 (after line 17), after subsection (4), insert:

(4A) For the purposes of the definition of terrorist act in subsection (1), action falls within this subsection if it:

(a) is advocacy, protest, dissent or industrial action; and

(b) is not intended:

(i) to cause serious harm that is physical harm to a person; or

(ii) to cause a person’s death; or

(iii) to endanger the life of a person, other than the person taking the action; or
(iv) to create a serious risk to the health or safety of the public or a section of the public.

(5) Schedule 4, item 15, page 15 (line 18), omit “subsection (4)”, substitute “subsections (4) and (4A)”.

Mr WILLIAMS (Tangney—Attorney-General) (9.10 p.m.)—I move:
That the amendments be agreed to.
Question agreed to.

TELECOMMUNICATIONS INTERCEPTION LEGISLATION AMENDMENT BILL 2002
Consideration of Senate Message
Bill returned from the Senate with amendments.
Ordered that the amendments be considered forthwith.

Senate’s amendments—
(1) Clause 2, page 2 (table item 2, column 1), omit “items 1 to 22”, substitute “items 1 to 14 and 16 to 22”.
(2) Clause 2, page 2 (at the end of the table), add:

14. Schedule 3 The day on which this Act receives the Royal Assent

(3) Schedule 1, item 15, page 6 (line 30) to page 7 (line 33), omit the item.
(4) Page 19 (after line 11), at the end of the bill, add:

Schedule 3—Amendment of the Telecommunications (Interception) Act 1979 relating to emergency services calls
1 After subsection 6(2)
Insert:

Communications to emergency services numbers

(2A) In this section, an emergency services number is a telephone number:
(a) on which assistance in emergencies may be sought from:
(i) a police force or service; or
(ii) a fire service; or
(iii) an ambulance service; and
(b) that is specified in regulations made for the purposes of this paragraph, or is in a class of numbers specified in regulations made for the purposes of this paragraph.

(2B) If a person who is lawfully engaged in duties relating to the receiving and handling of communications to an emergency services number listens to or records a communication passing over a telecommunications system to the emergency services number, the listening or recording does not, for the purposes of this Act, constitute the interception of the communication.

Mr WILLIAMS (Tangney—Attorney-General) (9.11 p.m.)—I move:
That the amendments be agreed to.
Question agreed to.

PRIVILEGE
Dr SOUTHCOTT (Boothby) (9.11 p.m.)—This morning I raised a matter of privilege related to a question asked yesterday by the member for Grayndler to the Minister for Ageing which contained a premature disclosure of proceedings and deliberations of the House of Representatives Standing Committee on Ageing which have not been reported to the House. The committee met this afternoon, and the member for Grayndler has informed the committee that he regrets any inadvertent breach of the standing orders. The committee also believes that the disclosure has not substantially interfered with the business of the committee. The matter has now been resolved to the satisfaction of all members of the committee. I thank all members of the committee and the staff for their commonsense on this important matter.

PROCEEDS OF CRIME BILL 2002
Cognate bill:

PROCEEDS OF CRIME (CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS) BILL 2002
Second Reading
Debate resumed.

Dr WASHER (Moore) (9.13 p.m.)—It is a pleasure to talk on a bill that both sides of the House agree on. ‘One of the biggest lies in the world is that crime does not pay. Of course crime pays,’ so said G. Gordon Liddy in an interview given to the Washington Post.
in 1989. Another of his pearls was, ‘Obviously crime pays, or there would be no crime.’ He should know. You will recall that G. Gordon Liddy was convicted in 1974 for his role in the Watergate scandal. Prior to that, he was an FBI agent and an international attorney, so he has seen crime from all perspectives. The Proceeds of Crime Bill 2002 and its companion bill, the Proceeds of Crime (Consequential Amendments and Transitional Provisions) Bill 2002, seek to ensure that crime does not pay. The purpose of the bills is to greatly strengthen and improve Commonwealth laws for the confiscation of proceeds of crime. The key features of the Proceeds of Crime Bill 2002 are to improve the provisions for conviction based confiscation and to introduce a civil forfeiture regime for confiscation—in other words, a non-conviction based regime. The incorporation of such a system into the legislation would enable confiscation of the profits of prescribed unlawful conduct on the basis of proof of the civil standard, which is on the balance of probabilities.

The bill also makes special provision for the confiscation of property used in, intended to be used in or derived from terrorist offences, which are a form of organised crime of particular focus since the tragic events in the United States last year. These events clearly demonstrated to the world the extent to which it is possible for criminal and terrorist organisations to mount an orchestrated and devastating attack on foreign soil.

Several states, including my own state of Western Australia, have now enacted more effective laws enabling proceeds of crime to be frozen and confiscated through civil proceedings. The Commonwealth’s confiscation regime, likewise, needs to be improved and strengthened. It has become increasingly apparent in recent years that conviction based confiscation laws are restrictive and not fully effective. In particular, they have failed to have an impact on the people at the top of criminal organisations. With globalisation and advancements in technology, such people can and do distance themselves from the perpetration of individual criminal acts, thereby evading conviction and placing their profits beyond the reach of conviction based laws. Whilst it is encouraging that our Customs officers seize large consignments of drugs and apprehend the couriers, it is the big fish we need to catch.

The primary motive for organised crime is profit. As G. Gordon Liddy said, ‘Obviously crime pays, or there’d be no crime.’ Every year in Australia, billions of dollars are generated through drug trafficking, money laundering, fraud and people-smuggling. These crimes can cause harm to individuals in the community, to families and to taxpayers. The profits from these illegal activities finance future criminal activity. The perpetrators have no legal or moral entitlement to the proceeds of their crimes. This will discourage and deter crime and reduce the capacity of offenders to finance future criminal operations.

The Australian Law Reform Commission’s 1999 report on the Commonwealth proceeds of crime legislation recommended a sharp shift in Australia’s approach to confiscation laws. The report, entitled Confiscation that counts, is an important and thorough analysis of the operations of the Proceeds of Crime Act 1987, and it provides a structural basis for the Proceeds of Crime Bill 2002. The review found that the groundbreaking legislation introduced in 1987 and designed to strike at the heart of organised crime had become largely ineffective. In the five years prior to the report’s publication, $7.5 million per year was netted under the Commonwealth confiscation laws. Although it is difficult to estimate the size of the criminal economy, such a sum is fairly modest when compared with the scale of illegal takings.

The review also proposed that existing judicial discretions under the current conviction based regime be reduced so that the confiscation of the profits of criminal activity becomes mandatory. Under the commission’s proposal, the courts would have discretion only in relation to the confiscation of lawfully acquired property used in or in connection with the commission of the offence. An example of this would be computer equipment bought with legitimate funds but used to defraud the Commonwealth.
I was a GP in the northern suburbs of Perth for almost 30 years, and during that
time I saw many people affected by the trade
in illegal drugs. It is hard to quantify the cost
to society of this illicit and despicable trade,
because its consequences are far reaching.
Each year, the use of illicit drugs accounts
for many deaths, hospitalisations and further
crime, as addicts turn to theft and prostitution
to pay for these habits. It imposes a huge
burden on our health care system, our police
force, our courts and private industry in
Australia. And there is a social cost too, as
families struggle to cope with the addiction
of their loved ones, which places a huge
strain on the family unit. Drug traffickers,
like people smugglers, wreck lives for one
reason and one reason only—profit. This bill
will prevent the unjust enrichment of crimi-
nals who profit at society’s expense, and it
demonstrates the government’s tough stance
against organised crime.

Another important aspect of the bill is the
provision for the forfeiture of literary pro-
ceeds, which are the benefits a person de-
rives from the commercial exploitation of
their notoriety from committing a criminal
offence. Such exploitation may take the form
of a written or an electronic publication—a
book, magazine or newspaper article or a
radio, film or television production. It
includes any form of media in which visual
images, words or sounds can be reproduced.
However, the list is not exhaustive. This is
because there will be occasions when diffi-
cult judgments need to be made on the extent
to which profits relate to criminal or other
unlawful activity, as distinct from other con-
siderations, such as experiences gained
through the rehabilitation process. In these
situations, a court would be best placed to
determine the issue on the basis of evidence
placed before it.

The expression ‘literary proceeds’ is in-
tended to include chequebook journalism,
which is becoming increasingly common in
all aspects of the news media. It must be ex-
tremely distressing for the families of victims
of crime to see newspapers, magazines and
broadcast media offering huge sums of
money to notorious criminals for the exclu-
sive rights to their stories. It demeans the
integrity of the news media, lines the pockets
of the criminals and projects them into the
spotlight in a way that must be abhorrent to
the victims and their families.

This bill represents a major overhaul of
the government’s confiscation regime and
clearly demonstrates the government’s com-
mmitment to and determination in combating
organised crime within Australia and deter-
rning transnational criminals from using Aus-
tralia as a staging post for their activities.
This is particularly important since the tragic
events in the US last year and the Australian
and international fight against terrorism. I
commend this bill to the House.

Mr KERR (Denison) (9.22 p.m.)—To-
ight my colleague the shadow minister has
set out in detail the substance of the Proceeds
of Crime Bill 2002 and its legislative history.
I do not intend to replicate that task; rather, I
want to reflect on where social democratic
parties—labour parties—ought stand in this
area of law which affects so many Aus-
tralians. It is commonplace to hear those trained
in the law say that it is better that 10 guilty
men go free than one innocent man found
guilty. That is a view I share, but I think that
has to be counterbalanced with the realisa-
tion that, if guilty men go free for unwar-
ranted reasons or they are allowed to profit
from the proceeds of crime in such a way
that they are seen to be exploiting the society
in which they live, it will give rise to resent-
ment and passions in our community that
will lead to draconian overreach and to ac-
tions that can be appealed to by populists.
Our legal system has been built on a frame-
work that ensures that all citizens have equal
rights and strong protections of the law. If
those rights are removed, frightened citizens
and citizens who are resentful of those who
are profiting at their expense demand of gov-
ernments ever stronger action.

The tradition to which I belong—the po-
litical movement to which I adhere—is that
of social democracy. Of the values principles
that those of us articulate, the left-of-centre
parties tend to emphasise equality, fairness
and the social sphere. We do have a tradition,
however, that also reflects the fact that the
labour movement was born out of struggle
against very often repressive state action.
More than most in the community, we are aware that a repressive government can misuse its powers; indeed, many people who formed the basis of the Australian society came out here as transportees in the first instance. They are descendants of persons who had experienced legal regimes that contained few of the protections that we now take for granted.

Beveridge talked about eliminating the evil giants of poverty, ignorance and ill health as part of the social welfare reforms that the British Labour government put in place after World War II. The bedrock, I suppose, that has underpinned the thought processes of most social democrats ever since has been to draw on the broad capacity of society to redistribute aims and to build an architecture of the public sphere that will ensure that all citizens have access to a wide range of services, choices and opportunities not on the basis of inherited wealth or privilege but on the basis of opportunity provided to all. But that is undermined if we have within our society the free opportunity for those who take no adherence to those social values and who seek to exploit them. The bitter reality that we must face is that crime frequently is directed not against the wealthy, not against those who are at the top of the social pyramid, but rather against ordinary citizens and—most frequently, regrettably—against those least well off in our society.

If you look at any social atlas for where crime has been recorded, it is not the wealthiest suburbs that are hit by crime; it is those suburbs of the working class or the poor. If you look at those who most exploit the opportunities for the generation of wealth, they often live in the rich suburbs, protected by their own capacity to exploit the legal system and to hide their ill-gotten gains. That situation ultimately is indefensible. It gives rise to those wishing to exploit populism to do so easily, and it leads to a situation where our own people—those whom we speak for and most represent—are not being adequately represented.

The trick for a social democratic party is to make certain that it preserves those fundamental protections that we all need, because all of us at one stage or another might be falsely accused of a crime. There are no guarantees that we do not deal with institutions that fail. Our police fail from time to time, normally because they are human but sometimes because they are infiltrated by corruption. There is no guarantee that at some time we will not have institutions of government that act maliciously. For example, we know of the close relationship between a corrupt police force and a corrupt political administration in Queensland during the Bjelke-Petersen time.

We have to build in systems that rely on strong independent judicial supervision and principles of law that guarantee that we can fairly hold our heads up and say that the innocent will not be subjected to unfair and improper police processes or to unfair trials. On the other hand, if we ever allow tax evasion, housebreaking, violence and car theft to reach epidemic proportions, then we too will have failed our society. We do not do our social objectives any good by turning a blind eye and saying, ‘Look, we are making certain that the innocent are protected,’ if we do not also put in place proper, fair and effective laws that guarantee that those who are wrongdoers—law-breakers—in our society are brought to account.

That is why we have committed ourselves to a strategy in opposition which not only is responsive to what the government proposes from time to time but also forces upon us often the mantle of improving legislation which contains overreach. Quite frequently we are placed in a position where the government puts forward legislation which trammels on some of the bottom line issues of principle that need to be protected for civil liberties. The previous package of legislation that has just been discussed is a good example of where Labor held that line and caused the government to reflect and accept a series of amendments. That means that the new anti-terrorism laws have been made compliant with broad principles that the Australian public as a whole would support.

Beyond our responsive role, we also have a role, as a social democratic party, of articulating where we stand and where we would wish the Australian community, were it to be governed by a Labor administration,
to evolve. That is the framework that I was delighted to hear about from the former Leader of the Opposition when he spoke about the strategy that would have been implemented had a Labor administration been elected. We built a series of groundbreaking proposals that this government only slowly is bringing itself to adopt. We were the first political party to identify serious and organised crime as an issue of national importance and security, to be dealt with with the same degree of rigour and seriousness as we treat defence. We proposed that there be a white paper so that we could have the same kind of public examination and scrutiny of these issues of how we configure our law enforcement arrangements to deal with the growing threats of organised crime and the potentiality of international terrorism—not as a response to the planes flying into the World Trade Centre but years before that. We were articulating those premises as the starting principles that ought to inform a social democratic party in government.

Flowing from that, we were also articulating a series of measures that were necessary to sustain and hold public confidence in a community that does have a substantial degree of fear that can be too readily played on by the kinds of Hansonite forces that emerged about five or six years ago. We began to put forward not only broad principles that would govern our conduct but detailed prescriptions. I introduced, for example, in the year 2000—and the shadow minister was kind enough to mention it—the precursor to this legislation. It was a proposal that I introduced as a private member, based on the New South Wales confiscation scheme for the civil confiscation of the assets of crime. The government did not then proceed with it, and now, two years later, it comes into the parliament with a piece of legislation which perhaps is an improvement on the scheme that I put forward, but I think it has no substantial difference in terms of its outcome. Nonetheless, this comes two years after that was first put forward in the parliament by the Australian Labor Party.

We also have been putting forward proposals to make certain that we do not see community crime as an issue where the national government has no responsibility. We put forward the community safety zones initiative as a strategy where we could get teams of law enforcement working together. Now I am delighted to see the current Leader of the Opposition reinforcing that commitment to work cooperatively—were a future Labor government to be elected—with the state governments to progress that idea. I am also delighted that the House of Representatives Standing Committee on Legal and Constitutional Affairs is examining precisely the kind of action that the Commonwealth can take in association with the states to deal with issues of crime. I would hope that that process develops consultatively and constructively. We did have a bad start to the process. The first meeting of the committee got off to a pretty shaky start, if I might speak a little out of turn in relation to a meeting held in confidence, but I think we are likely to find our track.

The important point that I want to make about this in broad terms is that there is nothing indefensible or against the principles of social democracy. Labor should be proud of being able to commit itself to a strong, effective, balanced and fair system of law enforcement that is not only designed to make certain that when a person is innocent of crime the system makes certain that their defence is fair—giving them every opportunity so that the burden of proving their wrongdoing is on the state—and that nobody is convicted for wrong reasons, absent of the inevitable fact that human error does occur in any system and always will, but is built so that, to the best degree possible, that does not occur. At the same time, it makes certain that law enforcement has the tools and we as a government have the mind-set to make certain that we give to our law enforcement agencies the range of tools, techniques and approaches that we would be confident that the community as a whole would support.

This kind of legislation that we bring in today is exactly that kind of legislation. I think there is a broad community consensus that says that for those who exploit our fellow citizens by serious and organised crime—and that is what is targeted by this: serious crimes for which forfeiture will oc-
cur—when it can be established on the balance of probabilities that they hold money as a result of that criminal conduct, there is a proper basis to confiscate those assets from them, notwithstanding that we cannot identify clearly that any particular source of funds was associated with any specific criminal act. That has been the deficiency to date. We have had some confiscation of assets schemes before but they have operated only when you could prove that a particular asset was associated with a particular crime for which a person had been convicted. The result was that frequently there were many people against whom a more than reasonable suspicion could be held. It could be believed on the balance of probabilities that they held substantial assets and they were known to be engaged in the drug trade, organised car stealing or one of the many rackets that exist in our community, and we had no means of addressing that. We had no means to take the wealth that they had illicitly acquired and put it to community benefit. One of the interesting facts that I was made aware of today is that one in four cars that are stolen are now believed to be stolen as part of organised crime.

When we talk about these issues, we are not just talking about the drug trade; we are talking about serious fraud; we are talking about a whole range of other conduct which has resulted in communities feeling less secure than they ought. When societies feel less secure than they ought, then they often give licence to governments and police to do things that undermine that first principle: that we should protect always the civil liberties of the subject. So I believe that it is important, following the social democratic tradition, for us always to be aware and willing to stand up and make the case when the government does overreach and act in a way which is inconsistent with those fundamental principles of civil liberties that I grew up to defend and still believe in. But we also have to finger this government for its inaction and for its unwillingness to put in place a proper overarching framework. For the government, that is fine, because it has been willing to play very crude politics in a whole range of areas. Samuel Johnson said that ‘patriotism is the last refuge of the scoundrel’. By that, he was not saying that patriotism is bad—patriotism is a noble thing. But patriotism, in the sense that it is appealed to for wrongful reasons, is the last resort of the scoundrel. In contemporary politics, law and order—and an appeal to more draconian powers and penalties without justification, without rational construction—is the first refuge of the political scoundrel. If we are going to stop political scoundrels destroying those fundamental elements that we hold common, then we have to make certain that we can, in a sense, form a square that we defend and say: ‘We have put in place laws that do guarantee that within a framework that protects the rights of the individual, wrongdoers will be dealt with severely—that they will be identified by the police, that there will be appropriate mechanisms to pursue them and, to the extent that is consistent with those fundamental overarching principles, ill-gotten gains will be taken and they will be punished appropriately.’ Societies that do not do those kinds of things will fail.

I use this opportunity now to reflect upon that Labor tradition because quite frequently, for all the right noble reasons, I—along with the shadow minister and many of our spokespeople—have found ourselves from time to time having to take the government on over the legislation that is put before the parliament and drawing the line to say, ‘That is thus far and no further.’ That is taking the civil liberties approach. But it is very important for our present leadership to make certain also that the community understands that even in opposition we made the agenda—Labor made the agenda. We made the agenda in government when we put forward the national criminal code, which has not been pursued actively by the present government. We made it in government when we put forward a national evidence act, which is still only implemented in a number of jurisdictions. We made it in opposition when we articulated the need to see organised crime and terrorism within an overarching framework and to have a white paper process as transparent as that which we apply to defence.
There is nothing more important to the ordinary citizen than their personal security and wellbeing. The threats that are imposed now upon our society are not simply threats of armed aggression by another nation state but the kind of acts we saw on September 11 and the kind of undermining of society that occurs through the available money that is resourced through serious organised crime. The way to address that is not by fear tactics on the behalf of the government but by open and transparent processes. We did it by proposing a coastguard, we did it by proposing community safety zones, and we did it by proposing the precursor of this legislation that would allow the confiscation of criminal assets.

I believe that this is an important feature of how Labor should position themselves for the future. I believe that we have a different interest than the government: they do not have to reduce the public’s fear; they do not mind if the public’s fear escalates. But we, as Labor, must have a comprehensive strategy to reduce fear if we do not want to see the privatisation of law and order where people live behind gated communities, where the public provision of policing becomes lacking in confidence, where we do not have mechanisms and where only the rich find protection from government, where we do not have mechanisms and where only the rich find protection from government and where the systems that would engender confidence in the overall safety and security of the Australian citizen are undermined.

Mr BEAZLEY (Brand) (9.42 p.m.)—I intervene only very briefly in this debate on the Proceeds of Crime Bill 2002 but I enjoy the opportunity to do so because I do not want to leave the honourable member for Denison alone, with an obligation on himself to blow his own trumpet in this regard, but to offer him words of praise. He indeed can take some pride in the legislation that has been introduced tonight. He has been advocating this measure for a substantial period of time. He did it from our front bench in this parliament. He did it, importantly, as part of a package that was an approach to a federal government involvement with crime in dealing with problems which impact very much on the lives of the ordinary Australian.

He has presented here tonight an excellent theoretical underpinning for the actions he has undertaken. It is uniquely, I think, in the Australian Labor Party that we do find such people—such people who take seriously their obligation not only to respond to what they see as needs in the community around them but who have a set of values and a set of approaches that ensure that as they respond, critical, theoretical and practical underpinnings of our society are not undermined. In other words, they do not sleepwalk into dealings with the problems of crime. They walk into dealing with it on a basis of principle, and with a sense of confidence that enables all members of the community, no matter what their perspectives might be, to be assured that their concerns about the character of our community are not being undermined whilst at the same time we are dealing with very serious issues indeed.

Whilst this is broadly and generally being discussed here as a countermeasure to those who profit from serious organised criminal activities across the board, our approach when in opposition has been very much associated with a broad approach that we have always had to the issue of drugs in our community. The targets of the legislation that we brought into this place initially, which was proposed by the member for Denison, who was then a frontbencher, were very much those who were associated with profiting from one of the most evil trades known to humanity—one of the trades that most strikes fear into the heart of the average Australian family member. There is enormous confusion in the community about whether or not principles of law and the underpinnings of the enforcement of law actually serve their interests or have been corrupted, or are helpless in the face of its prevalence. They do hate the idea that there are people in this community who benefit from the misery of, often, their own children or people known to them.

As I spoke around the country about these matters, I was enormously impressed that, when you went into a gathering of Australians—and mostly there were 400 or 500 people at the community meetings I held—and asked them whether or not they, their families or people known to them had expe-
rienced the ravages caused by those criminals through the distribution of drugs in the community, there was scarcely a hand not raised. So severe was—and still is—the problem, as far as they were concerned, that they were prepared to indicate their fears publicly in that fashion. We Australians are a reticent people, oddly enough. We like to think that we are not but the truth is that we are. We do not like to push ourselves forward in public. That is another thing you notice when you are a politician: when you go to address a public meeting, the back is always crammed and the front row is always empty. We are reticent people just about all the time, except when we are barracking at a sporting venue. Therefore, to get that sort of response from the community was not only interesting but also an indication that there are serious issues here to be addressed.

With the help of people like the member for Denison, our then spokesperson on health who is now the Deputy Leader of the Australian Labor Party, and others who had a passionate interest in these matters, such as our shadow minister for defence in relation to the coastguard, we developed what we thought was a complete approach that did not walk away from federal responsibilities to hide behind the skirts of the states and the states’ primary responsibility for operation of criminal law. We made absolutely certain that, as far as the general public was concerned, we accepted responsibility. We at the federal level were prepared to accept responsibility for what was happening to them on their streets and not simply duckshove it to the various state administrations, underresourced as they often are to handle these particular problems.

Whilst we see, and are dealing with here, some of the profits that flow from organised crime—and I think here particularly of the drug trade, although I understand it is broader than that—what ordinary Australians experience, in regard to the activities of those who will be depleted of their profits by this going ultimately through the parliament, is what happens to them when they lose their cars and what happens to them, more worryingly, when their homes are broken into, particularly when they are broken into while they are in them. More than 70 per cent of those crimes are a product of supporting a drug habit or enhancing the financial underpinnings of a drug sale. About 70 per cent of what is experienced by the ordinary members of the community as they confront crime is a product of a set of events which, at its apex, has somebody making a very large amount of money indeed. We also acknowledge, of course, that the federal government is responsible for the barrier. So we have a responsibility at the community level and we have a responsibility at the barrier.

I praise the member for Denison, who did a great deal of work on the proposition we put forward for a coastguard. That is a very important attribute of real border protection: an interception at the barrier. We, of course, discussed in the last election campaign our proposition on a coastguard, essentially within the context of border protection against illegal migrants. The truth is that most of them can be spotted and dealt with—not so the activities of those who are importing drugs into this country. We need a coastguard for effective constabulary activities by the federal government to prevent penetration of our coastline and our borders by those with a criminal intent, by those who seek to deplete our fisheries resources or whatever. So that was also part of this approach that included a proposition by the member for Denison for the confiscation of the proceeds of organised crime.

We wanted be tough, hard and ruthless with those who profited; we wanted to be tough, hard and ruthless with those who sought to import it; we wanted to be tough, hard and ruthless with those who were threatening our citizens and our children on the streets. As for those who, at the end of the day, found themselves victims of the activity of these criminals, we wanted to keep them alive. We had a total approach which ensured that the community could reach out to those who were suffering the consequences and deal with them as people with essentially a health problem and not a crime problem, by keeping them alive—since usually in the context of the times when we put this approach forward, they killed themselves as a result of their heroin addiction—so that
they could be effectively drawn out of their addiction without being criminalised.

Those who were responsible for putting them in that situation got away with absolutely nothing. Preferably, they would not get away with their freedom but even if they got away with their freedom they would not get away with their profits. It was a total approach—a Commonwealth acceptance of responsibility for making our community a safer place. Community safety zones were part of it. Associated with those community safety zones, there will be more Federal Police to liaise in community areas to backup the often overrun resources of our state police forces and to provide better assistance to the state police forces themselves. I hope, as the parliament debates this over the course of the next little while here and in the other place, there is some reflection of the variety of uses to which this law will be put in strategising how we deal with some of the problems which most worry the minds of our fellow Australians.

In the six years we have been here, we have been a constructive opposition. We have had ideas. The government has often been obliged to respond to those ideas. Last year was so much the year of the response. We actually have a huge budget deficit in this particular year, largely because the government sought to respond in an almost sleepwalking fashion to initiatives that we put forward in the area of Defence or to criticisms that we made, for example, of their failure to keep a promise that they put forward on ensuring the GST did not impact upon the price of petrol at the pump and to ideas on our part for a knowledge nation and the need to improve the educational base of our society, the research and development capability of our private industries, investment in research and our public institutions. All these sorts of things the government was being continually forced to address because we were initiating from opposition.

We are often said by our political opponents to have no policy. We know what it is like to have no policy now. There is not much circulating in the belfry of this government that can be seen as likely to be applicable for the next three years. We might as well have a double dissolution election 12 months from now. We sure as hell do not have before us enough to keep this parliament occupied for the next three years. The government might as well say, ‘Sorry, we didn’t have an idea. Perhaps we’d better have another election and we’ll have a few ideas for that one.’

But one of the positions we put forward and advocated in the last parliament has at last been picked up in this parliament. It was the one that was not picked up, unlike the others that I have mentioned, in the previous parliament. The fact that belatedly we have come to it now is a good thing. But those who are responsible for its origins ought to receive due praise in this place and one of them happens to have been sitting in here and participating in the debate tonight, and that is the honourable member for Denison.

Mr KATTER (Kennedy) (9.55 p.m.)—I have to answer comments made by the member for Denison in this place. When we talk about the proceeds of crime, every time a name of a member of parliament is mentioned they immediately start saying that he should have had this taken off him and that taken off him, and in some cases there is no doubt that in fact they should. He used the case of the Bjelke-Petersen government, which I had the very great honour of serving in, in Queensland. As an old retired police-man said to me, the ultimate criterion of whether you are an honest person or not is whether you are wealthy or not.

I recently visited Bjelke-Petersen and he lives in a little brick cottage. He does not have a fan or any airconditioning. It was an extremely hot summer’s day. They do not have much money at all. He was offered an ex gratia payment, which was agreed to by the Labor government. They were keen to see him leave the parliament because they were never going to win an election whilst he was there, so they agreed to it. But he would not take it. I was given the duty to put the wood on him to take it because the poor fellow was leaving there with not a cent at all. He refused. I said, ‘Why?’ He said, ‘Because
it would be wrong for me to take it.’ And I said, ‘How do you figure that? You’ve been here for 40 years. You’ve got to put money in to get this ex gratia arrangement, which is available, really, to everyone in your situation.’ And he said, ‘Well, because I voted against it, Bob.’ And he had voted against it. He had voted against it in 1949 and this conversation was taking place in 1988. That is the person who was vilified here.

In sharp contrast, the leader on the front page of the *Sydney Morning Herald* was that the honourable member for Denison was said to have $5½ million worth of value in three houses that he owned. They could not find the value of his yacht. Later on, another front-page article said he had $8 million in shares in one company alone. So when we talk about proceeds of crime and who profited by crime and who did not profit by their office and who did not profit by their office, let us compare the performance of those two gentlemen. Let us also compare the performances of the respective governments that they represented. That government went forward with very great courage and very great risk itself to weed out a cancer that had developed amongst, I would estimate—and I had some knowledge about this and I was involved to some degree in the initiatives that were taken—probably a dozen or two dozen officers at the outside.

For the record, for those who come into this place and think that members of parliament should have their privileges removed if they do something wrong, just understand this: the leading case was Crown v. Austin. Austin, a minister, was sent to jail. His first crime was that he had used his government car for private purposes. The notorious crime that he had committed was that he had taken the government car one weekend and driven to Armidale to see his daughters, who were in school there. Twenty-five per cent of the cars in Australia are reputed to be under a government contract and every single one of those cars will be used for private purposes today. The second offence he committed was that as a minister he had taken people out to dinner on his plastic magic, and he may have made a welter of that, I might in all fairness add. But I think every minister in Australia will do that this week, and so they should.

Those were the terrible crimes and transgressions. When the Spanish Inquisition is on, when McCarthyism is running rampant and when they are burning the witches in Salem, you had all better beware because you will all be on the platform. When that time comes, there will be no talk about justice; it will just be the burning. With that will come very great systemic injustice. The lawyer who represented Mr Austin was the President of the Queensland Labor Lawyers, a very prominent member of the bar in Queensland. The case seemed unbelievable to me, and when I rang him after the case he was in a state of shock. Quite frankly, it was a shock he never recovered from. He had a profound belief in justice and he lived for justice. He could see the terrible injustice that was done in this case. Austin would not appeal because he said that they were going to burn him and he said he would not take any more of his family’s money off them because, no matter what he did, he believed that they were going to burn him at the stake. Austin would not appeal. One of the great tragedies that came out of that case was that the barrister died under very tragic circumstances because he never recovered psychologically from the shock of the case. I will never forget the telephone call that day, because he was in a state of great shock.

In sharp contrast, in Queensland a number of the most prominent ministers in the subsequent Labor government went down. I deeply regretted seeing a couple of them go down. People like Jimmy Elder were really excellent ministers and also excellent people, in my opinion. However, they committed transgressions and they were allowed to go free. I am not criticising anyone for that, and I think it would have been a great injustice if they had been indicted. But the law had been broken and people had lost greatly. The case I am referring to was precipitated by a very decent trade union official in Townsville. He was an excellent, hardworking, honest and decent person in every respect. He got out and worked hard to win the endorsement. He had a list of all the people on the rolls and when he went doorknocking he found that 11
of the people on the rolls had addresses where there was a vacant allotment. He knew that the rolls had been doctored. He took that back to the central council of the ALP—upon which, I might add, was Mr Beattie, the Premier—and it refused to do anything about it. The Courier-Mail took the issue up in a wider context and the rest of it became history.

As punishment for a crime, that person was deprived unfairly of becoming a member of parliament. He should today be a member of parliament in the state house in Queensland. However, because of the nefarious, deceitful and illegal activities of members of the Labor Party, some of whom are still sitting in the state house in Queensland, that person was cheated of a job which he would have performed excellently in that office.

I am pleased to have the privilege to avail myself of the opportunity to put the record straight. Each of the other cases followed the precedent set in the case of King and Austin. I recall a bit of gallows humour at the time when I asked the barrister for Mr Austin whether he had raised the matter that Mr Austin had spent two days on Lizard Island while the Prime Minister, Mr Hawke, had spent two weeks there at the expense of the public purse and neither Mr Austin nor Mr Hawke were tourism ministers. The barrister said, ‘Yes, of course I did.’ When I asked him what resulted from that, he told me that they removed the charge—the implication being that if an ALP Prime Minister does it it is quite legal, but if a National Party minister in Queensland does it it is quite illegal.

While we talk about depriving people of the proceeds of crime—and, like everybody else, I applaud the minister for proceeding down this path—I must say that I have seen the real, true, systemic corruption of the justice system. I have seen people running scared of a public wind fanned by media opportunism and, I might add, a wind that went on to burn the subsequent Premier—and I do not want to go into the details of what occurred there. It burnt him as well. He did not escape unscathed, and once again, that affected the case of Mr Wayne Goss most unfairly. Once the wind starts blowing, beware. While we want to punish people who have done wrong, just remember that the system punishes an awful lot of people who have done no wrong at all.

Mr WILLIAMS (Tangney—Attorney-General) (10.05 p.m.)—in reply—I would like to wind up the debate on the Proceeds of Crime Bill 2002 and the Proceeds of Crime (Consequential Amendments and Transitional Provisions) Bill 2002. I thank all members for their contributions to the debate. Not all the contributions were entirely relevant to the subject matter of the bills, but that seems to be the way of things in this House at times.

I would like to make a specific response to a number of points that were raised in the debate. The member for Banks said that the government amendments do not implement the recommendation of the Senate Legal and Constitutional Legislation Committee that the bill be amended to provide that, where a person shows that their property was acquired lawfully and not through criminal activity, their restrained assets should not be used to pay for their legal assistance. In the government’s view, such an amendment is unnecessary. Under clause 21, the court may refuse to make a restraining order unless the Commonwealth—in practice this means the Director of Public Prosecutions—provides the court with an undertaking as to payment of damages or costs arising from the operation and making such an order. Therefore, a person who successfully defends a confiscation action would be able to claim against such an undertaking. In addition, clause 323 of the bill empowers a court to award costs to successful parties not involved in the relevant criminal conduct. These costs are not limited to those normally recoverable in criminal proceedings but are full indemnity costs which can cover all expenses incurred by the person in connection with the proceedings, including those associated with legal aid. This will ensure that successful defendants will not suffer any financial disadvantage. The government is confident that this is an appropriate way to reimburse costs and has not amended the operation of the legal assistance provisions in this regard.

Another point raised by the member for Banks and by the member for Burke is that
the government amendments do not implement the opposition senators’ recommendation for a formal review of the bill with particular reference to the operation of the provisions relating to the removal of derivative use immunity legal assistance under the DPP guidelines. The response to that is to refer to clause 327 of the bill. As introduced, it provides that a review of the operation of the act must take place as soon as practicable after the third anniversary of the commencement of the act. The review is set out in broad terms and would encompass the issues of derivative use immunity legal assistance and the DPP guidelines as well as other issues which may emerge in the course of the operation of the act. To identify, specifically, certain areas for review in the legislation may give rise to an inference that the review is confined to consideration of those issues. That is not the intention. On that basis, the government does not believe that the review clause requires amendment.

The Proceeds of Crime Bill 2002 will greatly strengthen and improve Commonwealth laws on the confiscation of proceeds of crime. Enabling the civil forfeiture of the proceeds of crime strikes at the motivation behind crimes like drug trafficking, money laundering and other serious offences. Civil forfeiture will be particularly effective in the fight against the leaders of organised and transnational crime, who are able to distance themselves from the individual criminal acts. They thereby evade conviction and place their profits beyond the reach of conviction based laws.

The bill provides law enforcement with another tool in the fight against terrorism, enabling property which has been, or is intended to be, used in terrorism offences to be restrained and forfeited. The introduction of civil forfeiture and the strengthening of conviction based forfeiture is a significant step in the fight against crime. The government amendments that have been developed to improve the bills are the result of some very worthwhile work on the part of the Senate Legal and Constitutional Legislation Committee, chaired by Senator Marise Payne. The senators have given the bills very detailed consideration, including through public hearings. I mentioned that those public hearings actually commenced with consideration of the bill that was introduced in the previous parliament but which lapsed on the proroguing of the parliament for the election.

I take the opportunity to thank all members of the Senate committee for their contribution. It is worth noting that this may well be the last contribution from Senators Cooney and McKiernan, who have been long-standing members of that committee and who both have a long history of constructive contribution to the development of legislation. They are both about to retire when their term comes to an end in a couple of days time. I am particularly grateful, on behalf of the Minister for Justice and Customs, that the committee was able to meet again today to consider the proposed government amendments.

Question agreed to.

Bill read a second time.

Message from the Governor-General recommending appropriation announced.

Consideration in Detail

Bill—by leave—taken as a whole.

Mr WILLIAMS (Tangney—Attorney-General) (10.12 p.m.)—by leave—I present a supplementary explanatory memorandum and move government amendments (1) to (26):

(1) Clause 18, page 12 (line 6), omit subparagraph (b)(ii), substitute:
   (ii) in any case—the property is
   *proceeds of the offence; or
   (iii) if the offence to which the order relates is a terrorism offence
   the property is an *instrument of the offence.

(2) Clause 19, page 13 (lines 6 to 19), omit paragraphs (d) and (e), substitute:
   (d) there are reasonable grounds to suspect that the property is:
   (i) the *proceeds of a *terrorism offence or any other *indictable offence, a *foreign indictable offence or an *indictable offence of Commonwealth concern (whether or not the identity of the person who committed the offence is known); or
(ii) an instrument of a terrorism offence;
and, if the offence is not a terrorism offence, that the offence was committed within the 6 years preceding the application, or since the application was made; and
(e) the application for the order is supported by an affidavit of an authorised officer stating that the authorised officer suspects that:
(i) in any case—the property is proceeds of the offence; or
(ii) if the offence to which the order relates is a terrorism offence—the property is an instrument of the offence;
and including the grounds on which the authorised officer holds the suspicion; and
(3) Clause 24, page 17 (after line 29), after paragraph (2)(c), insert:
(ca) the court is satisfied that the expense or debt does not, or will not, relate to legal costs that the person has incurred, or will incur, in connection with:
(i) proceedings under this Act; or
(ii) proceedings for an offence against a law of the Commonwealth, a State or a Territory; and
(4) Page 18 (after line 12), at the end of Division 1, add:
24A Excluding property from or revoking restraining orders in certain cases when expenses are not allowed
(1) If:
(a) because of the operation of subsection 24(3), property that is covered by a restraining order is taken, for the purposes of paragraph 24(2)(d), not to be covered by the order; and
(b) as a result, and for no other reason, the court refuses an application to make an order under subsection 24(1);
the court may:
(c) exclude the property from the restraining order; or
(d) if the property is the only property covered by the restraining order—revoke the restraining order.
(2) The court must not exclude the property or revoke the order unless the court is satisfied that the property is needed to meet any one or more of the following:
(a) the reasonable living expenses of the person whose property is restrained;
(b) the reasonable living expenses of any of the dependants of that person;
(c) the reasonable business expenses of that person;
(d) a specified debt incurred in good faith by that person.
(3) If the court excludes the property from the restraining order, the DPP must give written notice of the exclusion to:
(a) the owner of the property (if the owner is known); and
(b) any other person the DPP reasonably believes may have an interest in the property.
However, the DPP need not give notice to the applicant for the order under subsection 24(1).
(4) If the court revokes the restraining order, the DPP must give written notice of the revocation to:
(a) the owner of any property covered by the restraining order (if the owner is known); and
(b) any other person the DPP reasonably believes may have an interest in the property.
However, the DPP need not give notice to the applicant for the order under subsection 24(1).
(5) Clause 42, page 31 (lines 6 to 8), omit sub-clause (1), substitute:
(1) A person who was not notified of the application for a restraining order may apply to the court to revoke the order.
(1A) The application must be made:
(a) within 28 days after the person is notified of the order; or
(b) if the person applies to the court, within that period of 28 days, for an extension of the time for applying for revocation—within such longer period, not exceeding 3 months, as the court allows.
(6) Clause 43, page 31 (line 20), after “revoked”, insert “under section 42”. 
(7) Clause 45, page 35 (after line 9), after paragraph (c), insert:

(ca) the property is not an instrument of a *terrorism offence to which the order relates; and

(8) Clause 47, page 36 (lines 21 to 27), omit paragraph (c), substitute:

(c) the court is satisfied that:

(i) a person whose conduct or suspected conduct formed the basis of the restraining order engaged in conduct constituting one or more *serious offences; and

(ii) for each such suspected offence that is not a *terrorism offence—
the offence was committed within the 6 years preceding the application for the restraining order, or since that application was made;

(9) Clause 49, page 38 (line 8), after “*restraining order”, insert “under section 19”.

(10) Clause 49, page 38 (lines 10 to 14), omit paragraph (c), substitute:

(c) the court is satisfied that one or more of the following applies:

(i) the property is *proceeds of one or more *indictable offences;

(ii) the property is proceeds of one or more *foreign indictable offences;

(iii) the property is *proceeds of one or more *indictable offences of Commonwealth concern;

(iv) the property is an instrument of one or more *terrorism offences; and

(11) Clause 49, page 38 (line 16), omit “*terrorism offence”, substitute “terrorism offence”.

(12) Clause 73, page 53 (lines 24 to 26), omit subparagraph (iii), substitute:

(iii) if an offence on which the order is (or would be) based is a terrorism offence—the property to be specified in the exclusion order is not an instrument of any terrorism offence; and

(13) Clause 85, page 60 (lines 16 to 20), omit paragraphs (2)(a) and (b), substitute:

(a) to the extent that the order covers property that is:

(i) in any case—*proceeds of the offence; or

(ii) if the offence is a *terrorism offence—an *instrument of the offence;
the order is taken not to be affected by the quashing of the person’s conviction of the offence; but

(b) to the extent that the order covers property that is:

(i) in any case—not proceeds of the offence; and

(ii) if the offence is a terrorism offence—not an instrument of the offence;
the order is discharged.

(14) Clause 111, page 80 (lines 6 to 11), omit paragraphs (2)(a) and (b), substitute:

(a) to the extent that the property covered by the forfeiture is:

(i) in any case—*proceeds of the offence; or

(ii) if the offence is a *terrorism offence—an *instrument of the offence;
the forfeiture is taken not to be affected by the quashing of the person’s conviction of the offence; but

(b) to the extent that the property covered by the forfeiture is:

(i) in any case—not proceeds of the offence; and

(ii) if the offence is a terrorism offence—not an instrument of the offence;
the forfeiture ceases to have effect.

(15) Clause 154, page 107 (lines 1 to 14), omit the clause, substitute:

154 Matters taken into account in deciding whether to make literary proceeds orders

In deciding whether to make a *literary proceeds order, the court:

(a) must take into account:

(i) the nature and purpose of the product or activity from which the *literary proceeds were derived; and

(ii) whether supplying the product or carrying out the activity was in the public interest; and
(iii) the social, cultural or educational value of the product or activity; and
(iv) the seriousness of the offence to which the product or activity relates; and
(v) how long ago the offence was committed; and
(b) may take into account such other matters as it thinks fit.

(16) Clause 259, page 171 (lines 8 and 9), omit subclause (2), substitute:
(2) The court must be:
(a) if the thing was seized under a search warrant—a court of the State or Territory in which the warrant was issued that has proceeds jurisdiction; or
(b) if the thing was seized under section 251—a court of the State or Territory in which the thing was seized that has proceeds jurisdiction.

(17) Clause 293, page 194 (after line 19), at the end of the clause, add:
(3) If the Commonwealth pays an amount to a legal aid commission under subsection (2), the person whose property is covered by the restraining order must pay to the Commonwealth an amount equal to that amount.

(4) The person’s obligation to pay the amount is discharged if there is forfeited to the Commonwealth under this Act:
(a) all of the property that is covered by the restraining order; or
(b) some of the property that is so covered, being property of a value that equals or exceeds the amount.

(18) Clause 296, page 195 (line 30), at the end of subclause (1), add:
; and (g) money paid to the Commonwealth under subsection 293(3), and any amounts recovered by the Commonwealth as a result of executing a charge created under section 302A.

(19) Page 201 (after line 3), after the heading to Part 4-4, insert:
Division 1—Charges to secure certain amounts payable to legal aid commissions

(20) Page 201 (after line 28), at the end of Part 4-4, add:
Division 2—Charges to secure certain amounts payable to the Commonwealth

302A Charges to secure amounts payable under subsection 293(3)
If:
(a) a person whose property is covered by a restraining order is liable to pay an amount to the Commonwealth under subsection 293(3); and
(b) either:
(i) the court revokes the restraining order; or
(ii) the order ceases to be in force under section 45;
there is created by force of this section a charge on the property to secure the payment of the amount to the Commonwealth.

302B When the charge ceases to have effect
A charge created under section 302A ceases to have effect on a person’s property on the earliest of the following events:
(a) the amount owing under subsection 293(3) is paid to the Commonwealth;
(b) there is forfeited to the Commonwealth under this Act:
(i) all of the property that is covered by the charge; or
(ii) some of the property that is so covered, being property of a value that equals or exceeds the amount owing under subsection 293(3);
(c) the person sells or disposes of the property with the consent of the Official Trustee.

302C Priority of charge
If a charge is created under section 302A in favour of the Commonwealth, the Commonwealth’s charge:
(a) is subject to every encumbrance on the property that came into existence before it and that would otherwise have priority; and
(b) has priority over all other encumbrances; and
(c) subject to section 302B, is not affected by any change of ownership of the property.
(21) Clause 330, page 218 (after line 23), after paragraph (4)(b), insert:

(ba) the property has been distributed in accordance with:

(i) an order in proceedings under the *Family Law Act 1975* with respect to the property of the parties to a marriage or either of them; or

(ii) a financial agreement within the meaning of that Act;

and 6 years have elapsed since that distribution; or

(22) Clause 330, page 219 (after line 9), after subclause (5), insert:

(5A) Paragraph (4)(ba) does not apply if, despite the distribution referred to in that paragraph, the property is still subject to the *effective control of a person who:

(a) has been convicted of; or

(b) has been charged with, or who is proposed to be charged with; or

(c) has committed, or is suspected of having committed;

the offence in question.

(23) Clause 338, page 233 (line 24), at the end of paragraph (f) of the definition of *financial institution*, add:

; or (g) a trading corporation (within the meaning of paragraph 51(xx) of the Constitution) that carries on a business of operating a casino; or

(h) a trading corporation (within the meaning of paragraph 51(xx) of the Constitution) that is a *totalisator agency board.*

(24) Clause 338, page 238 (after line 13), after the definition of *related offence*, insert:

*responsible custodian* has the meaning given by subsection 254(2).

(25) Clause 338, page 238 (line 29), before “Part”, insert ”section 81 of the *Proceeds of Crime Act 1987* or”.

(26) Clause 338, page 240 (after line 27), after the definition of *terrorism offence*, insert:

*totalisator agency board* means a board or authority established by or under a law of a State or Territory for purposes that include the purpose of operating a betting service.

As I said in the second reading debate, the *Proceeds of Crime Bill 2002* will greatly strengthen and improve Commonwealth laws for the confiscation of proceeds of crime. The main feature of the bill is the establishment of a Commonwealth civil forfeiture regime. The introduction of civil forfeiture at the Commonwealth level is an important step in the fight against crime and is consistent with both national and international trends. The proposed government amendments to the bill would implement some of the recommendations flowing from the report of the Senate Legal and Constitutional Legislation Committee in relation to the bills. The amendments would also address issues which were raised during that committee process or which have been identified since the introduction of the bills into parliament.

The amendments that respond to the recommendations from the opposition committee members would extend the time in which a person whose assets have been restrained may apply for the revocation of the restraining order—that is amendment (5); clarify the standard of proof which must be met before a person's assets can be forfeited under civil forfeiture provisions—that is amendment (8); and amend the literary proceeds provision to mandate that the court must take certain matters into account when deciding whether to make a literary proceeds order—that is amendment (15).

Other amendments to the bill would ensure that the legal assistance scheme operates as intended, by making sure that restrained assets are available to repay amounts advanced to the legal aid commissions from the confiscated assets account—that is amendments (17) and (20)—and that property which would not be able to be effectively restrained or forfeited must be used first to meet expenses—that is amendment (4). The amendments would also prevent restrained assets from being dissipated on legal expenses, by ensuring that reasonable living or business expenses or specified debts cannot be interpreted to include legal expenses. That is amendment (3). The amendments would also refine the measures in the bill for the restraint and forfeiture of the proceeds and instruments of terrorism offences, to make it
clear that the instruments of terrorism offences can be forfeited without conviction first being necessary. That is amendments (1), (2), (7), (10), (13) and (14).

In addition, the amendments would provide that property that is the subject of a property order or a financial agreement under the Family Law Act 1975 will cease to be the proceed or instrument of crime six years after the distribution of the property under such an order. However, should the distribution be a sham, this exception will not apply and the money will continue to be proceeds or instruments of crime and thus confiscable. They are amendments (21) and (22).

The definition of ‘financial institution’ in the Proceeds of Crime Bill 2002 will also be amended to include casinos and Totalisator Agency Boards—TABs. Although those bodies are not financial institutions in the usual sense, the term is used in the bill for ease of reference to nominated agencies that provide accounts for customers. The amendment would enable law enforcement agencies to seek monitoring orders and notices to financial institutions in relation to accounts held by casinos and TABs. That is amendment (23).

The definition provisions in the bill would be amended to include a definition of ‘TAB’ in the bill and to include a reference to the existing money laundering offence in the definition of ‘serious offence’. They are amendments (25) and (26). Finally, the amendments would provide for the clarification of a number of provisions. They are amendments (8), (9), (11), (12), (16) and (24). I commend the amendments to the House.

Mr Kerr (Denison) (10.16 p.m.)—I want to make a couple of general remarks and thank the Attorney for the kind comments he made with respect to Senator McKiernan and Senator Cooney. I once briefly held the role of Attorney and, for a longer period, the role of Minister for Justice, and through that period Senators McKiernan and Cooney played the same role. I believe that without their substantial contributions over a very long period of time in this parliament, the legislative product of this parliament—particularly in the area of criminal law—would be far less satisfactory than it has proven to be.

Each of those men has made an enormous contribution to the public life of their country, and I do thank the Attorney for those remarks. It is a pleasure to see recognition of that nature from members of the opposition parties, and I think it speaks very well of the Attorney that he has seen fit to make those remarks. Certainly, from my perspective as a former shadow minister and as a minister for three years in the Keating government, I know that they could cause as much trouble for a Labor government in office as they could for a coalition government in office but, for all that, the trouble was worth while.

I would like to make some quick remarks about amendment (15) relating to literary works. Were I constrained as shadow minister, I would not be free to speak in this way, but I do have some personal concerns about the whole idea of the confiscation of assets in relation to literary works. I appreciate that the amendments improve the situation very substantially and I suppose the ‘suck it and see’ test will now be in place. We will see how these things turn out, and there will be opportunity for review in the future.

I have no hesitation in addressing the issue that the Attorney raised directly, that of chequebook journalism; I think that could perhaps be addressed more directly. But I do think that, even with the test that has been adopted, it is going to be very hard for the courts to apply themselves to the question of the propriety or otherwise of confiscation of assets that arise from a literary work. There is an enormous body of great literature that has arisen from people whilst in imprisonment. Much of it is work which we would say is ennobling; some of it is dreadful—some of it, like the Marquis de Sade’s work, sets a bit of a benchmark but still is fundamentally part of the product of the human mind. If you look at just our last 20th century, you can contrast the prison writings of Nelson Mandela against the work of Hitler, who wrote Mein Kampf whilst in prison. The tragedy is that, were such a test to be applied in pre-Nazi Germany, Mein Kampf most probably would have been allowed for production and the apartheid
system in South Africa would have suppressed the publication of Nelson Mandela’s writings.

So much of these judgments about merit, social value and the way in which those works might lead to better social outcomes that are implicit in a test are going to be very hard to apply and so very subjective. I think that we are setting up a test which is going to test the judges. It will give them a set of issues that they have to address but, ultimately, they have to decide matters very much as judges used to have to decide matters in obscenity cases—on the basis of how they themselves react to the material, and judges are not particularly good at that. So I do have those hesitations. I think the legislation has been improved, but I just want to put that particular point on the record.

In concluding, I know that all on this side of the House acknowledge—and I am delighted that the Attorney reflected, I am sure, the view on the government’s side of the House—that the contribution and work over many years by the Labor senators I mentioned has been very important in ensuring that a set of values underpin the way in which we, as a parliament, approach this legislative task.

Mr MELHAM (Banks) (10.21 p.m.)—
The opposition had prepared amendments to these bills based on the Senate committee’s recommendations and the Labor senators’ additional comments to the committee report for the consideration in detail stage. We supplied those amendments to the government on a confidential basis last Friday. Discussions ensued with the government and the opposition will not be pursuing these amendments because we were made aware of the current amendments now before the House after they went through the government party room earlier this week. The government has also made a number of undertakings, which have been given by the Attorney, and clarified a number of matters—again, not only through the Attorney but in the Senate hearing that was held today. These amendments and clarifications do pick up opposition concerns.

However, several of the amendments are new, and it was determined by the opposition that it was appropriate to refer them back to the original Senate committee. I commend all involved in the way that a committee was able to be formed this morning in a public hearing in a transparent, open process and matters put on the record. The opposition accommodated the government’s requests because it was felt that it was appropriate that the same committee that had had the corporate memory and knowledge of these bills from the beginning should look at the amendments.

In the end, I think the opposition’s concerns have all been met. In terms of the additional matters, I can indicate that I will be taking recommendations to the shadow cabinet, the caucus committee and the caucus that will support these additional recommendations. We have our own processes, and I believe that they need to be properly adhered to. I do not have the authority to turn around and unilaterally accept these additional amendments, nor would I. But the principles are sound and secure, and I am confident that when our processes have been followed the matter will go before the Senate with the full support of the parliamentary Labor Party.

Let me turn to some of the particular amendments, just in general terms. In relation to restraining orders, there were additional comments. The Labor Party senators felt that the 28-day period in amendment (5) was too limited a period of time for an application to be made and that the court should be allowed a discretion to extend. Our proposed amendment was going to be simply to amend clause 42 to add the phrase ‘unless granted an extension of time by the court on grounds being shown’. But we accept the government’s clause 42, so we are not persisting with our amendment.

In relation to forfeiture, which is amendment (8), the concern was that in the granting of a forfeiture order the grounds must be stronger than suspicion—it should be more probable than not. We thought that the actual wording from the New South Wales Criminal Assets Recovery Act would be more appropriate, and we were proposing an amendment to replace the words. However, the government has come back with an amendment to clause 47. We accept the government’s amendment (8) and advice that it will be
taken together with a reading of the wording of section 317 of the bill, which states:

(1) The applicant in any proceedings under this Act bears the onus of proving the matters necessary to establish the grounds for making the order applied for.

(2) Subject to sections 52 and 118, any question of fact to be decided by a court on an application under this Act is to be decided on the balance of probabilities.

That meets all of our concerns. There is no confusion what the test is, and I think the government concede in the supplementary memorandum that this is a stronger test than what was previously in the bill. So we will not persist with our amendment. We fully accept the assurances of the way the act will be interpreted.

In relation to amendment (15), literary proceeds, the opposition wanted to ensure that a court must consider potential benefits in relation to this matter of literary proceeds and that there can be a public interest benefit derived from a literary product. (Extension of time granted) I want to address the comments of the member for Denison. I understand where he is coming from, but there were some comments by the Labor senators on the committee. Let us be clear that there was a Law Reform Commission report on this, and we attempted to pick up the Law Reform Commission’s recommendations. There had been a slight deviation in the bill as tabled. The whole basis of the opposition’s approach is to mirror, as closely as possible, the Law Reform Commission recommendations. I understand where the member for Denison is coming from, but what the government has done is based on the Law Reform Commission report.

In relation to clause 154, we were going to propose an amendment omitting the phrase ‘may take into account’ and substitute it with the phrase ‘should have regard to,’ which I think was similar to the Victorian approach and what was in the Law Reform Commission report. But the government has provided an amendment to clause 154 which states that, in regard to matters to be taken into account in deciding whether to make a literary proceeds order, the court ‘must take into account’. The government’s amendment is actually better than what the opposition was proposing—and let me give the government credit for that—because this amendment will require the court to look at these matters. It will be compulsory for the court to look at them before they make the order. The way it is now phrased will actually give the benefit to the person who produced the literary product. It now puts the onus on the court to look at these things. So that is a substantial improvement. I reiterate that that was one of my concerns, and I mentioned it in my speech on the second reading, but I can see that the government’s amendment is actually better than even what was in the Law Reform Commission report. So the court must now take into account such matters as it thinks fit, including any of the following:

(i) the nature and purpose of the product or activity from which the literary proceeds were derived; and

(ii) whether supplying the product or carrying out the activity was in the public interest; and

(iii) the social, cultural or educational value of the product or activity; and

(iv) the seriousness of the offence to which the product or activity relates; and

(v) how long ago the offence was committed ...

All those things that the court must take into account are in favour of the particular person. I reiterate: the opposition and I are satisfied because this basically arises out of the Law Reform Commission report. The government must be given credit for the amendment that they have proposed, because it goes further than the Law Reform Commission. I just believe in calling a spade a spade. I know why it is there, and I commend the government and the Minister for Justice and Customs and his office for this particular amendment. It completely satisfies all the concerns that the Senate committee and I had. I commend the amendments to the House.

Question agreed to.

Bill, as amended, agreed to.
Third Reading

Mr WILLIAMS (Tangney—Attorney-General) (10.30 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

PROCEEDS OF CRIME (CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS) BILL 2002

Second Reading

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

That this bill be now read a second time.

Question agreed to.

Bill read a second time.

Consideration in Detail

Bill—by leave—taken as a whole.

Mr WILLIAMS (Tangney—Attorney-General) (10.32 p.m.)—by leave—I present a supplementary memorandum and move government amendments (1) to (21):

(1) Schedule 1, item 1, page 13 (lines 10 to 12), omit paragraph (1)(b), substitute:

(b) it is reasonable to suspect either or both of the following:

(i) the money or property is proceeds of crime in relation to a Commonwealth indictable offence or a foreign indictable offence;

(ii) the money or property is proceeds of crime, and the person’s conduct referred to in paragraph (a) takes place in circumstances referred to in subsection (3).

(2) Schedule 1, item 1, page 14 (lines 3 to 15), omit subsection (3), substitute:

(3) Subparagraph (1)(b)(ii) applies if the conduct in question takes place:

(a) in the course of or for the purposes of importation of goods into, or exportation of goods from, Australia; or

(b) by means of a communication using a postal, telegraphic or telephonic service within the meaning of paragraph 51(xx) of the Constitution; or

(c) in the course of banking (other than State banking that does not extend beyond the limits of the State concerned).

(3) Schedule 3, item 4, page 54 (lines 15 to 21), omit the item, substitute:

4 Subsection 3(1) (at the end of the definition of financial institution)

Add:

; and, in Part VIA, includes:

(c) a body corporate that is, or that, if it had been incorporated in Australia, would be, a financial corporation within the meaning of paragraph 51(xx) of the Constitution; and

(d) a person who carries on a business of operating a casino; and

(e) a totalisator agency board.

(4) Schedule 5, page 74 (after line 12), after item 2, insert:

2A Subsection 4(1)

Insert:

forfeiture order

means a forfeiture order under the Proceeds of Crime Act 2002.

(5) Schedule 5, item 8, page 75 (lines 24 and 25), omit all the words from and including “the person must” to and including “forfeiture application”, substitute:

the person must:

(c) disclose in the application the proceeds of crime order or forfeiture application; and

(d) give to the court a sealed copy of that order or application.

(6) Schedule 5, item 8, page 76 (lines 12 and 13), omit all the words from and including “must” to and including “if”, substitute “in which property settlement or spousal maintenance proceedings are pending must stay those proceedings if”.

(7) Schedule 5, item 8, page 76 (after line 14), after subsection 79C(1), insert:

(1A) The court may, before staying proceedings under subsection (1), invite or require the DPP to make submissions relating to staying the proceedings.

(8) Schedule 5, item 8, page 76 (after line 20), at the end of section 79C, add:

(3) A court must notify the DPP if the court stays property settlement or spousal maintenance proceedings under subsection (1) or (2).
(4) The DPP must notify the Registry Manager if:
   (a) a proceeds of crime order ceases to be in force; or
   (b) a forfeiture application is finally determined.
(5) For the purposes of subsection (4), a forfeiture application is taken to be fi-
nally determined when:
   (a) the application is withdrawn; or
   (b) if the application is successful—the resulting forfeiture order comes into
       force; or
   (c) if the application is unsuccessful—the time within which an appeal can
       be made has expired and any appeals have been finally determined or otherwise
       disposed of.
(9) Schedule 5, item 8, page 76 (lines 25 to 27), omit paragraphs (a) and (b), substitute:
   (a) either party to the proceedings makes an application for the stay to be
       lifted and the DPP consents to such an application; or
   (b) the DPP makes an application for the stay to be lifted.
(10) Schedule 5, item 8, page 76 (after line 27), at the end of section 79D, add:
   (2) A court that stayed the property settlement or spousal maintenance proceed-
sings under section 79C may, on its own motion, wholly or partially lift the stay
if the DPP consents to such a motion.
(3) Giving the Registry Manager written notice of the DPP’s consent under this
section is taken to be the giving of that consent, unless the court requires the
DPP to appear in the proceedings. The notice may be given by the DPP or by a
party to the proceedings.
(11) Schedule 5, item 8, page 76 (after line 27), after section 79D, insert:

79E Intervention by DPP

(1) The DPP may intervene in any property settlement or spousal maintenance pro-
cceedings in relation to which a court is notified under section 79B, or in any
proceedings under section 79C or 79D in which the DPP is not already a party.
(2) If the DPP intervenes, the DPP is taken to be a party to the proceedings with all
the rights, duties and liabilities of a party.
(12) Schedule 5, item 9, page 77 (lines 10 and 11), omit all the words from and including
“the person must” to and including “forfei-
ture application”, substitute:
   the person must:
   (c) disclose in the application the pro-
ces of crime order or forfeiture
   application; and
   (d) give to the court a sealed copy of
that order or application.
(13) Schedule 5, item 9, page 77 (lines 29 and 30), omit all the words from and including
“must” and “if”, substitute “in
which property settlement or spousal main-
tenance proceedings are pending must stay
those proceedings if”.
(14) Schedule 5, item 9, page 77 (after line 31), after subsection 90N(1), insert:
   (1A) The court may, before staying pro-
cedings under subsection (1), invite or
require the DPP to make submissions
relating to staying the proceedings.
(15) Schedule 5, item 9, page 78 (after line 4), at
the end of section 90N, add:
   (3) A court must notify the DPP if the
court stays property settlement or
spousal maintenance proceedings under
subsection (1) or (2).
(4) The DPP must notify the Registry Manager if:
   (a) a proceeds of crime order ceases to
       be in force; or
   (b) a forfeiture application is finally
       determined.
(5) For the purposes of subsection (4), a
forfeiture application is taken to be fi-
nally determined when:
   (a) the application is withdrawn; or
   (b) if the application is successful—the
resulting forfeiture order comes into
force; or
   (c) if the application is unsuccessful—
the time within which an appeal can
be made has expired and any appeals
have been finally determined or otherwise
disposed of.
(16) Schedule 5, item 9, page 78 (lines 9 to 11), omit paragraphs (a) and (b), substitute:
   (a) either party to the proceedings
makes an application for the stay to
be lifted and the DPP consents to
such an application; or
(b) the DPP makes an application for the stay to be lifted.

(17) Schedule 5, item 9, page 78 (after line 11), at the end of section 90P, add:

(2) A court that stayed the property settlement or spousal maintenance proceedings under section 90N may, on its own motion, wholly or partially lift the stay if the DPP consents to such a motion.

(3) Giving the Registry Manager written notice of the DPP’s consent under this section is taken to be the giving of that consent, unless the court requires the DPP to appear in the proceedings. The notice may be given by the DPP or by a party to the proceedings.

(18) Schedule 5, item 9, page 78 (after line 11), after section 90P, insert:

90Q Intervention by DPP

(1) The DPP may intervene in any property settlement or spousal maintenance proceedings in relation to which a court is notified under section 90M, or in any proceedings under section 90N or 90P in which the DPP is not already a party.

(2) If the DPP intervenes, the DPP is taken to be a party to the proceedings with all the rights, duties and liabilities of a party.

(19) Schedule 6, item 46, page 87 (line 12), omit “section 17 of”.

(20) Schedule 7, item 2, page 89 (lines 17 and 18), omit all the words from and including “all” to and including “relates”, substitute “some or all of the property which could be used to satisfy the order”.

(21) Schedule 7, item 4, page 89 (lines 28 to 30), omit the item, substitute:

4 Paragraph 30(1)(b)

Before “a restraining order”, insert “before the commencement of the Proceeds of Crime Act 2002,”.

The Proceeds of Crime (Consequential Amendments and Transitional Provisions) Bill 2002 supplements the provisions of the Proceeds of Crime Bill 2002. The proposed government amendments would address issues which were raised during the Senate Legal and Constitutional Legislation Committee process or which have been identified since the introduction of the bills into parliament. The amendments are, for the main part, procedural. However, there are some key amendments which will improve the operation of the new Commonwealth forfeiture regime. The amendments will enable telecommunications interception material which has been obtained for the purposes of a criminal investigation to be used in civil forfeiture proceedings to obtain a restraining order. This will enhance the ability of law enforcement agencies to confiscate the proceeds of crime accumulated by the Mr Bigs in organised and transnational crime. The government is introducing these amendments after careful consideration and extensive consultation. Current safeguards under the Telecommunications (Interception) Act 1979, including the requirement to obtain a telecommunications interception warrant issued by a judge or Administrative Appeals Tribunal member, will continue to apply.

The amendments also amend one of the money laundering offences which the bill is inserting into the Criminal Code to align the range of state offences covered by that offence with those of the other money laundering offences also being inserted into the Criminal Code. Amendments (1) and (2) will increase the range of state offences which can give rise to a Commonwealth money laundering offence. The amendments will also amend the definition of ‘financial institution’ in schedule 3 of the bill to include casinos and TABs. Amendment (3) will require those bodies to comply with the document retention provisions being relocated into the Financial Transaction Reports Act 1988—that is, schedule 3. Schedule 5 of the bill, which provides for property settlement and spousal maintenance proceedings under the Family Law Act 1975 to be stayed whilst relevant proceeds of crime proceedings are on foot, has also been amended. Those amendments have been developed following consultation with the Family Court and the Federal Magistrates Service and are designed to make the new provision operate as efficiently as possible—that is, amendments (4) to (18).

Finally, amendments (20) and (21) also amend some transitional provisions to ensure that the transition from the Proceeds of Crime Act 1987 to the regime in the Proceeds of Crime Bill 2002 does not affect con-
fiscation proceedings on foot at the time. I commend the amendments to the House.

Mr MELHAM (Banks) (10.35 p.m.)—The opposition will be supporting these amendments. Some of them are new amendments that we have only just been made aware of, but we agree with the principles; they were the subject of the Senate Legal and Constitutional Legislation Committee investigation this morning. The only qualification I make is that I need to take them through the party room, the caucus committee and the caucus. I do not anticipate any problems in relation to that by the time the matter goes before the Senate.

The specific matter that I want to talk to is amendment (19), which relates to telecommunications interception, because that was the subject of representations to the opposition. Material placed before the Senate committee this morning was very important, because in terms of the Telecommunications (Interception) Act there can be misconceptions. But it is clearly on the record that this amendment does not expand the offences under which telephone intercepts can be obtained. It is merely an evidentiary matter. That was made clear in a letter to me from the Federal Police about what they were seeking and it was made clear in evidence before the committee. That was an important process to go through, because, when the parties came together, the Senate committee had some questions in relation to it. We do not wish to restrict the legitimate investigation of law enforcement agencies, but at the same time we do not wish to restrict the liberties of individuals in our community. The government’s amendment (19) to the consequential bills in schedule 6, item 46, is that the words ‘section 17’ be omitted. As I have said, this amendment means that the issue is basically evidentiary. There is no expansion of powers or more offences under which TI warrants can be obtained. Evidence from telecommunications interception will be able to be used only for the same offences.

I repeat: this was confirmed in evidence to the Senate committee from the AFP, which stated in its submission at point 9, ‘The proposed amendment would not mean that investigators will be able to resort to TI warrants to gather evidence about unlawful assets or the activity which gave rise to them solely for the purposes of civil forfeiture proceedings.’ It is important that that is put on the record so that it cannot be misconstrued when it comes to the Senate or by other parties. That is why we support it. We have no problems in supporting it. We are going from a conviction based scheme to a civil based scheme. The same evidence, then, should be able to be used without hesitation in those proceedings.

I want to talk about the use of the Senate committee, which is a transparent process and ensures quality legislative outcomes. In this particular case, we have no dispute with the government as to the principles of these bills. The Senate committee process, however, has ensured that thorough analysis was undertaken, which is what this legislation deserves. Indeed, all legislation that comes before this parliament deserves such scrutiny, and I encourage the government to continue to use this process in dealing with further legislation. Labor does not oppose for the sake of opposing; we merely wish to ensure that the proper processes of the parliament are pursued. Carefully crafted legislation will withstand the scrutiny of that process—indeed, it can be enriched by that process. I can assure the government of the opposition’s ongoing support for the parliamentary committee process.

I cannot conclude today without offering my congratulations to the Labor senators—Senator Cooney, Senator Ludwig and Senator McKiernan—on the Senate Legal and Constitutional Legislation Committee. Their commitment to the best outcome for this extensive and complex legislation must be commended. I especially note that for Senator McKiernan and Senator Cooney the committee meeting this morning was their last, though it is probable that both senators thought they had already attended their last meeting. I have worked closely with Senator Cooney on legal committees both in government and in opposition. We have shared many of the same concerns. Senator Cooney has always adhered to his principles and has been a strong and consistent advocate in defending our civil liberties. The parliament
will be the poorer without him. I have known Senator McKiernan all the time I have been in parliament. His contribution to his party, to the Senate committee system and to the parliament has been outstanding. He is an adornment to the party and to the parliament. Both the Labor Party he has represented and the nation have benefited from his presence and his contribution. I know Senator McKiernan will continue that contribution when he is no longer a senator. I wish both him and his partner, Jackie, a satisfying and fulfilling retirement and look forward to seeing them at party forums in the future.

Question agreed to.

Bill, as amended, agreed to.

Third Reading

Mr WILLIAMS (Tangney—Attorney-General) (10.40 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (DISABILITY REFORM) BILL (No. 2) 2002

First Reading

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

Second Reading

Mr ANTHONY (Richmond—Minister for Children and Youth Affairs) (10.42 p.m.)—I move:

That this bill be now read a second time.

This bill delivers on the government’s commitment for real change that will see more people with disabilities move from the prospect of life-long dependence on income support to work and the many benefits this brings.

Recent events have shown that introducing change in this area is not easy. But we cannot shy away from this—the disability support pension as it currently exists is not sustainable. Without action now, the number of people receiving DSP will approach 870,000 within the next 10 years. The cost of the payment will increase by $1 billion over the next two years to reach $7.4 billion by 2003-04.

And this is just the cost to taxpayers. We also need to look at the cost to individuals and the community. Without preventive action now, increasing numbers of older people will have fewer resources as they reach retirement age. In addition, the social and economic costs associated with people prematurely withdrawing from the labour force are significant. Boosting labour force participation will also lessen the potentially adverse impacts of an ageing population on prospects for future economic growth.

Notwithstanding this need for change, we have heard the concerns of the community about the likely impact of the changes we announced on people who are currently receiving DSP. We identified particular groups, such as those on DSP who are already working to the best of their ability, for special consideration.

It is heartening to hear from so many groups and individuals including people with disabilities and their representatives that changes to the DSP criteria are necessary if we are to make sure that the payment continues to support those who need it.

The government made it clear at every stage that we were prepared to sit down with Labor and the Democrats to come up with a fair compromise that takes into account these community concerns. But we have been met by an unwillingness of both Labor and the Democrats to consider our generous compromise options to smooth the transition for current DSP customers who might be affected by changes.

Today the government is introducing a new bill that will guarantee much needed reform to DSP. This bill recognises the need to address the flow of people onto DSP by taking early steps to keep people with disabilities who can work in a more active system that supports and encourages them to achieve their best. This builds on our Australians Working Together initiative, ‘Better assessment and early intervention for people with disabilities’, in last year’s budget. This initiative will see much needed improve-
ments in assessing the ability and needs of people with disabilities.

The bill being introduced today will put in place a new system of income support rules for people applying for DSP from 1 July 2003. At the same time it will protect people receiving DSP prior to 1 July 2003 from the operation of the new rules. This means there will be no change for people who are currently receiving DSP, who will continue to need to meet existing criteria. No change to the 30-hour rule; no change to the services Centrelink can consider in thinking about whether someone could move into work within the next two years; and no change to the special provision that means local labour market prospects can be taken into account when assessing the eligibility of people aged 55 and over.

Those people who are protected will still have incentives to have a go at working full time if they think they are able. We will continue with current provisions that allow people to have their payments suspended in these circumstances. The arrangements in this bill will mean that someone who does try out work of 30 hours or more a week but finds they cannot maintain this will be able to move back onto DSP under the current rules within a two-year period.

And finally, let me make it very clear—as we did with the original bill—there will be no change to current provisions for people who claim or receive DSP who are permanently blind.

Schedule 1 of this bill makes changes to the legislative framework governing qualification for disability support pension for people who apply for DSP on or after 1 July 2003.

This will ensure that the qualification criteria are changed so that the disability support pension is only payable to people with very restricted work capacity—less than 15 hours at award wages a week. The amendments also extend the range of interventions and activities that Centrelink will be able to consider in determining whether a person has a continuing inability to work. Those aged 55 and over will no longer have their local labour market conditions taken into account in determining their eligibility for the disability support pension. Most of those people affected by the new rules will receive an alternative income support payment, such as Newstart allowance.

DSP will remain a safety net for people who cannot support themselves. People claiming DSP after 1 July 2003 who are not able to work for full award wages will not be affected by the changes. This means people working in business services—that is, sheltered workshops—or at less than the full award wage will still clearly continue to qualify for DSP. People who could not work independently, such as those with high personal care needs, will also still clearly continue to qualify for DSP.

At the same time, the government will maintain its commitment to provide up to 73,000 new places in services such as employment assistance, rehabilitation to help people with disabilities to realise their assessed work potential. It builds on increased funding for services for people with disabilities announced last budget in the Australians Working Together package.

Grandfathering existing recipients means that no existing DSP recipients will be shifted onto other payments like Newstart; nonetheless, we will still offer up to 73,000 extra places for disability support services. They will be progressively made available as required, for example, by existing DSP recipients wanting to improve their job opportunities and to people who, whilst they would not get DSP under the new rules, may nonetheless still need assistance. I commend the bill to the House, and I present the explanatory memorandum to this bill.

Debate (on motion by Mr McMullan) adjourned.
Second Reading

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (10.51 p.m.)—I move:

That this bill be now read a second time.

The purpose of the Trade Practices Amendment (Liability for Recreational Services) Bill 2002 is to amend the Trade Practices Act 1974 so that individuals are able to waive their contractual right to sue when undertaking risky recreational activities.

The reform contained within this bill will assist operators of businesses such as adventure tourism and sports, who are currently prevented from relying on waivers.

In allowing people to voluntarily waive their right to sue, it is important to achieve a balance between protecting consumers and allowing them to take responsibility for themselves. This bill seeks to achieve that balance in a way that will benefit consumers and the many small businesses that are involved in recreational activities.

Consumers can choose to waive their rights in relation to a broad range of activities. In particular, those involved in activities such as horse riding, bungee jumping and other similar activities will be able to decide whether or not to accept the risks involved.

The government is committed to ensuring that the Trade Practices Act continues to deliver appropriate protection to consumers. But it also needs to promote an environment in which consumers have information, choice and appropriate redress.

The Commonwealth will further consider whether any measures need to be adopted to ensure appropriate consumer protection.

This bill implements a commitment of the Commonwealth government announced after a meeting of state and territory ministers and chaired by the Minister for Revenue and Assistant Treasurer on 30 May 2002.

The review of the law of negligence which ministers agreed to at that meeting will examine the interaction between the Trade Practices Act and the common law in respect of waivers and the voluntary assumption of risk, with a view to ensuring consistency. I commend the bill to the House. I present the explanatory memorandum to the bill.

Debate (on motion by Mr McMullan) adjourned.

HIGHER EDUCATION FUNDING AMENDMENT BILL 2002

Cognate bill:

HIGHER EDUCATION LEGISLATION AMENDMENT BILL (No. 2) 2002

Second Reading

Debate resumed from 5 June, on motion by Dr Nelson:

That this bill be now read a second time.

Ms MACKLIN (Jagajaga) (10.54 p.m.)—These two bills, the Higher Education Funding Amendment Bill 2002 and Higher Education Legislation Amendment Bill (No. 2) 2002, that we are considering tonight provide a number of benefits to Australian universities and to our country’s research efforts. They provide indexation funding, which partly adjusts Commonwealth grants for the effects of salary increases and other elements of inflation. They make a number of sensible administrative adjustments and transfers between operating grants and research funding. For these reasons, the opposition will not oppose the bills, but we are concerned about some of the policy changes that are embedded, particularly in the second bill.

We are also concerned about the policy neglect that underscores this legislation and the government’s record on higher education more generally. I therefore move the second reading amendment that has been circulated in my name. I move:

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

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

(1) condemns the Government for:

(a) its shameful neglect of public universities of Australia, its undermining of the future development of regional universities and the increasing financial burden it is placing on students and their families;

(b) the pre-empting of its review of higher education by the ad hoc addition of new...
private higher education institutions in this Bill;
(c) the lack of clear guidelines for the application of income contingent loans for fee-paying postgraduate courses in private institutions;
(d) its failure to establish accountability principles and criteria for the growing number of private, non-university providers of higher education in Australia;
(e) the absence of policy guidelines in relation to access, equity and anti-discrimination practices in private providers of higher education; and
(f) its failure to explain the real costs to government of the expansion of income contingent loans schemes to private providers; and

(2) requests the Government to:
(a) establish clear criteria and processes for the public accountability of private higher education providers that are brought within the auspices of the Higher Education Funding Act; and

(b) review the powers and functions of the Australian Universities Quality Agency to enable it to investigate the quality, standards and accountability of private higher education providers, in particular, the programs offered by the four private institutions to be included in the legislation as eligible unfunded institutions, and to report back to Parliament on the outcomes of that investigation before any further additions that might be made arising from the Government’s overall review of higher education.”

A responsible government would respond to these concerns without putting funding and legitimate changes at risk, but this government unfortunately does not seem to be averse to putting our education system at serious risk. We have seen that serious risk in so many areas, whether it be our universal health system, our national broadcaster or, more broadly, our public education system. It seems that, when it comes to higher education, the government is going further down the path.

When the Minister for Education, Science and Training introduced this legislation, he made much of comparisons with other OECD countries. Like his predecessor, this minister plays fast and loose with statistics. If there is one theme that best describes Australia’s education system from OECD data, it is inequality. Our students’ scores in mathematical and scientific literacy are notable for the size of the gap between our best and worst students. In higher education, Australia has one of the highest levels of student contributions in the OECD, so inequality and exclusion are increasingly the defining features of education in Australia under the Howard government.

The government’s record in undermining public education in this country is now legendary. Previous commitments made just months before the election are out the window. Deregulated fees, real interest rates on HECS, loans and voucher funding are now all back on the table, according to the Prime Minister. Perhaps it is the case that these issues were never off the table. The Prime Minister’s assurances are now seen as totally hollow. It is as if the government wants to chop up our university system: to excise some institutions from the rest and to cut the heart out of our national system by undermining our regional universities.

The minister appears bent on making some of our universities an island just for the few who benefit from fee deregulation—for those few students who can afford to carry a huge debt. The remaining universities are presumably those that the minister refers to patronisingly as ‘equity universities’ and promises that the government ‘will do something for them’.

The minister has taken to using some very strange language. What kind of thinking would there be behind such a term? What does the minister think an equity university is? Is it one that segments or stratifies particular groups of students or streams of people? I wonder, then, what the minister thinks an ‘inequity university’ is. Perhaps it is the one or two universities that he thinks should be separated to enable them to become world class—the one or two universities that might be able to prosper by charging high fees with a new government loan scheme. Will those one or two universities define themselves by reducing their domestic student intake in the name of quality and sending others else-
where? These are very troubling questions for our university system.

Equity and quality should be the hallmark of the public university sector in this country. As Justice Michael Kirby stated this week: Australia needs universities that provide world-class teaching and research but with equal opportunity of entry for all Australians with the necessary ability.

Labor’s policies will continue to be driven by principles such as these. We will not tolerate policy changes that result in access to university being dependent on how much you pay. Students are already struggling with the costs of their university studies. Most are forced to work during their university years. They leave with a HECS debt that will take most of them 10 years or more to repay. The University of Canberra’s National Centre for Social and Economic Modelling estimates that one-third of women will still have an unpaid HECS debt by the time they reach retirement age of 65—one could say just a year older than when the HECS free Prime Minister has promised he will consider his retirement options.

This is a serious issue when we think about the debts that are occurring in young people’s lives at a time when they are considering other serious life commitments, whether those be entering into relationships, having children or undertaking major home mortgages. We should not be surprised then if many young people are deferring making these lifelong commitments and deferring making a serious contribution to superannuation or other savings that they need to make for the future. The minister’s review is supposed to be sorting out this mess but, unfortunately, from the comments that we have had from the minister and from the two reports that have been published so far, we do not seem to have any evidence that the sloppy thinking that we have heard from the minister will address the serious problems that exist in the system.

Take the latest example from the Minister for Education, Science and Training. He has a story of a single mother whose youngest child missed out on a publicly funded place to study veterinary science; she had been offered a fee-paying place that she could not afford. The minister complains that he does not have any policy lever to help that student or that mother. Presumably the minister thinks that fostering even higher fees is the appropriate response to the problem of low-income earners having access to a university place. This is the kind of thinking about equity that the minister’s predecessor displayed in his funding scheme for non-government schools, which saw the highest increases in public funding going to the best resourced schools in the country. Be clear, Minister: fees are a barrier to access.

The appropriate policy lever is for the government to do something about the allocation of publicly funded places to public universities, to do something for this student—one of the over 50,000 mainly young people in Australia who, the Australian Vice-Chancellors’ Committee reports, have met university entrance criteria but have been unable to gain a place. The minister’s response to these problems is to throw scorn on the opposition’s calls for policies that would help these 50,000 people. If only the government had not cut a cumulative $3 billion from university operating grants since 1996! That would have been enough to provide a place for the particular student he is concerned about and for the other 50,000 who have missed out on a university place. I must say that I am one of the growing number of Australians who find the habit of this minister of education of using people from disadvantaged backgrounds to support the government’s policy agenda to be pretty awful—and also disgraceful, given the policy options of this government that have hurt these very people.

The minister’s story is about a young person who wants to be a vet. The current fee for a veterinary science degree at the University of Sydney is $113,000. If the current rate of repayment of a loan is the same as that for HECS—and the minister has stated that this would be the case—it would take at least 20 years for that student to repay her loan. On top of that, the Prime Minister has refused to rule out a real rate of interest on such loans. This would be on top of the current indexation of both HECS and the postgraduate loans scheme for increases in the consumer
price index. At current variable home mortgage rates, there would be a total repayment of $202,000 for that student—a total interest payment of almost $90,000. This is the future that this government is holding out for this young person and a large number of other Australians who cannot get a university place. The government paints this future and these figures as scaremongering, but these are the fees that are actually being charged at some of our universities—those that are charging up-front fees. They are the fees that are being charged now; they are already a reality. Does the government really expect us to believe that there will be no further increases in fees if the fees are deregulated, particularly if they are supported by income contingent loan schemes?

The minister’s review raises the very important issue of defining higher education and the notion of a university. The current confusion about this reflects years of policy neglect in both the higher education and vocational education and training areas. So what are the government’s priorities in this area, that they cannot wait for a considered response in the context of the minister’s review? The answer appears to be that the government’s priority for 2002 is to support the extension of the postgraduate loans scheme to a private university and to three non-university, private providers aligned with some churches. Bond University is a self-accrediting private university established under a Queensland act of parliament. The Melbourne College of Divinity is also self-accrediting under Victorian legislation. The other two institutions—Tabor College in Adelaide and the Christian Heritage College in Queensland—are state accredited non-university providers of higher education. The government has provided no rationale for the selection of these four institutions for access to PELS at this time, other than that it would place them on the same basis as the University of Notre Dame in Western Australia.

For the record, the parliament’s agreement with the placing of the University of Notre Dame Australia on table A of the list of institutions subject to the Higher Education Funding Act was made to enable that university to provide HECS places for Indigenous education programs at its Broome campus. The University of Notre Dame automatically then became eligible for PELS because of its status in the legislation. If this is the basis on which the government has decided to extend income contingent postgraduate loans to private providers, including some outside the university sector, it is policy making by default. When the University of Notre Dame Australia was included in the Higher Education Funding Act, the government made much of the unique situation of that university’s Broome campus—that it was, of course, a one-off.

Mr Ian Macfarlane—Did you say ‘Groom’?

Ms MACKLIN—Broome. As it is often the case, the one-off becomes the precedent, in this case with sectarian overtones. We know there will be pressures to extend at least PELS to the other non-university providers, of which there are almost 100 around Australia and the number is growing. The Council of Private Higher Education Inc.—which represents a number of these institutions, including Bond University, Tabor College and the Christian Heritage College—stated in its newsletter that this legislation is:

…the first step in recognising the contribution of the private sector to Australian higher education. The extension to all full fee higher education students needs to be considered in the current review.

Quality assurance of non-university providers of higher education, other than self-accrediting institutions like the Melbourne College of Divinity, is the responsibility of state or territory governments. All governments have now agreed to national protocols for the recognition of higher education credentials and to the auditing of these through the Australian Universities Quality Agency. But many of the current providers were in fact accredited before those protocols were developed. The opposition will be monitoring the application of the protocols and the performance of the Australian Universities Quality Agency in assuring quality in all institutions of higher education. We will look to that agency to evaluate the four institutions that are the subject of this second bill,
as is clear from our second reading amendment. In doing so, the opposition are putting on notice the credibility of the national protocols and the Australian Universities Quality Agency in protecting the public interest in this area.

Representatives of three of the institutions covered by the second bill have assured me that they do support the further development of rigorous accreditation criteria against nationally consistent standards, and I certainly welcome that. Those standards are urgently needed. Those representatives have also given assurance to the opposition that this bill will not apply to initial teacher education programs. This is an area though where there is a major flaw in the government’s approach and shows the extraordinary level of sloppy thinking that needs to be addressed.

The current HECS guidelines rightly require student contributions through HECS postgraduate awards that lead to initial teaching and nursing qualifications, or that would allow provisional registration for a person to be a medical practitioner. This would also include, for example, a graduate diploma in education at an institution included in table A in the legislation. The graduate diploma in education is a postgraduate award. Its status in fee paying institutions for the purposes of PELS eligibility is unclear. Certainly the representatives from the Council of Private Higher Education believe that initial teacher education postgraduate awards were excluded from eligibility for PELS. It appears, however, that PELS is available for students who are enrolled in fee-paying graduate diplomas of education such as at the University of Notre Dame Australia but not in public universities where these programs are eligible for HECS. The University of Notre Dame is included in table A of the legislation but charges fees for its diploma of education programs and advertises that they are eligible for PELS. Are you confused?

This is the government’s policy. Avondale College is listed in table B of the act. The college does not currently offer a graduate award for initial teacher education but does so through its degree programs for which HECS places have been allocated. So I put it to you: is the graduate diploma of education or the equivalent postgraduate award eligible for HECS? The answer appears to be yes in public universities; maybe in the other universities in table A and B of the act; and no for fee paying courses, including those in the new list of eligible unfunded institutions. Turning the question around: is the graduate diploma of education eligible for PELS? The answer again appears to be: no in public universities, at least for HECS allocated places; and yes at Notre Dame. To say the least, the policy objectives underpinning these arrangements are confusing—and that is being polite! This is policy making on the run and certainly by default.

What are the kinds of qualifications that the government insists are such a priority that they have to be accommodated now rather than being looked at properly in the context of the review undertaken by the Minister for Education, Science and Training? Of the programs that are currently offered by the non-university providers, the following would appear to be eligible for PELS under the legislation: course work graduate certificates, diplomas, masters and doctoral degrees in areas such as Christian education, Christian ministry studies, theology, human behaviour, counselling, human studies, social science, marriage and family counselling, and intercultural studies. I also understand that a graduate entry bachelor of education is not eligible for PELS on the grounds that it is an undergraduate award. But a fee paying graduate certificate or diploma that was not an initial teaching qualification that articulated into a bachelor of education would meet the eligibility criteria. What a policy shambles!

The minister needs to take urgent charge of this mess and show a clear sense of purpose and direction. Instead, we are presented with an ad hoc piece of legislation that raises far more questions than it answers about future directions. Two of the institutions covered by the second bill have a high proportion of their enrolments in teacher education. This mess needs to be cleaned up and cleaned up urgently.

The extension of the Higher Education Funding Act to private providers also raises
important questions about accountability and transparency, particularly where public subsidies are involved. We on this side of the parliament are concerned that private institutions are not subject to the same scrutiny over their access policies or their outcomes, including those that were in the minister’s recent discussion paper Striving for quality. We also have a problem with the financial impact of the amendments relating to the extension of PELS to the four institutions—to be polite again, it is opaque—and with the government’s general approach to policy in this area.

The budget papers in this area report that, consistent with accrual accounting conventions, the cost of the loans are recorded as an asset and not an expense; the repayments are treated as revenue. The budget papers disclose that the cash value of loans amounts to some $18.7 million over four years. This estimate was presumably based on current courses, enrolment trends and fee structures, but these figures do not consider the effects of future growth, including distance education enrolments across all states and territories, or the likely extension of PELS to some or all of the other 80 or more private institutions that offer higher education courses. These estimates might meet accrual accounting standards but they certainly do not meet any principles of openness or transparency.

I wonder if the minister actually understands that there is a significant public subsidy involved in income contingent loans schemes. Cash loans involve cash outlays that could have been used by government for other priorities. Governments providing loans that are indexed only for the CPI have to bear the cost of the real interest rate income forgone. For a student who takes out a PELS loan on top of their HECS liability, on average it would be about 10 years before they start to pay off that loan. In this case, the public subsidy would be substantial—at least 50 per cent of the real value of the loan. Extension of PELS to a wider range of private providers, as well as fee-paying courses in public universities, will potentially increase the public subsidy even further. It is certainly the case that the financial impact of PELS is a very complex matter. But there are clearly public subsidies involved in income contingent loan schemes. The use of the term ‘eligible unfunded institution’ in this bill is therefore misleading.

The opposition had thought that this and other issues would have been dealt with in greater depth as part of the minister’s review, but we are forced to consider them here as part of this legislation and we are very much in the dark; none of the questions that I have raised here tonight has been adequately addressed. We are not happy that the provisions of this bill relating to the extension of PELS pre-empt some of the minister’s review. The higher education system in Australia may be, as the minister says, at the crossroads, but it is unclear why the government have decided on one of the roads at this very early stage of the journey when they do not have a clue about where they are going.

We will accept the current budget advice on the financial implications in good faith, but we will monitor them closely over time. We will expect to see more informed advice on these and other issues when considering legislative and budget outcomes from the government’s final decisions on this review. I hope we get answers on some of these complex questions when this bill goes to a Senate committee. This area is nothing short of a policy shambles. We deserve a serious public debate on where education is going and not the sort of ad hoc policy change that this bill represents.

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

Ms JULIE BISHOP (Curtin) (11.19 p.m.)—It seems that the debate on respective public and private gains from higher education has been ever raging. At this time of the night, I remind the House that it was Ecclesiasticus that exhorted the faithful to:

Get learning with a great sum of money, and get much gold by her.

It was clear then, as it is clear now, that both the public and the individual benefit from education, and that the benefit to the value of an individual’s human capital is significant.
The point was well made by Andrew Norton in last Thursday’s Australian newspaper. He wrote:

They— that is, opponents of reform in higher education— forbid undergraduates from investing in what, for the vast majority, is their most important income-producing asset, their own human capital. Students are, it seems, intelligent enough to be admitted to university, but not bright enough to work out what is a good educational deal for them.

In this regard, the new Minister for Education, Science and Training, the honourable member for Bradfield, should be congratulated for the initiative he has displayed in setting in train the review of higher education. This minister has not shied away from the very serious issues that presently face the university sector. As he notes in his introduction to the review’s discussion paper, we need to ask these questions—and I think it is appropriate to read them into Hansard:

Should Australia aspire to have one or two universities ranked in the world’s top fifty, and if so, how can that be achieved within a policy framework that recognises simultaneously the increasingly onerous community service obligations being placed on regional institutions? Can funding arrangements appropriate to further strengthening the role of smaller regional universities enable innovation and specialisation within the sector?

To what extent can the Commonwealth work collaboratively with the States and Territories to improve governance arrangements that best serve the needs of students, staff and society generally? Another question is posed:

Is it desirable and possible to build a framework for increasing private sector investment in university infrastructure as occurs in other countries? At the same time, to what extent is the commercialisation of intellectual property conducted in a rigorously efficient manner to the benefit of institutions, researchers, industry and Australia’s competitive potential?

Finally:

How could government policy encourage specialisation amongst universities without financial penalty to them? Are there particular administrative burdens placed on universities by my— meaning the minister’s— department that could reasonably be removed to free up more resources for teaching?

I am sure that the review will prove a most useful and comprehensive basis for the reinvigoration of our universities in the interests of students and the community more generally.

What we have witnessed here tonight is Labor bumbling around in the wake of that review; for this review will provide the guiding light for future policy-making in this sector and Labor has again been left standing at the wharf, throwing streamers. They have no ideas, no policies, no suggestions—just carping opposition.

The bills before this House relate principally to the allocation of public moneys to higher education and they implement commitments undertaken by the coalition during last year’s federal election. By way of background, I think it appropriate to reflect on the level of public subsidy provided by Australian taxpayers to higher education in this country; for, if one were to rely solely upon the opinion of the opposition spokeswoman—or, for that matter, the special interest groups associated with tertiary education—one might suppose that such public subsidy was risible, if it existed at all.

In fact, universities are earning levels of income higher than at any time in Australian history. In 2002, it is estimated that $10.4 billion will flow into those educational institutions. Further, that revenue now comes from a much more diverse base. In just seven years, enrolment levels have risen by the equivalent of 55,000 full-time places, and graduate satisfaction has never been higher.

The member for Aston will be interested in this: I was reading an article in the Economist late last year on the higher education sector in the United Kingdom under the Blair Labour government and the problems apparently facing the university sector there. According to the Economist article, which I happen to have here, the British Labour government, it seems, has no plans to solve the universities’ problems. It certainly sounds like the international Labor Party approach to problem solving: no plans. The article states: ‘We won’t have all the money that we need for the future,’ says Margaret Hodge, minister for
further education. So if the universities are to balance their books, they will have either to cut costs or to raise more money.

In an effort to cut costs, a few universities, such as North London and London Guildhall, are already merging. More may do so in the near future. Others, such as Glasgow and Strathclyde universities, are creating ‘strategic alliances’ to share the costs of courses and expensive teaching facilities.

There is probably scope for more of this. A report into university funding by Sir David Watson, director of the University of Brighton, pointed out that Britain has 170 higher-educational institutions for a population of 59m, whilst France manages with 100 higher-educational institutions for a similar population.

The article goes on about the Labour government’s policies:

But the funding gap cannot be bridged only by cutting costs, so universities are looking at how they can raise more money. The ‘Russell Group’ of top universities (such as Oxford, Bristol and Nottingham) has argued for the introduction of top-up fees, whereby universities would be allowed to charge market rates for their courses. Thus law at Oxford would command a higher fee than Surf Science (yes, really) at the University of Plymouth.

Proponents of top-up fees argue that a degree confers a huge private benefit on a graduate, and so the graduate should have to shoulder the cost of that education. The Russell Group estimates that a graduate earns £400,000 more during his life than a non-graduate with two A-levels. Furthermore, top-up fees need not deter lower-income families. As in America, the income from fees could be used to fund means-tested scholarships and bursaries for poorer students. And the amount of money that students can borrow (currently £3,725 a year outside London) could also be increased. Many educationalists, including those who advise the Labour Party, argue that the government will have to introduce top-up fees eventually, and that by failing to do so now, it is allowing the universities to deteriorate further.

Then comes this apposite comment:

But the government’s reluctance—
the Labour government’s reluctance—
to go down this route is understandable. Top-up fees may make sense economically, but they raise political difficulties, for they fall most heavily on the prosperous type whose defection from the Tories brought Labour to power.

So much for the workers’ party! As for the public subsidy in this country, the bills before the House will ensure that by 2004, the final year of the present funding triennium, universities will receive direct public subsidies through the Department of Education, Science and Training worth over $6.3 billion—that is, $480 million and 8,300 fully funded places more than in 2001.

The first bill, the Higher Education Legislation Amendment Bill (No. 2) 2002, sets out the provision of funding for the year 2004 and thereby sets in motion the next stage of the Backing Australia’s Ability program and the innovation action plan within that. Under Backing Australia’s Ability, an additional $3 billion has been allocated by the Commonwealth for science, technology and innovation initiatives, of which $1.5 billion is earmarked for the university sector. In this regard, an additional $763 million will effectively double the size of the Australian Research Council’s competitive grants scheme, while $583 million will go to university research infrastructure and $151 million will flow directly to priority areas in information and communications technology, mathematics and science. In addition, this particular bill updates the funding allocation set for the Higher Education Funding Act of 1988, which governs university grants, and the Australian Research Council Act of 2001, which regulates the research grants administered through the ARC, in line with indexation and some special revisions—notably, revised HECS contributions, publicly funded superannuation and, incidentally, some matters related to my alma mater, the University of Adelaide.

The bill also allows the Institute of Advanced Studies at the Australian National University to participate in performance based block research funding schemes. It consolidates university reporting requirements to reduce administrative burdens, makes a minor alteration to notification requirements for overseas fee paying students and streamlines the administration of the ARC grants and the provision of advice to the ARC board.

The bill is now augmented by the Higher Education Funding Amendment Bill 2002
which will extend the Postgraduate Education Loans Scheme—PELS—one of the most important policy initiatives of the Howard government. It extends it to a further four educational institutions: Bond University, Melbourne College of Divinity, Tabor College and Christian Heritage College. This initiative will serve to broaden the access of students to postgraduate study. As the minister noted in his second reading speech earlier this month, PELS has already had a remarkable impact on Australian higher education. Indications are that there has already been a 20 per cent increase in postgraduate course work enrolments this year. The bill also adjusts the funding estimates in the other bill in line with the new graduate diploma in environment and planning to be offered by the University of Tasmania—

Mr Sidebottom—That’s the only good thing in it!

Ms JULIE BISHOP—I thought you would be pleased about that. Finally the bill will provide an additional cap for the ARC competitive research scheme in four years time to allow for longer term grant approvals by the minister to the benefit of grant recipients who will have greater funding certainty. The coalition’s commitment to the public subsidisation of higher education is clear: there is more public funding available to universities and university revenues are higher still. These bills build on that commitment and deserve the support of all members of this House. I commend the bills to the House.

Debate (on motion by Dr Martin) adjourned.

SOCIAL SECURITY AND VETERANS’ ENTITLEMENTS LEGISLATION AMENDMENT (DISPOSAL OF ASSETS—INTEGRITY OF MEANS TESTING) BILL 2002

Consideration of Senate Message

Bill returned from the Senate with amendments.

Ordered that the amendments be considered forthwith.

Senate’s amendments—

(1) Schedule 1, item 15, page 7 (line 25), omit “$25,000”, substitute “$30,000”.

(2) Schedule 1, item 15, page 9 (line 16), omit “$25,000”, substitute “$30,000”.

(3) Schedule 1, item 15, page 12 (line 5), omit “$25,000”, substitute “$30,000”.

(4) Schedule 1, item 18, page 15 (line 19), omit “$25,000”, substitute “$30,000”.

(5) Schedule 1, item 25, page 18 (line 20), omit “$25,000”, substitute “$30,000”.

(6) Schedule 1, item 25, page 21 (line 10), omit “$25,000”, substitute “$30,000”.

(7) Schedule 1, item 28, page 24 (line 9), omit “$25,000”, substitute “$30,000”.

(8) Schedule 2, item 19, page 32 (line 3), omit “$25,000”, substitute “$30,000”.

(9) Schedule 2, item 19, page 34 (line 24), omit “$25,000”, substitute “$30,000”.

Mr ANTHONY (Richmond—Minister for Children and Youth Affairs) (11.33 p.m.)—I move:

That the amendments be agreed to.

Question agreed to.

COMMITTEES

Industry and Resources Committee

Membership

The DEPUTY SPEAKER (Mr Barresi)—Mr Speaker has received advice from the Chief Opposition Whip nominating a member to be a supplementary member of the Standing Committee on Industry and Resources for the purpose of the committee’s inquiry into the impediments to increasing investment in mineral and petroleum exploration in Australia.

Mr IAN MACFARLANE (Groom—Minister for Industry, Tourism and Resources) (11.36 p.m.)—by leave—I move:

That Mr Fitzgibbon be appointed a supplementary member of the Standing Committee on Industry and Resources for the purpose of the committee’s inquiry into the impediments to increasing investment in mineral and petroleum exploration in Australia.

Question agreed to.

HIGHER EDUCATION FUNDING AMENDMENT BILL 2002

Cognate bill:
Debate resumed.

Dr MARTIN (Cunningham) (11.37 p.m.)—Tonight, I want to talk in particular about one or two aspects of the higher education legislation that we are discussing but at the same time to take the opportunity to speak to the amendment that has been moved by the Deputy Leader of the Opposition, specifically the element relevant to regional universities. I am pleased to see the Minister for Industry, Tourism and Resources in the House tonight, because we both have a great concern for regional universities. The University of Southern Queensland is located in the minister’s electorate, and the University of Wollongong is located in my electorate. Many members understand that, when you have such outstanding academic institutions in your own constituency, you do from time to time like to stand up in this place and talk about them and provide people with an opportunity to reflect on why they have achieved such a sense of commitment to education and why people in Australia have judged them so well.

The minister and I share the great honour in having represented those two universities in this place. Last year, they jointly won the ‘University of the Year’ honour given by the Good Universities Guide, sponsored by the Australian newspaper. Unlike the University of Southern Queensland, however, the University of Wollongong had it the year before as well. But Wollongong this year decided that we had better let somebody else have it and, by one star rating, we came in as No. 2 in Australia. We are prepared to wear that for this year alone, but we are taking steps, as I speak, to ensure that next year we are up there again.

In all seriousness, one of the values that people in this place are committed to is associated with providing opportunities for people to get a decent education, whether it is delivered by distance learning or by highly skilled, highly trained, highly motivated individuals on campuses; and whether it is delivered to people that live within our own respective regions, adjacent to the universities, or whether they are foreign students who are attracted to the campuses of these universities because they know that the standards in Australia are exceptional. It is important, when legislation comes into this place that perhaps brings into question the commitment that might be there to the quality of public education, to the quality of university based education, that the opportunity should be taken to talk about the issues.

The Deputy Leader of the Opposition, in her contribution, talked about the specifics of the PELS funding and some of the concerns that we on this side of this place have. She also indicated that, as far as Labor are concerned, our own higher education policy is a work in progress. I must say, though, that the sort of commitment that she has indicated that we would be proposing to go with is something that I have no difficulty whatsoever in accepting. My honourable friend from Tasmania unfortunately has left the chamber, but I think it is quite appropriate that the Higher Education Funding Amendment Bill 2002 is going to provide the funding to establish a graduate diploma in environment and planning at the University of Tasmania. Before coming into this place, I worked in the urban planning field, with what was then the Department of environment and planning in New South Wales and is now the Department of Urban Affairs and Planning. These sorts of qualifications, particularly in this day and age, are significant and I think it is important that universities should offer them. Graduates that come forward with, for example, a diploma of environment and planning from the University of Tasmania, or a master’s in Town and Country Planning, such as I did at the University of Sydney, or other degrees similarly based, provide an opportunity for Australia again to get into the export market in the export of services. Important services such as environmental planning, dealing with environmental standards and so on, are significant export income earners for Australia. It is important, therefore, that universities like the University of Tasmania have the opportunity to offer those courses.
When we are talking about the way in which funding is allocated to the universities, I have to take exception with a couple of the comments that were made by my predecessor in this debate, the honourable member for Curtin. She was right in a couple of things that she said. Firstly, she said that there were more students than ever. That is an undeniable fact in universities in Australia. She also said that there are more funds than ever. That is also true, but so too are the costs greater than they have been before. So the net benefit that comes to universities, and the funds that are available to vice-chancellors to administer and to run universities, have to be seen in that light. I am well aware that academics would like to think that, over time, every now and again, salaries and conditions can be reviewed, but it is often the most difficult choice for vice-chancellors at universities to make. They want to ensure that they can encourage the best and most talented people to reside in Australia, not to be lost as part of the brain drain to universities in Europe or the Americas but to be retained in Australia, but they know that salaries in Australia—by necessity, because universities find that they have to balance their allocation of priorities—are not increased as rapidly or as often as they would like. I think this is an issue which needs to be examined.

It is worth reflecting that, whilst we talk about PELS, we also note that this education legislation talks about the HECS system. We in Labor will put our hand up and say that we introduced the HECS system. We did, and we do not walk away from that. With my first university degree, I had to pay full fees. I was fortunate: I had a father who was able to pay for me. He had the wherewithal to do that in my first year, and then I picked up a scholarship to go to university. I think many of us remember those days. Then university fees became non-existent, except for a few of the standard fees that one had to pay to be in university unions, sports unions and so on. But tuition fees disappeared. Then the HECS system came in. Labor sought to get a genuine reflection of what it cost to deliver courses, but to apply that in a fair way so that the actual cost that was charged was considered at a reasonable level and, when people sought then to repay it, the threshold was set at a fairly substantial level—or it was in those days.

Of course, the present government has changed both of those things. Firstly, they increased the HECS amount itself in terms of the cost per subject at universities. As a parent who is trying to look after one of his kids going through a postgraduate degree, I know that the HECS costs can be substantial. Secondly, the threshold was lowered so that people in the work force had to start repaying a HECS debt that cut in much earlier.

It is interesting that a couple of the areas that we have heard people talk about tonight, I think, illustrate the point perfectly—nurses and teachers. Nurses and teachers are in short supply in this country and we hear people talking about that all the time. My wife is a nurse and I know what it means for nurses to be in short supply. There is a short supply of qualified psychiatric nursing staff in Wollongong; indeed in New South Wales and around Australia. It is not a peculiar thing that has been caused by government per se, it is just one of those things. And teachers as well—we are trying to encourage people to get into teaching. We are encouraging people to get into the sciences and into other areas of education that are significant and that are under-represented at the present moment. But I think that the fact that the threshold level has been lowered for when people have to repay HECS is a bit of a disincentive for people that might want to get into those courses.

I have to say that that is probably something that we need to revisit and we need to have some flexibility on. I think we should be in a position where, in some of those areas of high demand, we are a little more flexible. Just as under the government’s immigration program the business migration program is targeted to people who have got the money to come in, because they are going to invest in Australia and create work for themselves and perhaps others, we have got to be a little more flexible in the way in which we deal with those shortages, and perhaps we can introduce some flexibility in the way in which HECS is imposed.

The other thing that is significant about universities is the way in which it has been
argued in the past that foreign students were a bad thing in Australian universities. That is just plain out-and-out rubbish; that is just a nonsense. What we have in Australia is a huge demand from foreign students to come in because the quality of the courses that we offer in this country are such that they have international recognition. We have universities in this country actively out there promoting services exports in countries not only in the region but further afield. Again, I use the University of Wollongong as an example. Wollongong have established a campus in Dubai in the Middle East and they are turning out graduates in business studies and a number of other different courses. I would like to say that Wollongong are the only ones doing it but they are not. There are other universities of Australia that are established in Malaysia and different parts of South-East Asia. And here we have an opportunity to see our people establish courses and universities in the Middle East, but we are also attracting people to Wollongong from South-East Asia, Hong Kong, Japan, the Middle East, the Americas and Europe. We are getting people from all over now. In fact, in question time today the Minister for Trade very kindly referred to the University of Wollongong and the number of foreign students that are there at the present moment. He used a figure in excess of, I think, 4,000. It has not stopped anyone going there; it has not stopped anyone from the local area going there. It has not stopped Wollongong attracting people from around Australia; the best, the brightest and the most terrific young people that want to be there—they are all there.

I have another little story from a couple months back when the shadow cabinet visited the Latrobe Valley. We talked to staff at the university that is down there—it is an extension of one of the Melbourne universities—and one of the complaints they had was that Wollongong was attracting a lot of their student talent from around the Latrobe Valley. Students were going to Wollongong to university rather than going to the campus at Latrobe or heading into the city of Melbourne itself. Okay, we will put our hand up and say, ‘Well, yes, we’re poaching students from that area.’ But, again, it is the reputation of the university that makes it attractive.

There is another thing, though, about costs associated with universities and the way in which they have to go about running facilities and operations more generally. It goes to the fact that in Australia we do not have a culture of philanthropy in the same way that they have in the United States—and indeed, I think, in Britain and maybe some of the European countries. With almost all of the universities and colleges in the United States we see a tremendous degree of respect from graduates who become businesspeople in the local community, town or city and who then donate back to that university or college that gave them the start in life. We see tremendous amounts of money being donated through scholarships, endowments and so on to universities.

That is not a culture that we have here. I know that universities are out there quite actively trying to develop that culture a little bit more. I know that at the University of Wollongong it is an aspect of what we do. In the University of Wollongong Foundation Ltd—I suppose I should declare an interest in this; I am on the board of management and I chair the Inkind Gifts Committee of that foundation—we seek people in large business, not only in our region but in Australia, who may be willing to contribute to the university for some specific function: for example, a very expensive piece of equipment that might be needed for diagnostic purposes in the engineering faculty. Another example is that we were looking for some assistance to redesign the rugby oval and build a grandstand. We did not quite get there but it was a project that was worthy of support. We have a scholarship subcommittee as well. The idea behind that is that at Wollongong—which is out there competing with the University of Southern Queensland, Sydney University, Melbourne University or whatever university it might be—we are trying to attract the best and the brightest to us so that they can add something to our university. Scholarships are one way that universities go about that.

I must say that Professor Gerard Sutton, Vice-Chancellor of the University of Wollongong, and his team at the top do an abso-
olutely superb job with regard to funding and the options that there might be. They are down here in Canberra quite regularly talking to government members and so on to get support for the University of Wollongong, and I think that is only appropriate. They have had a terrific hearing at Macquarie Street from the New South Wales government. They have tremendous expansion plans for the future at Brandon Park—a new business complex there that I think is going to be just sensational not only for the university but also in terms of adding to the economic base of Wollongong.

What Professor Sutton has done, following the lead of Professor Ken McKinnon, the Vice-Chancellor before him, is to ensure that town and gown mix together. This is not just an ivory tower of academics; they are doing work and integrating into the community. The research work—this is high-quality, leading edge research—is being applied in the city itself. The new high-tech business campus that is going to be developed with the strong support of the New South Wales state government and the personal support of Michael Egan, the Treasurer, and Premier Bob Carr is going to be tremendous for Wollongong and Australia. I was concerned when I read a newspaper article in the Sydney Morning Herald, written by Aban Contractor, the higher education writer, headed, ‘Unis target states to top up funding.’ It says:

Cash-strapped universities will turn to the states for funding, asking them to use money from the GST to help pay for projects that benefit the state. It talks about having an ‘education bank’ to fund areas of critical shortages, such as nursing and teaching. Interestingly, this proposal was floated, but when put to a spokesman for Treasurer Michael Egan, he said:

NSW does not obtain any extra benefit from the GST until 2008-09 ...

We’re no worse off but there is currently no GST windfall.

It is interesting then to see that a spokesman for Brendan Nelson, the education minister at the federal level, is reported here as having said:

... the minister would not comment on whether he would ask cabinet to direct the states to use GST money to bail out the higher education sector.

There’s nothing in the legislation to require the states to spend GST revenue on universities and there’s no plan to reintroduce the legislation to amend it ... The fact that it is being floated around is significant. I hope the minister is going to stick to that. The President of the National Tertiary Education Union, Dr Carolyn Allport, said:

There is no reason why the states couldn’t contribute more funding— to the higher education level— but it misses the obvious problem that the Commonwealth has taken its hands off the wheel, creating an unmet demand for important areas such as nursing, IT and teaching. I think that is right. There is a split in the higher education community. Some think that it is a good idea; some do not. If people are seeing that funding is not meeting demands within university campuses and that they can put the screws on state governments to top it up, they will do so.

I want to conclude by saying a couple more things about the University of Wollongong. At the start of my comments tonight, I made reference to the fact that both the University of Wollongong and the University of Southern Queensland had previously been joint winners of the University of the Year. The latest statistics have come out, and it is quite salutary to look at them. I said that Wollongong did not make the top this time—it was one star off. The top university in New South Wales was the University of New South Wales. It is interesting when you look at the ratings for graduate employment that Wollongong comes out on top, with five hats—five stars; a perfect rating. For prestige, it got four stars; for graduate rating, four stars; for research, four stars; for entry flexibility, four stars; and for international enrollments, four stars. So it got 60 stars, one off the top rating that gave the University of New South Wales the winner’s rating this year.

When you look at some of these universities—supposedly the sandstone and prestigious universities—the fact is that graduates at the University of Wollongong do much better than all of them when it comes to employment opportunities. That is because of their
dedicated teaching staff, great university leadership and a campus that is absolutely superb. All of that adds up to a learning environment where people feel comfortable. I think anything that might threaten that is to be deplored. Certainly, whilst I am in this place, I am going to stand up in debates like this and not only sing the praises of the University of Wollongong but continue to champion the cause of my university to ensure that adequate funding is there to meet the needs and demands that students have on courses and the university’s facilities. I am going to keep whoever is the government of the day honest and ensure that they provide the wherewithal so that the students achieve, and continue to achieve, the great things that they have so far, which has seen Wollongong constantly rated as the best university in this country.

Mr JOHNSON (Ryan) (11.57 p.m.)—It gives me great pleasure to say a few words in this parliament on these important education bills that are before us. It is a pleasure to follow my friend and colleague the member for Curtin. I know the member for Cunningham is a very staunch advocate for his constituents and his university, and it is a particular pleasure to follow him because I, of course, represent the University of Queensland—a sandstone university and one that I know provides wonderful service for its students and, if I may say so, certainly outwits the University of Wollongong.

The bills before us provide new funding from Backing Australia’s Ability and additional funds to index university grants in 2002-03. The Higher Education Legislation Amendment Bill (No. 2) 2002 will assist institutions to streamline their administrative requirements by simplifying the acquittal requirements for grants so that universities will not have to comply with different requirements for different types of grants and by adapting the system so that institutions will no longer be required to send liability notices to overseas fee paying students. This is very important because our universities have a substantial number of overseas fee paying students amongst their ranks. Local administrative procedures will be enhanced.

The Higher Education Legislation Amendment Bill streamlines the administration of the Australian Research Council grants and the provision of expert advice to the ARC board. As the House would be aware, the Australian Research Council Act 2001 establishes the Australian Research Council as an independent body to administer the Commonwealth research programs for which it has responsibility, makes recommendations to the minister on the allocations of funds within research programs and provides advice to the minister on research matters as requested by the minister.

This bill also amends the ARC Act to allow the minister to formally approve research grants for a period of four years rather than the two currently allowed by the act. This is an important change because it will not only reduce the amount of paperwork involved in administering grants but also provide certainty to the recipients of those grants.

Can I also say some words on the Higher Education Funding Amendment Bill in terms of PELS. The bill will extend PELS to ensure that more Australians than ever before are given the opportunity to upgrade their learning and acquire new skills. In my electorate of Ryan there are certainly a significant number of recipients of PELS, and they profit substantially from this. PELS provides an opportunity for people to further their education when they might not otherwise be able to do so. Additional educational opportunities and choices would not be available to students without this government help. The amendment also allows PELS to be extended to other universities, including the Bond University—also in my state of Queensland—and a number of colleges in South Australia.

The other significant thing that the amendment does is provide additional funding to establish a graduate diploma in environment and planning at the University of Tasmania, as well as a number of scholarships that were announced recently by the Treasurer. I would like to say a few words on Commonwealth funding in general. It is important that some context be placed here because there is certainly a lot of misrepresen-
University leaders have access to unprecedented levels of revenue from all sources, almost $2 billion more than in 1995 in cost adjusted terms. Of this, the Commonwealth provided over $6.1 billion through the EST portfolio. This is good news for universities, which will be able to use this revenue for increasing and improving services to students, who will benefit in terms of future employment prospects.

The government has also increased flexibility for universities to raise revenue from non-Commonwealth sources while maintaining funding for fully subsidised students. This is a very important move on the part of the Commonwealth. It increases the sources of funding that universities can access for the purposes of independent research and teaching. The government recognises that high-quality infrastructure is essential for high-quality teaching and research in universities, and provides substantial support for these purposes. Backing Australia’s Ability provides for some $1.47 billion in additional funding to the sector for research and the underpinning of infrastructure over five years. In 2001 the government provided more than 21,000 fully funded undergraduate places, compared to 1995 when Labor was in power. The government will provide almost 21,000 extra places over the next four years through the Backing Australia’s Ability scheme. Commonwealth funding and places are both increasing over the forthcoming triennium. Annual Commonwealth funding in 2004 through the EST portfolio will be around $480 million more than in 2001.

Let me say a few words on the success of the government’s initiatives. Universities in this country are generally in a very solid financial position and are adapting well to the challenging environment in which they are now operating. I am certainly a strong advocate for the quality of the teaching and tuition we have in our country. I certainly would prefer to be a student in this country over almost anywhere else in the world. This is due to the innovative and creative responses of many of our higher education institutions to the opportunities that have been made available under the policies of the Howard government. These policies are reflected in growing revenues. Total university revenues from all sources will be at record levels, an estimated $10.4 billion in 2002, almost $2 billion more than in 1995 in cost adjusted terms.

There is also increasing student participation. In 2001 there were almost 480,000 equivalent full-time students occupying domestic places in our universities. This is an increase of more than 55,000 places compared to when Labor was in office in 1995. Another measure is the continuing high levels of graduate satisfaction. Bachelor degree graduates regularly report through surveys and other broad satisfaction measures that they are well and truly satisfied with the teaching that they receive throughout our universities. Graduate employment outcomes is also one feature that has to be acknowledged. Graduate employment remains at high levels, with 83 per cent of graduates available for full-time employment in 2001 finding full-time employment within four months of completing their degrees. This compares to 80 per cent for 1999 graduates. In 2001, starting salaries for bachelor degree graduates as a proportion of average weekly earnings were at their highest level since 1991, at almost 86 per cent.

Things are looking good in this country in terms of education at the tertiary level. Australian education is very important in terms of overseas students coming here. Education has become Australia’s third-largest service export industry, generating earnings of over $4 billion each year, of which higher education students contribute over $2 billion. This is no small figure. I certainly encourage the government to put a lot of focus on overseas students as a source of university funding in this country. The government’s policies in recent years have facilitated the transition from a highly dependent sector to one that is
more independent of government, and that is very important. The coalition government will continue to encourage more autonomous, flexible and responsive universities. This compares very differently with the opposition’s initiatives on higher education administration.

I would like to say a few words on the review of higher education that we all know is taking place in this country at the moment. Despite the many successes of the Howard government, many challenges remain. Like our country, education itself is a work in progress and there will always be challenges for those in this place to meet. It is very important to ensure that the sector remains internationally competitive and meets the needs and aspirations of students, staff and the Australian community. The education minister’s announcement of consultations with key stakeholders to identify scope for improvements to the sector and how the government might facilitate these improvements is sensible, responsible and highly desirable. The government has initiated a review of higher education to enable all concerned Australians to express their views and to participate in this debate, because we all acknowledge in this parliament that education is critical to our future. The Crossroads paper includes a pretty frank discussion of some of the options available in Australia. These options are now certainly open for debate, and I encourage all Australians and all members of parliament to participate in that debate. This is a genuine review, which means that all options will be considered and that all options canvassed will have equal weight. I know that the Minister for Education, Science and Training is very genuine in taking on board all options canvassed from all quarters. The government is certainly committed to an open debate. I know that all members on this side of the parliament are very supportive of that and will contribute constructively. There will be multiple ways in which interested Australians can contribute to this review: in the form of submissions, at forums which will be held around the country and, of course, through contacting their local federal member.

One group of Australians who are obviously very interested in the debate is the vice-chancellors of our universities. To their credit, the Australian Vice-Chancellors Committee are amongst those who know—and advocate—the reform of the tertiary sector is desirable and indeed critical in this country; they are not amongst those groups who merely claim that more money is a simple solution to the challenges facing higher education in our country. Throwing more money at any system or area is not the only solution to challenges. Pumping money into the system is pretty much what the opposition has done, and that is why, when Labor were in power, this country had a $96 billion debt. What is important is some proper and constructive debate, and universities need incentive to perform. They need the freedom to perform in what we all acknowledge is a pretty competitive environment. I know that my friend and colleague the member for Aston would agree that the world we face is very competitive and we need to give our students and our young people all the advantages we can. Under the current system, students are studying in an environment that is pretty closed and working in a climate that puts a ceiling on the true value of the institution. Putting a cap on what a university can earn from students simply means that student demand for places will always outstrip a university’s capacity to deliver places. There will always be more consumers of education walking through the door.

So what should be happening? As I said, universities need to be fully competitive, and, like all other institutions in our country, need to perform and excel, and the best way this can happen is through incentives. I think anyone who knows anything about education in our country can see that the current mindset of limiting competition and limiting options is simply not sustainable. Just recently in April, the Reserve Bank Governor, Ian Macfarlane, spoke about overthrowing outdated cultural attitudes that have the impact of imposing uniformity on our universities. I certainly subscribe to those comments. We have to do away with old ways of thinking and old ways of operating. I would like to quote the AVCC President, Professor Deryck Schreuder, when he made some...
comments in relation to reforms that need to be taken in this country. He said in the policy statement of the Australian Vice-Chancellors Committee that was released this month:

It is clear that fundamental change is required to the current funding and regulatory framework of Australia’s universities to position them for growth in the coming decades, if we— that is, the AVCC—are to meet the ... national vision for 2020.

He also said:

Universities need the freedom to develop their own alternatives and relevant accountabilities, with rewards for success— and by ‘rewards for success’ he is talking about incentives— Resort to single policy options to solve the problems is not workable. An integrated package of change is required.

Clearly the President of the Australian Vice-Chancellors Committee, Professor Deryck Schreuder, knows what he is talking about.

Debate on education in Australia has been pretty much ideologically based. I do not think that is the way to go. We should have a constructive and intellectual debate—an exchange of ideas—that is constructive and not just about old ways of operating. We should not be trying to drive a wedge between the different ways of funding in our society; we should be exchanging our ideas constructively. Only now are we entering into a proper debate that is canvassing all the policy options. Make no mistake: reform in the tertiary sector in this country is absolutely essential. Thankfully, we have a minister who is driving the reform process with great energy, enthusiasm and skill. I would like to also quote Melbourne university Vice-Chancellor, Professor Alan Gilbert, when he spoke in April also about the importance of reform. He said:

Indeed, a reform agenda entrusting universities with greater independent responsibility for their own development is in their interests.

It seems that in education everyone who counts and everyone who knows what education is all about subscribes to the view that reform is needed. It is needed because this is what will encourage and ensure academic excellence, the efficient use of resources and the best outcomes from staff and in teaching and research. I only hope that those opposite will join the debate constructively and positively in the interests of Australian education. I commend the bill and the amendments to the House.

I conclude my remarks by mentioning the University of Queensland. I am very pleased to have the St Lucia campus of this esteemed institution within my electorate of Ryan. It is Queensland’s largest and oldest university and it attracts world-class students and staff. It is a privilege to be able to mention some of the distinguished alumni of the university. They include the likes of Professor Peter Doherty, the 1997 Australian of the Year and Nobel Prize winner; a number of high court justices, Queensland governors and Queensland premiers; David Malouf, whom everyone in this House would know as an award winning poet and novelist; and Dr Geoffrey Rush, 1997 Academy Award winner. We certainly produce significant Australians at the University of Queensland.

The University of Queensland has received a significant number of awards including, in 2000, the Prime Minister’s Award for University Teacher of the Year. That is only one of three awards won by the university in 2000. This is the fourth consecutive year that the University of Queensland has won national awards for teaching since the awards were established in 1997. In conclusion, I lend my support to the amendment bills and certainly encourage those opposite to support these very worthy bills.

Friday, 28 June 2002

Mr TANNER (Melbourne) (12.17 a.m.)— Before I commence my remarks on the education bills, with your indulgence, Mr Deputy Speaker—and I have agreement from the parliamentary secretary at the table to do
I would like to say a few words to pay tribute to a retiring senator and colleague of ours Senator Barney Cooney. I thank you, Mr Deputy Speaker, and the Parliamentary Secretary to the Minister for Children and Youth Affairs for your indulgence.

Senator Barney Cooney was elected as a Labor senator from Victoria in the December 1984 election. I was fortunate to be employed as an electorate staff member of Barney’s for a couple of years thereafter. When I returned, as the prodigal son to the fold, in 1993 as the member for Melbourne, I had the good fortune to move into the electorate office of my predecessor, Gerry Hand—an office which was shared with my former employer, Senator Cooney, and which we still share and which he is very soon to vacate.

Barney has been an enormous influence on both my career and my life. He has taught me an enormous amount about how to go about the task of representing people and how to do this in an honourable and diligent fashion. I would like to make a couple of references to his enormous contribution to Australian public life. This contribution started well before he became a member of parliament. For example, Barney laid the foundations for the introduction of the WorkCare scheme in Victoria—which has subsequently become WorkCover—through his report on the former workers compensation regime in Victoria. As a person who had practised as a solicitor under the old regime, I can safely say that some of the crucial aspects of the new regime that were put in place in response to Barney’s report—and remain in place, in spite of a variety of changes and reforms made by subsequent governments, including the Kennett government—were a major step forward for workers in Victoria. They are a tribute to his great contribution and foresight on these issues.

Barney continued to make a very serious contribution on many issues through the Senate committee system. If you look closely at media reports about things like trade practices law, immigration and a whole range of issues, you will often run into major Senate reports where Barney has either chaired the committee or been a major contributor to that process. He has been a great advocate over the years for a number of very important causes, sometimes causes that are not necessarily very popular: for example, civil liberties, the trade union movement and a number of other issues.

He has always been principled, dogged and determined and he has never been diverted from what he sees as the core issues at stake and the principles that should drive an appropriate outcome and approach that is fair to people. He has always been genuine and sincere. I think it is fair to say that there are few better advertisements for the political class than Barney Cooney and few better antidotes for the generally, and unfortunately, low esteem in which politicians are held around the country than for people to know Barney Cooney and to work with him.

He has done many—I suspect it is probably thousands, but certainly hundreds—community visits into many parts of rural Victoria. In particular, as a duty senator he is especially well known in the south-west of the state and has put in an enormous amount of effort and time in assisting underprivileged people in our community. He has done that as a representative not just in a collective sense but also in a personal sense, helping people who front up in his office, talking to them, giving them money in some instances, and generally being very generous with his support, time and assistance. He is a man of enormous decency and great honour. I have often advised young people in the Labor Party who are seeking advice about their future participation in politics that they can do no better than consult Barney Cooney about what the right path forward is for them and what is an appropriate approach.

I say to anybody listening tonight who is interested in politics, particularly people on the Labor side, that, given that politics is full of moral dilemmas and difficult political decisions and choices, if you are in a situation where you are genuinely uncertain about what is the honourable and decent thing to do—what is the right way forward—you could do far worse than seek the counsel of Barney Cooney. I believe he is a genuinely honourable and very decent person who has been able to make a very serious partisan
contribution to political life in Australia in which he has fought hard for the causes that he and the Labor Party believe in, while at all times maintaining his principles, his support for particular moral standpoints and his honour and decency.

I understand that Barney is returning to work in some form as a barrister, no doubt doing some cases for the sorts of people he has represented over the years in his contribution to public life. I wish him very well. He has had an enormous influence on my career. He has taught me a lot about treating people with respect and tolerance and doing my utmost to represent them. I am enormously grateful for the influence he has had on me and for the assistance he has given me. He certainly leaves political life as somebody who can genuinely be described as very widely loved and respected.

On 26 July, I will have the great privilege of hosting a dinner in Melbourne to honour Barney. The indications at this stage are that it will be a very large function indeed. Provided that we can make sure Barney does come—because he is suitably modest and embarrassed about all of this—I am sure it will be an excellent night.

I will now turn to the content of the Higher Education Funding Amendment Bill 2002, which is before the House tonight. This legislation updates indexation arrangements and HECS arrangements in the Higher Education Funding Act and the Australian Research Council Act. It also does a variety of other things, including extending access through the Postgraduate Education Loans Scheme to a number of private universities and colleges.

The legislation raises broader issues about the organisation and funding of the higher education sector and presents a number of points that are related to the broader challenges that face our society with regard to higher education and dealing with the crisis that is gradually unfolding in Australia’s higher education system. What we are seeing is the medium-term outcome of a prolonged period of structural economic change in our society. We have seen a rapid decline in the numbers of unskilled and low skilled manual and clerical jobs in the work force. These jobs have been replaced with ever increasing rapidity by jobs that require a greater level of training—in many or perhaps most cases, training and education at the higher education level. In particular, we have seen the replacement of these jobs with more and more jobs that are based on mental skills, relational skills and organisational skills, which require more training and more education and place an ever increasing demand on our higher education system.

The critical change that has occurred in higher education in the past 20 or 25 years in Australia—and, indeed, in the rest of the developed world—has been a massive expansion in demand. I started university in Melbourne in 1974. I was fortunate to be a part of the very first intake that paid no fees and had the benefit of the then Tertiary Education Assistance Scheme, which was subsequently changed to the Austudy scheme. I was part of a pretty small group—a relatively small percentage of the total age group in the community and a very small percentage of the total society. In fact, since 1970 the percentage of the population who are in higher education has virtually doubled, from 1.6 per cent to 3.1 per cent.

Since the 1970s we have seen waves of change. There has been a huge expansion of the CAE sector. Reforms in the 1980s, under the Hawke government and pursued by John Dawkins, led to the merging of the university and CAE sectors. There have been huge increases in the numbers of students. I will give you an illustration of how the demand has been pushing up more and more against the ceiling of public funding capacity. Between 1983 and 1996, higher education funding under the Labor government increased by roughly 40 per cent in real terms, but the increase in the numbers of students was very much greater than that. Funding for Austudy over that period increased from somewhere below $200 million to almost $1 billion—there was more than a fivefold increase in payments for student assistance over that period of the Hawke and Keating governments. In the period from 1970 until now, the numbers in higher education have more than trebled in Australia.
The pattern that we are seeing is part of a broader phenomenon that is the real driver of the underlying pressure that has been brought to bear on budgets and the fiscal position of the state throughout the Western world. There is something of a myth that we have seen dramatic change as a result of the Thatcher-Reagan revolution all around the world. There has been some change, yes; but the primary driver of change in budgetary behaviour—in governmental behaviour around the Western world—over the past 10 to 15 years has been the massive increase in demand, with a massive increase in cost, for certain kinds of human activities which are public sector dominated.

Education is the most obvious example. Health and aged care are clearly in the same category. We have seen ever increasing pressure on budgets as a result of the changes that have occurred in the structure of our society. Yes, there have been cutbacks by conservative governments, but these in many respects have only served to slow down the effects of that ever increasing demand. This has been particularly apparent in education.

Labor’s response in government to these pressures was to introduce HECS, with the notion of user-pays for students and built around the concept of equity through a debt, with repayment upon reaching a certain level of income. I was not happy with that at the time but I have subsequently admitted in this place that time has proved me wrong—that, much as it does have some negative aspects, it certainly has been a critical means of financing a much larger higher education system than otherwise would have been the case.

We also have seen an increase in private business involvement in the higher education system through a variety of investment activities—through sponsorship of particular chairs and things of that nature—and the growth of an enormous export sector. Full fee paying overseas students are providing a very important alternative source of funding as well. All of these changes raised issues and generated problems, anomalies and difficulties, but broadly they have enabled the public system and a fair degree of access and equity to be maintained and the huge growth in student numbers to be absorbed. But these strategies have, in a sense, got to a point where it is going to be increasingly difficult to get more and more returns from them, and therefore we have to think more broadly about what the alternative paths ahead may be.

It is interesting to note the comparative figures for the percentage of the Commonwealth budget going, over the years, to higher education. In 1970, it was 2.1 per cent of the Commonwealth budget; in 1975, in the wake of the Whitlam expenditure increases in education, it was 4.9 per cent; in 1995, it was 3.3 per cent; and, by the year 2000, it was down to 2.4 per cent of the Commonwealth budget. In other words, there is clearly a pattern of decline in spending in recent years under the Howard government, and that is being reflected in overcrowding and in poor and second-rate facilities. Only a couple of weeks ago I was, by chance, in the John Medley Building, the Arts South building at Melbourne University, where I spent quite a bit of time when I was a student. I was stunned by how run-down, dilapidated and poorly provided for the building looked. I was stunned by how the physical environment of the building had deteriorated. This reflects the problems that universities are facing in trying to squeeze more and more activity out of fewer and fewer resources. But increasing government funding and increasing government commitment to higher education are only part of the solution. They clearly are a critical part, and Labor went to the last election with a commitment to significantly increase university funding. But clearly we have to do more.

The key objectives we have to continue to focus on are, obviously, to maximise the number of people who have the ability to undertake higher education; to maximise our commitment to research and to the generation and dissemination of new knowledge; to ensure that we have the highest quality facilities and the maximum autonomy for individual universities and, indeed, for the individuals who study, teach and research within them, balanced by the maximum amount of accountability to the taxpayer who is funding and controlling the exercise through gov-
government; and to ensure that we have universal access based on principles of merit and that there is a genuine foundation of equity there so that all Australians who aspire to go to university have a genuine opportunity, an equal opportunity, to do so. Since my time at university, the growth of universities has extended the capacity of the public sector to pay beyond the point where it is able to be maintained and, as a result, we have had the increasing involvement of private money. We now have to search for more lateral solutions to the problems that present themselves with the ever increasing crisis in higher education.

I would like to conclude by suggesting some of the themes that I think will be central to solving these problems, taking Australia forward and ensuring that we have a better higher education system, a more substantial higher education system and a better funded higher education system that produces greater quality outcomes. First, I think it is time we reconsidered the role of the state governments, which still regulate universities and still play an entirely anomalous role through the state government acts of parliament that regulate universities. I think it would be appropriate to consider trying to ensure that we have complete universal Commonwealth regulation of universities. Second, it is time to reconsider the relationship between TAFE and universities—not to do something that would in a sense repeat the absorption of CAEs into the university sector, but certainly to look at issues like funding, like HECS, like curriculum and like the crossover between TAFE and higher education that occurs in some institutions in Victoria—in order to see whether we can get a more rational arrangement that enhances the importance of TAFE, the contribution of TAFE, the status of TAFE and the funding of TAFE, so that we can give greater opportunities to young people right across the board. We need to get some sort of framework to deal with public-private partnerships that enables us to extract more value out of scarce capital. One of the things that has characterised the education sector in Australia—and I am sure in many other countries—is the underutilisation of capital resources: purpose-built facilities that are empty two-thirds of the time and that are underutilised or ultimately not used in the way that was originally intended. Some significant gains have been made on this front, but we still have plenty of room to improve, particularly through multilevel campuses, multiuse facilities and ventures with the private sector that enable maximum use of the scarce capital resources.

We need to get a greater private business contribution into our higher education system—and this is one of the areas in which we lag behind many other parts of the developed world—possibly through tax incentives, possibly through some kind of training guarantee-type arrangement. Whatever it is, it would have to be negotiated with the business community, but there is a clear need for a greater business contribution to the higher education system. We need to accelerate the process of using information technology and all of the possibilities that that entails to enhance our learning capabilities, to enhance the delivery of services and to allow for greater flexibility and greater resource use.

Finally, we have to work out a balance in terms of the benefits of specialisation—which would be particularly important for many regional universities in developing clusters of economic activity in many parts of Australia and which would ensure that particular Australian universities, including some of the major sandstone universities, become world leaders in certain kinds of activity but not necessarily across the board—but at the same time ensure that a large proportion of our universities offer across-the-board, high-quality courses in all of the available disciplines. So there is a very difficult but important balance to be maintained there.

All of these themes are matters that we need to debate and explore. Our society has very big challenges to face in reforming our higher education system. The government has, I think, instincts that the community should regard with serious concern, because there will always be an instinct to favour the better-off individual, the wealthy people—people who can afford it. And as with Gough Whitlam in the 1970s and Bob Hawke in the 1980s, ultimately it is only a Labor government that can do this job: that can ensure that
we have genuine structural and funding reform in higher education and that we provide genuine access and equity for all Australians in that very important role of contributing to our society and to our economy.

Dr WASHER (Moore) (12.37 a.m.)—I take it from the member for Melbourne that there is agreement to the Higher Education Legislation Amendment Bill (No. 2) 2002. The bill contains a number of measures aimed at significantly increasing funding to Australia’s universities. The major measure in the bill is the provision of university funding for the year 2004. The bill also provides for a number of legislative housekeeping measures to update the funding amounts in the Higher Education Funding Act 1988 and the Australian Research Council Act 2001. By significantly increasing university funding the government is demonstrating quite clearly its strong and ongoing commitment to higher education and research. In 2004 universities will receive operating funding through the education, science and training portfolio totalling $6.35 billion, some $480 million more than in 2001.

Our universities are already enjoying a well-earned reputation as key institutions in Australian cultural, social and economic life. They are earning record levels of revenue and providing greater opportunities for students to access higher education in the manner that suits them. There are around 55,000 more full-time equivalent domestic students in our universities than there were in 1995. The universities could not have achieved this impressive record without a firm commitment and strong financial input from the government. That commitment was set out in detail last year when the Prime Minister made the most important set of policy and funding announcements in support of innovation that has ever been made in this country. Innovation is the key to economic growth and prosperity. It is the most important commodity we have. It is simply new ideas. Without it our economy would stagnate and we would be left behind in the increasingly competitive world of science and technology.

Our universities foster and nurture innovation and turn it into practicable, workable technology which we can apply across many fields of manufacturing and industry. This bill implements measures contained in the government’s innovation action plan, Backing Australia’s Ability. It commits an additional $3 billion over five years for science, research and innovation, which includes an additional $1.5 billion for the university sector. The funding comprises an additional $736 million to double the Australian Research Council’s national competitive grant schemes. By doubling the funding available in this area we will ensure that our research base remains strong and internationally competitive. ARC grants cover an enormously wide range of research, and this extra funding will provide a huge boost to directly support groundbreaking research and give our researchers and scientists a competitive advantage.

This funding includes $583 million to build up the research infrastructure in our universities so that scientists and researchers have the specialised equipment they need to develop their ideas. That in turn will help the retention rate of Australian scientists in our universities. It is vital that we provide the right incentives and environment to keep our bright young talent here in Australia. Their ideas will be the building blocks of Australia’s future. In an extremely competitive world where capital and labour are highly mobile, it is essential that we offer the right incentives and opportunities to keep Australian talent at work in our universities to translate ideas into income and jobs at home for Australians.

The bill also contains two measures to streamline the administration of ARC grants and the provision of expert advice from the ARC board. The amendments to the ARC Act will enable the minister to formally approve research grants for a period of four years rather than two years as is currently allowed by the act. This will reduce the amount of paperwork involved in administering grants and provide a much greater level of certainty to grant holders. The amendments will also allow the ARC board to create advisory committees—other than those specifically involving advice on funding allocations—without the approval of the minister, thus streamlining the processes for
the ARC board to acquire expert advice on other matters.

Backing Australia’s Ability also identified the need for a well-educated and skilled work force that would embrace lifelong learning. Having identified that need, the government announced the Postgraduate Education Loans Scheme in 2001. The scheme, which started this year, encourages increasing participation in education and helps Australians build up their existing knowledge and acquire new skills. Another important feature of the scheme is that it ensures that no prospective postgraduate coursework student is prevented from studying by an inability to pay up-front fees. Since this measure was introduced, the trend indicates a 20 per cent increase in postgraduate coursework enrolments. The Higher Education Funding Amendment Bill provides for the extension of the Postgraduate Education Loans Scheme, or PELS, as it is more commonly known. Four additional institutions, all of which are fee paying, are now included in this scheme. This means that some access to postgraduate study loans is provided to students at these institutions, even though the institutions themselves are not eligible for public funding.

All of these measures combine to create an environment that will nurture new talent and encourage innovation and invention, in keeping with our past track record. We do not have to look far to see examples of world-class scientific innovation that have been developed here in Australia. The cochlear implant or bionic ear which I spoke about in the private members’ business debate on Monday was developed at Melbourne University by Professor Graeme Clark. The first mechanical refrigeration plant was developed in Australia back in 1850. The list of Australian inventions is long and impressive and includes the black box flight recorder, the rotary lawn mower, the Wiltshire stay-sharp knife, the IVF freeze-thaw method of storing embryos, and the polymer banknote.

Just recently I read in the Waste Management and Environment magazine of a project that is exciting a great deal of interest around the world. It is a stunningly bold idea that could transform the way we generate electricity. Scientists at the ANU believe that naturally radioactive rocks beneath the earth’s surface could provide an inexhaustible, environmentally friendly power source. Geothermal power stations, fuelled by subterranean radioactive rocks, could generate enough power to supply a large nation. The idea itself is simple. Water is pumped into the hot zone—approximately three kilometres beneath the earth’s surface—where it spreads through a ‘reservoir’ of hot, cracked rocks. It heats up and returns to the earth’s surface as steam, to spin turbines and generate electricity. The water is then recaptured and re-used.

South Australia’s Cooper Basin is the primary focus of research. The geology looks promising and is well researched, thanks to years of exploration and drilling for oil and gas. Building a geothermal power station would be a massive construction project, along the lines of the Snowy River scheme and the North West Shelf, but we have the drive, commitment and innovative talent to make such a project a success. I noticed in the Financial Review yesterday that Geodynamics is now raising money to do just this.

On a much smaller scale, Curtin University in Western Australia is currently getting a lot of national and international attention for its recently unveiled Micro-Cell LNG plant. It is the size of two household refrigerators—remember, refrigeration was invented in Australia—and it fits comfortably on the back of a ute—yet another Australian development. The Micro-Cell unit uses cryogenics, the application of low temperatures, to turn gas into flaked-ice-like particles that are easy to store and transport. The unit can be mounted on the back of a ute or small truck, which means that gas resources in remote locations, far from pipeline infrastructure, can now be accessed. Until now significant volumes of our natural gas resources have been undeliverable because they are locked up in small, isolated deposits and it has been uneconomical to tap into them. But the Micro-Cell unit could change all that.

We have always been a resourceful nation, and now more than ever we must get behind our best and brightest talent so that they can
develop new ideas and technologies to keep Australia at the cutting edge of science and innovation. I am particularly interested in the fields of science and innovation, especially the emerging areas of biotechnology, nanotechnology, molecular microbiology—or genetic engineering, as it used to be known—proteomics and stem cell research, which we are set to debate in August. It is as a result of this interest that I will soon be going on a study tour to the UK and Ireland. During the trip, I will be meeting with scientists at the Babraham Institute in Cambridge, where they specialise in biomedical research and operate a highly successful incubator for business within the research environment.

I will also be meeting with scientists at BioResearch Ireland, based at Trinity College, Dublin. Ireland has an enviable record of commercialising its science and attracting venture capital, and there is probably a lot we can learn from them. The Roslin Institute in Scotland is also on the agenda. Probably the most famous aspect of the Roslin Institute, particularly outside the UK, is Dolly the sheep. The cloning of Dolly was a major breakthrough in genetic engineering in 1997 and has had a major impact on science both in the UK and internationally. Dolly still lives on a farm at Roslin, and I am hoping to visit that farm if possible.

Mr Snowdon—Say hello to Dolly for us!

Dr WASHER—I will say hi to Dolly for you boys! My trip will also include a visit to Newcastle University, where I will be meeting with Professor Ken Snowdon. Ken is an Australian and is Director of the Centre for Nanoscale Science and Technology at the university. Not having met him yet, I cannot say whether he is in the UK because of family reasons or whether he is there because of a fondness for cooler, damper weather. Nonetheless, he is an Australian scientist conducting his research outside of Australia. Of course, Australia’s loss is definitely England’s gain. He tells me via email that his most significant achievement at Newcastle University in the late 1990s was the introduction of an Australian theme pub on the edge of the campus.

For whatever reason, we have lost many good people to universities and private enterprise overseas, and that is not good for Australian research and development unless they return. It is absolutely paramount that we do everything in our power to encourage our scientists and researchers to stay here in Australia. In February 2000, the government and the Business Council of Australia convened the national innovation summit to assess the strengths and weaknesses of Australia’s innovation system and formulate ways to improve performance in this area. The innovation summit report concluded that, while we have done well in the past using ingenuity and natural resources to build a strong and robust economy, we are now at a crossroads. It said:

We are in the midst of a revolution from which a new order is emerging. The solutions of past decades will not suffice in the new knowledge age. Intangible assets—our human and intellectual capacity—are outstripping traditional assets—land, labour and capital—as the drivers of growth. If we are to take the high road, a road of high growth based on the value of our intellectual capital, we need to stimulate, nurture and reward creativity and entrepreneurship.

By providing significant increases in funding to our universities over the coming years, the Higher Education Legislation Amendment Bill (No. 2) 2002 does just that. I commend the bill to the House.

Mr SNOWDON (Lingiari) (12.51 a.m.)—Mr Deputy Speaker, as with the member for Melbourne, I would like to seek your indulgence just briefly to refer to a few of our retiring senators. From the other house, Senators Cooney, Gibbs, McKiernan, Crowley, West and Schacht are departing. I want to briefly endorse the remarks made by the member for Melbourne in relation to Senator Cooney, someone I met when I was first elected to this place in 1987 in the old house. I vividly recall Barney working out strenuously on the boxing bag which was then in the old Parliament House, and he has been a devotee of the gymnasium ever since. But, more than that, he has made a tremendous contribution to the public policy debates in this country, and I want to express my best wishes to him and to thank him for not only his friendship but the service he has given. He has played an important role, something
which the member for Melbourne summarised very aptly.

Senator Gibbs has only been here for six years, and unfortunately she is leaving because of an internecine dispute within the Labor Party in which she effectively got knifed. Unfortunate as that is, we are in the political game and we accept the falls when they come. But Senator Gibbs has been a great advocate for the people of Queensland, someone who worked closely with me and others in this place to ensure that her time here was productive and that she contributed in a very meaningful way in the policy areas with which she was involved. I know that she took her committee work extremely seriously, and I too want to thank her for her contribution.

Senator McKiernan is a close friend, and I want to thank him particularly because of that friendship but I also want to acknowledge the very important role he has played in this place and within the Labor Party forums—either within his own group in the party or within the caucus generally—and to acknowledge the magnificent contribution he has made. He has developed a significant body of expertise, particularly on immigration issues, and he is widely respected for the work which he has done in that area. Jim is no soft touch, it is true; but he is someone who has dignified the parliament with his presence, someone who has ensured that the principles which brought him here stayed at the forefront of his mind, someone who ensured that whenever he spoke out on issues, whether on immigration or any other issue, he did so with the full knowledge that he had contemplated properly the pros and cons of the statements he was about to make. I want to pay a particular tribute to Jim and to say that I will miss his contribution in this place. I will miss his friendship, and I wish him and his wife, Jackie, all the best.

The bill we are referring to this evening, the Higher Education Legislation Amendment Bill (No. 2) 2002, adjusts grants to universities for inflation to reflect revised estimates. The bill also makes technical changes to the Higher Education Funding Act 1988 and the Australian Research Council Act 2001. I do not want to go through the arguments that have been posited previously about this piece of legislation, but I do want to raise some significant questions about the direction of government policy on higher education. The relevant minister is not present, but I am critical and will be critical of what we perceive to be the direction of government policy, which clearly appears to be one in which the onus will be on students to pay more for their higher education, with the very live prospect that we are going to see in the very near future proposals that would require some students, depending on their courses, to accrue debts of $100,000 or $200,000. I think that position is totally unsustainable, and I believe that the bulk of the Australian community will believe that it is unsustainable. It is interesting that, though these proposals have been mooted and are before the government, the government will not immediately disregard them, despite the fact that there are examples of where government ministers and indeed the Prime Minister have made statements indicating that the government would never do the things that it is contemplating now. I refer briefly to a statement of 14 October 1999 in which the Prime Minister said:

The government will not be introducing an American style higher education system ... There will be no $100,000 university fees under this government.

He might be cute and say that that was the last government, but for the government even to be contemplating these sorts of proposals and not dismissing them out of hand says to me a great deal more about the Prime Minister than it does about the public policy issues. Clearly, at that point in 1999 the Prime Minister was prepared to say to the Australian community, ‘Relax; we will not have this American style higher education system. There will be no $100,000 university fees under this government.’

Ask yourself this: why is it that the government is now not prepared to say immediately that it will dismiss once and for all any proposals which even have the scent of appearing to be anything like an American style higher education system, with the possibility of $100,000 university fees? We are seeing the Prime Minister, wearing the badge
of ‘Honest John’, plainly being dishonest. If the Prime Minister and the government were of the view that they were not going to have $100,000 university fees, then they would dismiss the suggestion now. Of course, they have not, and that is a matter of grave concern; I am sure that it is understood by the Australian community as a matter of grave concern to them and their families.

I say that as someone who lives in a regional community, as someone who lives and works in an isolated community where the access to post-school education facilities is minimal at best and where the cost of higher education is magnified because of the need to send students away to university. Parents who live in remote communities are expected to wear the effective cost of sending their children away to university. Under the sorts of proposals that the government is contemplating, these people who are the most disadvantaged educationally in Australia, I would argue—people who live away from the major metropolitan cities who do not have the choice of two, three or four universities and who do not have a choice of courses—are required to travel a great distance from their communities and to suffer the implications of that in terms of the cost of accessing a university education for their children. Of course, the cost is borne by the parents.

It is true that many young people in the Northern Territory, including in Alice Springs where I live, as a result of the costs involved choose to take time off from study after they leave school. Some might argue—and I perhaps have some sympathy for this view—that that is not a bad idea in any event. But the fact of the matter is that the reason that most choose to take a year off after school is to meet the government’s income requirements to get a living away from home allowance. They have to show the government that they have a bank account in excess of $13,000 or $14,000. To do that requires them undertaking full-time work. That does not happen to people who live in Sydney or Melbourne. Most of those students who choose university as their destination after they leave school will have the choice of a number of places to live, and, most importantly, they will not suffer the costs of being required to live a long distance away from their families, and their families will not have to wear the costs. Also, they will have a choice of a number of educational institutions.

I believe that governments of whatever political persuasion have a responsibility to address the educational needs of all Australians, not just some Australians. In this context, if the government introduces these fees, it seems to me only fair that we understand what the possible implications of these fees may be to people who live in regional Australia. They will magnify an already onerous burden. It seems to me that by any measure that is unfair.

On a number of occasions in this chamber since 1988 I have spoken about the deplorable state of the Northern Territory University, but following policies introduced by the Howard government since 1996 things have got worse. I will not restate what I have said in this chamber in the past about the impact of the government’s changes to educational funding since 1996 and what they have meant for the Northern Territory University, but we do know that it has been emasculated. There is a very poor history indeed in terms of the relationship between the Howard government and the Northern Territory University and, therefore, the Northern Territory community. Courses have been cut, staff have been sacked and the university has been effectively downsized in relation to the courses that it can offer.

I ask you, Mr Deputy Speaker, to think about this in the context of my comments about Alice Springs. Alice Springs is roughly 1,500 kilometres from Darwin and 1,800 kilometres from Adelaide. Darwin is some 3½ thousand kilometres from Canberra. If you were a resident of the Darwin community, if you looked to the east and west of Darwin and asked yourself where else would you have the opportunity of sending your child to attend a university, where would it be? The nearest university to Darwin is the James Cook University at Cairns or Townsville or, if you travel to Broome, Notre Dame.

We have an obligation as a nation to ensure that we have a viable university in the
Top End of Australia. We have an obligation to ensure that a full as possible range of choices is available to prospective university students in the Top End of Australia. Unfortunately, the policies of the Howard government to date have sent entirely the wrong signals to the Top End community. Rather than reinforcing the obligation to ensure that the people in remote parts of Australia have access to regional standards of higher education, they have emasculated the university and undermined its propensity to be able to deliver these services. It seems to me that we have to be thinking about that impact and not only what it means for national institutions of higher education but also what it means for the people who live in northern Australia.

I have been somewhat encouraged in recent times by the effort that the minister for education has been making with the new Labor government of the Northern Territory in renegotiating a set of arrangements to improve the shameful level of funding for the Northern Territory University. A great deal of work needs to be done to remedy the situation that has resulted from neglect—the product of Howard government policies since 1996. But I am encouraged by the work that Dr Nelson has undertaken with the new Martin government in the Northern Territory.

I also want to very briefly talk about strategic partnerships in higher education. The Australian National University has an institution which it owns in Darwin called the North Australian Research Unit. It was established in the 1970s and has produced significant research work on issues to do with the Top End of Australia and particularly Indigenous Australians. It was in danger of being closed last year but, after a level of persuasion and discussion with the Australian National University and following the appointment of a new vice-chancellor, Professor Chubb, the university decided to maintain the North Australian Research Unit.

It is significant that the unit has formed a strategic partnership with the Australian Institute of Marine Science from Townsville, and this strategic partnership will provide a positive impetus to the development of a major research capacity out of Darwin in the marine science area. That is something which needs to be applauded. It shows what can be done when two research institutions of national standard—in this case, the pre-eminent research university, the Australian National University, and the Australian Institute of Marine Science—get together.

The other matter I want to talk about is the prospect of the development of the Desert Knowledge Australia project in Central Australia. The Martin government is to be commended for putting education and research in Central Australia back on the agenda. What is being proposed is the development of a cooperative research project around the concept of desert knowledge. This project is being driven largely by the Northern Territory government in concert with the CSIRO. The possibilities which arise from this need to be properly understood. Around 80 per cent of the Australian landmass could be referred to as rangelands. Desert Knowledge Australia has the ability to concentrate intellectual effort on the development of knowledge based industries around the rangelands—in Central Australia in particular, centred in Alice Springs. This is important because it can concentrate the minds of all Australians on what can be done with existing resources and the development of the knowledge which is intrinsic to these communities, whether they are Indigenous communities in Central Australia, pastoralists who live in the Top End of the Northern Territory or people dealing with water conservation, salination issues or other matters. It shows what can be done when these people come together and concentrate their minds.

I am very hopeful that this Desert Knowledge Australia project, and the Desert Knowledge Cooperative Research Centre which is being proposed as part of it, will be funded. If it is funded, it will demonstrate to the world community that Australia has a level of expertise, knowledge and capacity in the area of arid zone research which is unprecedented in the world. It needs to be understood that a large part of the world community is covered by these arid zones. There is enormous potential for income earning from this exercise. I commend the development of this research project to the parliament. I go back to what I said at the outset:
this government has a great deal to answer for. We need to be certain that we will not see the higher education system undermined by stupidity in terms of the development of government policy. We want the government to rule out any prospect that Australian students will be forced to go into debt to the tune of $100,000 or $200,000 because of the stupidity of the Howard government.

Debate (on motion by Fran Bailey) adjourned.

WORKPLACE RELATIONS AMENDMENT (FAIR DISMISSAL) BILL 2002

Consideration of Senate Message

Bill returned from the Senate with amendments.

Ordered that the amendments be considered forthwith.

Senate's amendments—

(1) Schedule 1, page 3 (before line 4), before item 1, insert:

1A Subsection 42(3)
Omit “A party”, substitute “Subject to subsection (3A), a party”.

(2) Schedule 1, page 3 (before line 4), before item 1, insert:

1B After subsection 42(3)
Insert:

(3A) The Commission must not grant leave under subsection (3) to a counsel, solicitor or agent acting for a fee or reward in a conciliation under Subdivision B of Division 3 of Part VIA of this Act unless it is satisfied that it would assist the just and expeditious resolution of the proceeding, having regard to:

the complexity of the proceeding; and
the capacity of another party to the proceeding to secure representation; and
the likely cost of such representation; and
any other matter the Commission considers relevant.

(3) Schedule 1, page 3 (before line 4), before item 1, insert:

1C After section 170CA
Insert:

170CAA Minister to publish information to assist employers and employees

(1) The Minister, in consultation with the relevant Minister of each State and Territory, must publish information, which may include practical examples, to assist employers and employees to comply with this Part.

(2) After publishing information under subsection (1), the Minister must promote the publication in workplaces and make it readily available free of charge.

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

1D Subsection 170CE(3)
Repeal the subsection, substitute:

(3) If:

(a) an employee’s employment has been terminated by the employer; or
(b) more than one employee’s employment has been terminated by the employer at the same time or for related reasons;

a representative of the employee or employees may, on behalf of the employee or employees, apply to the Commission for relief:

(c) on the ground that the termination was harsh, unjust or unreasonable; or
(d) on the ground of an alleged contravention of section 170CK, 170CL, 170CM or 170CN; or
(e) on a ground or on any combination of grounds in paragraph (b), and the ground in paragraph (a).

(5) Schedule 1, item 2, page 3 (lines 7 to 27), omit the item, substitute:

2 Subsection 170CE(6)
Omit “. (3)”.

(6) Schedule 1, item 4, page 4 (lines 29 to 33), omit the item.

(7) Schedule 1, item 5, page 4 (line 34) to page 5 (line 3), omit the item.

(8) Schedule 1, item 6, page 5 (lines 4 to 8), omit the item.

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (1.12 a.m.)—I move:

That the amendments be disagreed to.

I do not wish to detain the House for very long at this hour because this matter will
have to go back to the Senate and then come back here, and I really would like the House to get away as quickly as it can, given the procedural requirements that we have to go through. I appreciate that the opposition has tried to engage constructively on the subject of unfair dismissal. There are some amendments that were made in the Senate which I think the government would be happy to consider at a later time but not with this bill. This bill is designed to give effect to the government’s clear election commitment to entirely exempt small business from the operation of the unfair dismissal law. This is a commitment that we took to the 1998 election; it is a commitment we took to the 2001 election. We believe we have a mandate for it. We believe that we must keep faith with small business by putting this exemption, as is, to the vote. That is what we need to do now and that is what we wish to do in the Senate again later this evening.

Mr McCLELLAND (Barton) (1.13 a.m.)—The opposition is moving that we indeed accede to the request by the Senate to accept the amendments. We think the amendments are of substance and have been debated in the Senate from the point of view of a constructive exercise. Fundamentally, we recognise that the government wants the fair dismissal bill to be rejected as a double dissolution trigger. We accept that, but after that is done we would like to engage in constructive debate.

We genuinely believe that the exemption contemplated by the bill is poor policy. Why do we say that? Because it is dependent upon an arbitrary figure of 20 employees or fewer. How do you work out when there is a casual employee or part-time employee and whether the business is fractured into departments or not? That is very difficult. We think that it will only apply to some employers, contrary to what has been said by, in particular, the Minister for Small Business and Tourism that it would apply to mums and dads. I do not think he used the expression ‘mums and dads’ but that was the connotation. It will not apply to businesses run by mums or dads because it will apply only to corporations, and then only to corporations that are covered by a federal award—in our calculations, about 25 to 30 per cent of employers. That necessarily means that 70 per cent will not be and will still be covered by state awards. Moving to the next point, that necessarily means that in many instances there will be workers working side by side under two different sets of conditions, one being the federal award and one being the state system. Given the words ‘in a manufacturing centre’, manufacturing employees will be employed under a federal award—most likely the metal industry award, for instance—and the clerical staff will be employed under a state award—two different sets of rights. That is simply poor policy.

What we have proposed would uphold the concept of a fair go, which we think over the last two decades has actually served more of an educative function than a regulatory function—that is, before people sack someone they think that person is entitled to a fair go. If the person is about to be sacked for misconduct, you tell the person what you are alleging against them. If they are about to be sacked because of poor performance, then before you sack them you give them the opportunity to improve themselves. If you are sacking them because of the operational requirements of the business, you say, ‘Listen, we have problems here; this is what we think we have to do because of operational requirements,’ and you give them the opportunity to have a say. That is all that the concept of a fair go means, and that is why one of the amendments passed by the Senate proposes the publication of guidelines with practical examples of these simple aspects that take away the anxiety, the apprehension that is out there.

Having said all these things, we do recognise the argument that small business has advanced—one that we, the government and the Democrats have heard—that there is a need for simplification of procedures and for removing costs, and that is why we have proposed removing lawyers and paid agents from the conciliation stage of the proceedings. Bear in mind that after the conciliation stage the commission are required to give a certificate that they think an action is of substance before it goes to arbitration, so, under our amendments, it would only be where
actions have been stamped as having some substance that lawyers would be involved in the equation. Finally, in respect of these proposals we have also suggested the need for class actions in instances where there are mass dismissals quite frequently arising from industrial disputation, simply from the point of view of facilitating the resolution of those matters.

We have moved our amendments in good faith. I appreciate the minister’s comments that he will take them on board. We note that this issue has had a high amount of political charge to it. We note that it was the first bill on the first business day of the new term at 9.30 a.m. I suspect we always knew it was going to be left there for a possible double dissolution trigger. We have got all of that nonsense out of the way, and I hope, subsequent to that, the government will look at the constructive propositions that we have advanced and will continue to advance.

Mr Latham—Mr Deputy Speaker—

The DEPUTY SPEAKER (Mr Jenkins)—I call the minister.

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (1.19 a.m.)—I move:

That the question be now put.

Mr Latham—Mr Deputy Speaker, I rise on a point of order: I clearly had the call in that I rose before the minister, and I am entitled to make my contribution to this debate.

The DEPUTY SPEAKER—Order! The member for Werriwa has made his point of order. The member for Werriwa will resume his seat.

Mr Latham—Mr Deputy Speaker—

The DEPUTY SPEAKER—The member for Werriwa will resume his seat.

Mr Latham interjecting—

The DEPUTY SPEAKER—The honourable member will resume his seat. As is the usual course of action, the chair has looked to either side of the chamber, the minister has risen and I have given the minister the call. The question is that the question be now put.

Question put.

The House divided. [1.24 a.m.]

(The Deputy Speaker—Mr Jenkins)

Ayes…………… 75
Noes…………… 61
Majority……….. 14

AYES

Abbott, A.J. Anderson, J.D.
Andrew, J.N. Anthony, L.J.
Bailey, F.E. Baird, B.G.
Baldwin, R.C. Barresi, P.A.
Bartlett, K.J. Billson, B.F.
Bishop, J.J. Brough, M.T.
Cadman, A.G. Cameron, R.A.
Causley, I.R. Ciobo, S.M.
Cobb, J.K. Costello, P.H.
Downer, A.J.G. Dutton, P.C.
Elson, K.S. Entsch, W.G.
Farmer, P.F. Forrest, J.A. *
Gallus, C.A. Gambaro, T.
Gash, J. Georgiou, P.
Haase, B.W. Hardgrave, G.D.
Hartsuyker, L. Hawker, D.F.M.
Hockey, J.B. Hull, K.E.
Hunt, G.A. Johnson, M.A.
Jull, D.F. Kelly, D.M.
Kemp, D.A. King, P.E.
Ley, S.P. Lindsay, P.J.
Lloyd, J.E. Macfarlane, I.E.
May, M.A. McArthur, S. *
McGauran, P.J. Moylan, J. E.
Nairn, G. R. Nelson, B.J.
Neville, P.C. Panopoulos, S.
Pearce, C.J. Pyne, C.
Randall, D.J. Ruddock, P.M.
Schultz, A. Scott, B.C.
Secker, P.D. Slipper, P.N.
Smith, A.D.H. Somlyay, A.M.
Southcott, A.J. Stone, S.N.
Thompson, C.P. Ticehurst, K.V.
Tollner, D.W. Truss, W.E.
Tuckey, C.W. Vale, D.S.
Wakelin, B.H. Washer, M.J.
Williams, D.R. Windsor, A.H.C.
Worth, P.M.

NOES

Adams, D.G.H. Albanese, A.N.
Beazley, K.C. Bevis, A.R.
Brereton, L.J. Byrne, A.M.
Cox, D.A. Crean, S.F.
Crosio, J.A. Danby, M. *
Edwards, G.J. Ellis, A.L.
Emerson, C.A. Evans, M.J.
Question agreed to.

Question put:
That the motion (Mr Abbott’s) be agreed to.

The House divided. [1.32 a.m.]

(The Deputy Speaker—Mr Jenkins)

Ayes............. 76
Noes............. 61
Majority.......... 15

AYES

Abbott, A.J.
Andrews, K.J.
Bailey, F.E.
Baldwin, R.C.
Bartlett, K.J.
Bishop, J.J.
Cadamman, A.G.
Causley, I.R.
Cobb, J.K.
Downer, A.J.G.
Dutton, P.C.
Entsch, W.G.
Forrest, J.A.*
Gambaro, T.
Georgiou, P.
Hardgrave, G.D.
Hawker, D.P.M.
Hull, K.E.
Johnson, M.A.
Kelly, D.M.
King, P.E.
Lindsay, P.J.
Macfarlane, I.E.
McArthur, S.*
Moylan, J. E.
Nelson, B.J.
Panopoulos, S.
Pyne, C.
Ruddock, P.M.
Scott, B.C.
Slipper, P.N.
Somlyay, A.M.
Stone, S.N.
Ticehurst, K.V.
Truss, W.E.
Vale, D.S.
Washer, M.J.
Windsor, A.H.C.

NOES

Adams, D.G.H.
Beazley, K.C.
Breton, L.J.
Cox, D.A.
Crosio, J.A.
Edwards, G.J.
Emerson, C.A.
Ferguson, L.D.T.
Fitzgibbon, J.A.
Gibbons, S.W.
Grierson, S.J.
Hall, J.G.
Hoare, K.J.
Jackson, S.M.
King, C.F.
Lawrence, C.M.
Macklin, J.L.
McClelland, R.B.
Melham, D.
Murphy, J. P.
O’Connor, G.M.
Plibersek, T.
Quick, H.V.*
Roxon, N.L.
Sciacca, C.A.
Sidebottom, P.S.
Snowdon, W.E.
Tanner, L.
Vamvakou, M.
Zahra, C.J.

* denotes teller

Question agreed to.
Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (1.33 a.m.)—I present the reasons for the House disagreeing to the Senate amendments and I move:

That the reasons be adopted.

Question put:
The House divided. [1.34 a.m.]

(The Deputy Speaker—Mr Jenkins)

Ayes............. 78
Noes............. 61
Majority......... 17

AYES

Abbott, A.J. Anderson, J.D.
Andrews, K.J. Anthony, L.J.
Bailey, F.E. Baird, B.G.
Baldwin, R.C. Barresi, P.A.
Bartlett, K.J. Billson, B.F.
Bishop, B.K. Bishop, J.I.
Brough, M.T. Cadman, A.G.
Cameron, R.A. Causley, J.R.
Cibbo, S.M. Cobb, J.K.
Costello, P.H. Downer, A.I.G.
Draper, P. Dutton, P.C.
Elson, K.S. Entsch, W.G.
Farmer, P.F. Forrest, J.A. *
Gallus, C.A. Gambaro, T.
Gash, J. Georgiou, P.
Haase, B.W. Hardgrave, G.D.
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Hockey, J.B. Hull, K.E.
Hunt, G.A. Johnson, M.A.
Jull, D.F. King, C.F.
Kemp, D.A. Latham, M.W.
Ley, S.P. Lawrence, C.M.
Lloyd, J.E. Macklin, J.L.
May, M.A. McClelland, R.B.
McGauran, P.J. McLeay, L.B.
Nairn, G. R. Melham, D.
Neville, P.C. Murphy, J. P.
Pearce, C.J. O’Connor, G.M.
Pyne, C. Pibersek, T.
Ruddock, P.M. Quick, H.V. *
Scott, B.C. Roxon, N.L.
Slipper, P.N. Sciacca, C.A.
Somlyay, A.M. Sidebottom, P.S.
Stone, S.N. Snowdon, W.E.
Truss, W.E. Tanner, L.
Vale, D.S. Vamvakinou, M.
Washer, M.J. Zahra, C.J.

NOES

Adams, D.G.H. Albanese, A.N.
Beazley, K.C. Bevis, A.R.
Bereton, L.J. Byrne, A.M.
Cox, D.A. Crean, S.F.
Crosio, J.A. Danby, M. *
Edwards, G.J. Ellis, A.L.
Emerson, C.A. Evans, M.J.
Ferguson, L.D.T. Ferguson, M.J.
Fitzgibbon, J.A. George, J.
Gibbons, S.W. Gillard, J.E.
Grierson, S.J. Griffin, A.P.
Hall, J.G. Hatton, M.J.
Hoare, K.J. Irwin, J.
Jackson, S.M. Kerr, D.J.C.
King, C.F. Latham, M.W.
Lawrence, C.M. Livermore, K.F.
Macklin, J.L. Martin, S.P.
McClelland, R.B. McFarlane, J.S.
McLeay, L.B. McMullan, R.F.
Melham, D. Mossfield, F.W.
Murphy, J. P. O’Byrne, M.A.
O’Connor, G.M. O’Connor, B.P.
Pibersek, T. Price, L.R.S.
Quick, H.V. * Ripoll, B.F.
Roxon, N.L. Rudd, K.M.
Sciacca, C.A. Sercombe, R.C.G.
Sidebottom, P.S. Smith, S.F.
Snowdon, W.E. Swan, W.M.
Tanner, L. Thomson, K.J.
Vamvakinou, M. Wilkie, K.

* denotes teller

Question agreed to.

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (1.36 a.m.)—On indulgence and for the information of members, in order to satisfy the technical requirements for a rejection, should that be what happens in another place, it is now necessary for this matter to go back to the Senate and to come back here. I am afraid there is still some time to go. If people opposite wish to leave, they can, but if they regard this as an important matter they should hang around for some time yet.

HIGHER EDUCATION FUNDING AMENDMENT BILL 2002

Cognate bill:
MRS MAY—It was. I am just about to tell you about that. Founded in 1987, Bond University was the vision of Alan Bond and is a tribute to his foresight. His farsightedness has left an enduring legacy for the Gold Coast, a legacy that will continue to grow from strength to strength over the years and provide a wonderful tertiary facility for Australian and international students.

The original joint venture partners of Bond University, Bond Corporation and EIE International Corporation, oversaw the purchase of the land, the building of the sandstone-clad buildings and the development of the magnificent grounds. The main cluster of buildings is very distinctive and a well-known landmark in my electorate. Teaching on the campus began in 1989, with 322 young people gathered on the mud-caked unfinished site. The university has a chequered history, overcoming difficult circumstances, including the financial collapse of its founders and the uncertainty associated with the issue of tenure. Today, the university is a Gold Coast City icon and is recognised as a truly focused student university with a reputation of excellence in teaching. The university consists of five academic units: the schools of business, humanities and social sciences, information technology, law, and the institute of health sciences. It attracts almost 50 per cent of its students from overseas, from countries such as the People’s Republic of China, the United Kingdom, Sweden, South Korea, Hong Kong, the United States, Thailand, Singapore, Japan, Taiwan, Norway and Indonesia.

The Bond University campus is situated next to Lake Orr, in the Burleigh forest area in the suburb known as Robina, adjacent to the suburb of Varsity Lakes. Varsity Lakes is the centre of an educational hub ranging from state-of-the-art primary and secondary education facilities through to the tertiary education at Bond University.

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Thursday, 27 June 2002

The DEPUTY SPEAKER (Hon. I.R. Causley)—Resume your seat. Quorum required; ring the bells. The member for Werriwa will remember that during a quorum order is still required. (Quorum formed)

Mrs MAY—I thank my colleagues, once again, for joining me in the chamber tonight.

Mr Latham—Mr Deputy Speaker, I rise on a point of order. I draw your attention to the unparliamentary remark by the member for Canning and I require a withdrawal.

**Government members interjecting**

Mr Latham—You are led by a coward.

The DEPUTY SPEAKER—The member for Werriwa will be removed from the chamber if he continues with those types of remarks.

Fran Bailey—Mr Deputy Speaker, I rise on a point of order. I have been very restrained in not requiring the member for Werriwa to refrain from making the comments that he has. In the spirit of this place and at this time of the morning—

The DEPUTY SPEAKER—What is the point of order?

Fran Bailey—My point of order is that I think there should be more generosity of spirit in this place—

The DEPUTY SPEAKER—I am sorry, but that is not a point of order.

Mrs MAY—As I was saying, Bond University has been built in the suburb of Robina. Residents can live and work at Varsity Lakes. The expansion of the existing commercial, technology—

Mrs Crosio—Mr Deputy Speaker, I rise on a point of order. Under standing order 58, those members who come into the House are to take their seats.

The DEPUTY SPEAKER—that is a fairly pedantic point of order. Members will take their seats.

Mrs Crosio—Further to the point of order, Mr Deputy Speaker—

The DEPUTY SPEAKER—The member for Corio!

Mrs Crosio—It is Prospect! If you can’t see me, at least get the right name.

The DEPUTY SPEAKER—I can’t miss you!

Mrs Crosio—Thank you, Mr Deputy Speaker.

Opposition members interjecting—

Mrs Crosio—We just thought you would like to have a little more volume turned up so we know what condition you are in. But for your benefit, Mr Deputy Speaker—

The DEPUTY SPEAKER—The member for Prospect will resume her seat or be removed!

Mrs MAY—as I was saying, residents can work and live at Varsity Lakes and the expansion of the existing commercial, technology and research precinct creates a leading edge business community featuring state-of-the-art communication and data transfer facilities. The precinct attracts a strong representation of companies in the IT sector, including an IT incubator that was funded by the federal government.

For students with English as a second language, Bond is justifiably seen as a preferred alternative to study in the UK, US or other English-speaking nations. Thirteen years on, all of the people involved with Bond University have to be congratulated on their steadfast belief in Bond as a private institution. The last two years have seen Bond University post a profit. To Vice-Chancellor, Professor Ken Moors, and his team, my warm congratulations to you all on your success in making Bond a world-class institution.

The extension of PELS to Bond University, the Melbourne College of Divinity, the Christian Heritage College and Tabor College extends opportunities for students to undertake fee-paying postgraduate course work. It means more Australians than ever before are given the opportunity to upgrade their learning and acquire new skills. This measure will help increase student choice and access to higher education and provide assistance in further addressing barriers to investment in education, training and skills development. The Postgraduate Education Loans Scheme was introduced earlier this year and therefore data is scarce, but the trend seems to be that postgraduate study has increased by approximately 20 per cent com-
pared to last year, part of the increase attributed to PELS.

The Higher Education Funding Amendment Bill 2002 also updates the funding amounts provided for in the Higher Education Legislation Amendment Bill (No. 2) 2002, currently before the House. In so doing, additional funding is provided for the establishment of a graduate diploma in environment and planning at the University of Tasmania and six associated scholarships. The third measure in the bill flows from the changes made in the government’s research and research training policy, Knowledge and innovation. The bill adjusts funding levels in the Higher Education Funding Act to permit the Institute of Advanced Studies at the Australian National University to access the research schemes of the Australian Research Council and the National Health and Medical Research Council. Legislation last year allowed for access in 2002. This bill legislates for access in 2003 and 2004. The measures contained in this bill have positive implications for the Australian community. I commend the bill to the House and thank my colleagues for joining me in the chamber.

Mr HATTON (Blaxland) (1.51 a.m.)—I note that it is late in the night or early in the morning, and one could expect members to speak for 20 minutes or so on a bill of this significance and I will do my best to do that. Higher education under this government has effectively fallen by the wayside when you take into account the fact that the first minister, Dr Kemp, spent most of his time as minister, almost on a daily basis, berating this parliament about literacy and numeracy standards. He had very little concern for, and hardly concentrated on, higher education as such or on what was happening in the TAFE area, apart from propagandising and berating about New Apprenticeships and what was happening in literacy and numeracy. We did not see much else of substance from him, apart from a quite wonderful juggling act in terms of the numbers involved in the higher education debate. Obviously Dr Kemp thought that it was important to approach what was happening in higher education from that point of view. Unfortunately we have already seen evidence with the new minister that the same kind of propagandising approach is going to be taken.

Some fundamental problems are deeply embedded within the higher education system. I do not think that any government yet has tried to deal with them adequately. I want to spend a few moments considering the question of literacy and numeracy, as it has had a compounding effect over two decades or more now. That compounded effect has occurred in the infants, primary and secondary schools and then in higher education, at both TAFE and university levels. It has happened because more than two decades ago one of the educational fashions that ripped its way through Australia was the notion that you could simply get rid of phonics and, in its place, you could bring forward 10 or 15 different ways of teaching children how to read.

I do not share the philosophical approach of President Bush, a Republican president; but seemingly because he was influenced by his wife, a librarian, one of the most important things he has done in his first period as president is to legislate that children must be taught through the phonics method in every school in the United States. By and large, most Australian schools have returned to that. That is important for the future, because real literacy has been under attack for decades because people chose very unscientific approaches to teaching reading at the fundamental levels in infants school.

The compounded effect of that attack is that, whereas in the past Australians were rightly proud of our education system and proud of the fact that we could export that education system around the world and bring students in to benefit from it, there are a number of structural problems in that system. One of those structural problems relates to the fact that we have had effective illiteracy over a couple of decades, and not only within the school system. As it has gone on, it has burned its way into teacher education and into almost all parts of the curriculum.

The effect of that is felt in the higher education area, where people teaching first-year students have the problem that they have to confront the lack of literacy and lack of capacity to deal with the language, not only in
students of subjects where you might expect there to be less concentration on such things—for example, in mathematics, the sciences, engineering and some of the social sciences, such as geography and commerce—but also in students studying subjects that should be based on a strong literacy standard, such as English, history and so on. That fundamental problem has been created because the wrong direction was taken. Where we had an extremely exportable education system, there is now a fundamental problem at its base.

It has not helped that, during his period as education minister, all Dr Kemp could do was propagandise about it and try to make political capital out of the fact that there was a problem in Australia. We need to have a government that will seek to redress the wrongs done in the past and address the problems of teacher education development, in particular in regard to the literacy problems of current teachers. Given the fact that they have been hamstrung by this over the past 20 years or so, that compounding effect has led to the point where we have people teaching literacy skills in schools who are not literate themselves. We have seen enough evidence on the floor of this parliament to know some of the problems that have occurred over the past two or three decades.

More broadly, the Higher Education Funding Amendment Bill 2002 covers, in part, the Catholic University. It does so because of the way in which Commonwealth funding has been restructured over the years. In 1974, the Commonwealth assumed full financial responsibility for higher education. At that stage, there were 13 non-government teachers’ colleges around Australia, 11 of which were Catholic. One of the chief colleges was run by the De La Salle order at Oakhill College in the scholasticate. People who intended to be De La Salle brothers, after having gone to De La Salle Cronulla, to the juniorate, or after coming through the novitiate at Burradoo, would start their educational studies in teacher education at Oakhill College in the scholasticate, where they were under the direction of Brother Ambrose Payne, who ran the curriculum at Oakhill College for many years and established a reputation as one of the greatest educators in New South Wales. He is currently the principal at Lasalle Catholic College, which was formerly Benilde College and which combined with my old years 7 to 10 school of Bankstown De La Salle with Benilde High. He was effectively the founding principal of the new Lasalle Catholic College.

Brother Ambrose Payne should have been the person to run the Australian Catholic University because of his capacity and because, over the years, for virtually 2½ decades, he drove not only the amalgamation of the teachers’ colleges but also the curricula and the innovations that were made to build a stronger education sector so that teachers who chose to be educated at the Australian Catholic University could have the strongest foundation possible to enable them to go into the Catholic school system well trained and well prepared to do the best job they could to look after those people in their charge. I would like to commend Brother Ambrose for the fabulous job that he is doing at Lasalle Catholic College now, and also for being a pioneer in Catholic education, a pioneer who actually laid the foundations for the strength of the Australian Catholic University that provides not only Catholic teachers but people in a series of different professions because the university system is now much wider than it was.

I want to note the extension of the Postgraduate Education Loans Scheme. It has been pointed out by a number of members of the government and also by members of the opposition in this debate that that is effectively an extension to the postgraduate area of the Higher Education Contributions Scheme. It applies to people doing coursework in the postgraduate area. That essentially means that where a person otherwise would not have been able to undertake postgraduate study because they were impecunious, that person is able to take out a loan, the loan to be repaid as and when the person is in a position to repay that loan, possibly over a number of years, as is the case with people under HECS. This is an important measure because for many years now, particularly in recent years, as the HECS has been restructured we have noted that there are some sig-
significant problems in terms of the incentives provided for people to take on a science education and go into careers based on science because under HECS there is a higher relative amount of money that they are required to pay. That is the case for lawyers, doctors, people in the engineering profession and so on. The central argument is that if it costs more to run those courses then those people should be paying back more in HECS fees over time.

The other argument in that regard is that we have needs in particular areas of expertise in almost all of the sciences. As Dr Washer, the member for Moore, pointed out, in the biological sciences we need people who are as well prepared as possible because that science is one of the key drivers of our future prosperity. Not only do we need people to be smart, well trained and effectively allowed to become strong professionals; we also need to ensure that the capacity is there for them to sustain and increase their knowledge through a number of different programs. As an undergraduate you cannot just expect that that will be it at the end of your course. Increasingly we have seen, because of economic pressures and the increased financial demands of this government—and the fact that people have not been able to access it properly—that not enough people have been doing higher degree courses, whether by coursework or by research. In some areas that in fact has been the case, but in other areas there has been a great deficiency.

The PELS and the extension of it should actually have the effect that more people will be able to enter postgraduate studies and pursue those effectively, and to have that broaden out from primarily the teaching profession. If you go back 10 or 15 years, the great driver in the teaching profession was for people who were three-year trained to go on and undertake further education so they could convert that into full four-year trained status. At that time we had the fine situation that they were the key people going forward, trying to get a better grounding and a better understanding of where they were at, and a greater degree of professionalism. The problem existed, though, that it needed to be broadened. Every way in which we can provide more incentives for people to add to their professional capacity and their qualifications should be sought out. Given the late hour, in spite of what I said about Mrs May, I understand that this debate needs to be sped up a little bit, so I will finish my contribution at this point.

Mr PEARCE (Aston) (2.05 a.m.)—The coalition has a proud record in education, and in particular in higher education. Since coming to office in 1996, the Howard government has achieved much to improve the educational opportunities for young—indeed all—Australians. The diligence of this government in developing comprehensive and effective policies for Australia’s education system is in stark contrast to that of Labor, who are yet to define a real policy in any particular area. I think it is important during this debate on the Higher Education Funding Amendment Bill 2002 that all members, and in particular those—(Quorum formed) As I was saying, I think it is important during this debate that all members, and particularly those members in the opposition, bear in mind what it is that we are working towards. It is all about creating an environment that encourages investment in the education and training of young Australians. It is about updating the skills and knowledge of the workforce, and it is about generating knowledge through research and translating these ideas into economic activity that benefits all Australians. Most importantly, it is about ensuring that Australia, and tertiary qualified Australians, remain at the leading edge of the global marketplace. Mr Speaker, as you know, this government has instituted a very thorough debate about education in this country. Our minister, the Hon. Brendan Nelson, has released a series of discussion papers. One of the new discussion papers is called—

Mr Latham—Mr Speaker, I rise on a point of order. I submit to you that it somewhat lowers the tone of the House to have members looking more like football players than parliamentarians.

The SPEAKER—The member for Werriwa will resume his seat.

Mr PEARCE—The latest discussion paper, entitled Striving for quality, makes a
very strong point which I want to reinforce
and which members need to bear in mind:
public funds are invested in higher education
institutions to ensure that students are edu-
cated to lead rewarding lives and to contrib-
ute to Australia’s continued economic and
cultural development. That is the nub of this
argument. It is all about investing public
funds into higher education to help develop
our young people for the prosperity of this
country. We are talking about two very great
and positive bills. Unfortunately, I walked
into the House and saw that the opposition
had moved an amendment which talks about
condemning the government for ‘its shame-
ful neglect of public universities in Austra-
lia’. I remind the opposition that we, the
Howard government, have deployed record
levels of funding into universities in Austra-
lia. The amendment talks about increasing
the financial burden on students, yet here we
are debating a bill that extends the post-
graduate loans scheme. It talks about pre-
empting the review of higher education by
introducing these bills. We are the govern-
ment. The people of Australia expect us to
govern. They do not expect us to stop and do
nothing just because there is a review going
on. We can conduct a review, have a debate
and continue to govern.

These bills represent another demonstra-
tion of the coalition’s commitment to
achieving these goals. These bills provide
funding increases and streamlined adminis-
trative requirements on institutions, improve
the operation of the Australian Research
Council and their grants, extend the Post-
graduate Education Loans Scheme and give
the Institute of Advanced Studies greater
access to research grants. They are all very
positive initiatives. All that they will do is
help students throughout Australia. A major
measure of these bills is to provide funding
for universities in 2004, the final year of the
current funding triennium. In 2004, universi-
ties will receive total operating funding of
some $6.35 billion through the Education,
Science and Training portfolio. This is
around $480 million more than in 2001.
These bills put in place the next stage of the
coalition’s innovation action plan, Backing
Australia’s Ability, and provide an additional
$1.5 billion for science, research and inno-
vation.

I know that my colleagues on this side of
the House think that Backing Australia’s
Ability is one of the most important things
that we should be doing as a government. It
is a great program. It is about backing Aus-
tralia’s ability. That is what we are here to
do. That is what governments are expected to
do—they are expected to back Australia’s
ability. What we are trying to do through
these bills is simply encourage people into
higher education and provide loans to them
so that we can back Australia’s ability.
Backing Australia’s Ability was launched in
January last year. This program outlines the
steps in the coalition’s five-year strategy for
encouraging and supporting innovation and
research. The funding includes an additional
$736 million for the doubling of the Austra-
lian Research Council’s national competitive
grant schemes. It is important to note that the
coalition have already invested heavily in
improving the outcomes of the Australian
Research Council by restructuring and
strengthening the council through the Aus-
tralian Research Council Act 2001. It in-
cludes an extra $583 million to build up the
research infrastructure in our universities and
an extra $151 million over five years for ad-
ditional student places in the priority areas of
information and communications technology,
mathematics and science.

These bills update the funding levels in
the Higher Education Funding Act 1988 and
the Australian Research Council Act 2001 in
line with indexation arrangements, revised
estimates for HECS, the Commonwealth
superannuation liability and the repayment of
an advanced operating grant to Adelaide
University. In addition, these bills provide
access for the Institute of Advanced Studies
of the Australian National University to ac-
cess the Australian Research Council and
National Health and Medical Research
Council grants. This is an important step in
the government’s efforts to create a more
focused and more responsive education and
research system. The measure will open up
the institute to the discipline of competition
while maintaining its special place in the
system.
This new legislation will reduce the compliance burden on universities in relation to the accountability of Commonwealth funding by replacing the varied acquittal requirements of different grants with a single consistent provision applying to all funds provided under the act. The requirement for institutions to send a notice of liability to overseas fee-paying students will be removed under the bill also. This requirement does not apply to domestic fee payers, and the government believes that this is an administrative decision that should be left to each individual institution.

These bills streamline the administration of the ARC grants by enabling the minister to formally approve research grants for a period of four years rather than the current two years. This will deliver a significant saving on paperwork for researchers and the government, and will give researchers welcome certainty about their funding. Under these proposals the Australian Research Council board will also be able to create advisory committees, except those specifically involved in advice on funding allocations without ministerial approval, to help streamline the process of acquiring expert advice on other matters.

As I said earlier, these are positive bills; they have positive initiatives that are going to assist the higher education sector. Furthermore, the bills also make minor technical amendments to two sections of the Higher Education Funding Act to reflect changes in taxation legislation. These bills provide for the extension of the very important Postgraduate Education Loans Scheme to four additional institutions—Bond University, the Melbourne College of Divinity, Tabor College and the Christian Heritage College. I want to stress that this extension of the scheme will ensure that more Australians than ever before are given the opportunity to upgrade their learning and acquire new skills—a great positive initiative. This means that these four institutions can provide prospective students with the opportunity to undertake fee-paying postgraduate courses with access to study loans. In fact, it is estimated that this initiative will mean that loans of around $18.7 million over four years will be made available to some 2,000 students. It is important to note that these four institutions will not receive operating funding under this bill. The only funds flowing through will be loans for the tuition fees of their postgraduate non-research students who want to take up a loan.

In line with honouring a coalition election promise, this legislation provides additional funding for the establishment of a graduate diploma in environment and planning at the University of Tasmania, with six associated scholarships—again, a wonderful new positive initiative. The new course will help address the growing demand in Tasmania for appropriately qualified planners with expertise in integrated social, economic and environmental planning. This educational initiative also reflects the coalition’s commitment to delivering practical measures for preserving and enhancing our natural environment.

It is disappointing that the opposition does not see these as positive moves. We are all about getting on with the job. The coalition has helped to grow Australia’s higher education sector. Revenues are at record levels. This year they will be an estimated $10.4 billion, and they are continuing to grow. That means that this year universities will receive around $2 billion more than they did in 1995, Labor’s last year in office.

Government member—How much was that?

Mr PEARCE—That is $2 billion more than they received in 1995, when Labor was last in office. Higher education participation is also at record levels and increasing. In fact, there are now around 55,000 more full-time equivalent domestic students in our universities than there were in 1995, when Labor was last in government. Importantly, graduate satisfaction is at record levels. Graduate employment outcomes continue to improve in line with what the Howard coalition government has done to place Australia’s economy amongst the leading economies of the developed countries of the world.

The aspirations of young Australians are as diverse as their talents and abilities. The Howard government is committed to ensuring that all Australians have access to a pro-
fessional and innovative educational system—a system which continues to enjoy an impressive international reputation. These bills are about higher education; they are about educating our young people in Australia. They are important bills; they have positive initiatives in them. Quite simply, these two bills will help educate more young Australians. At the end of the day, we can come into this place and talk about a lot of different things, but we have to keep our eye on the ball when it comes to our fundamental obligation to provide more new educational opportunities for as many Australians as we possibly can. These bills come together as part of this government’s solution for the whole of Australia. They really are at the nub of what we want this country to be as we move forward into this century.

Mrs CROSIO (Prospect) (2.22 a.m.)—Like other members, I rise to speak on the Higher Education Funding Amendment Bill 2002 and the Higher Education Legislation Amendment Bill (No. 2) 2002, which will provide funding for Australian universities for 2004. A strong, adequately funded and fully resourced education sector is vital if we are to build a skilled, intelligent and productive workforce. I believe that the education of citizens is the most important investment a country can make in its future. A progressive, accessible and quality education system is something all Australian governments must try to maintain and achieve. However, under the Howard government, Australian universities and other institutions in the education sector such as our schools and TAFE colleges have been the victims of constant government funding cuts. Labor’s first priority in policy and funding terms is and always will be education, not just in our schools but also in our universities and our TAFEs.

An accessible and affordable education system is particularly important to people in my electorate of Prospect. Statistics from the 2001 census show that Fairfield, which is mostly contained within my electorate, has the highest number of teenagers in Australia. The census figures also reveal that the Fairfield-Liverpool area has one of the lowest median weekly income levels in Sydney, with $331, which is just over half the median income of many of Sydney’s inner suburbs. Many teenagers are at the stage of their lives when they are considering their future in terms of education and work. When making these decisions they rely on the existence of a high-quality and, most importantly, an affordable education system at all levels, regardless of whether they intend to study at university or TAFE when they finish school and when they choose to enter the work force. This bill does not provide for them.

Mr CADMAN (Mitchell) (2.25 a.m.)—I want to go a bit beyond the scope of the Higher Education Funding Amendment Bill 2002 but stay within the tertiary education area, particularly in regard to the arrangements for agricultural education not only across Australia but also in New South Wales. I refer to the University of Western Sydney, the University of New South Wales, the University of New England, Sydney University and other universities. (Quorum formed) I want to advance a cause for excellence and quality in agricultural research and education in New South Wales and across Australia. For too long, Australia has lived on the results of the last 20 or 30 years of research in agriculture. We need to bring together in places of excellence the great scientists and teachers in tertiary education, consolidate their expertise in Sydney University and the University of Western Sydney and build what could be called an institute or university of agricultural excellence which incorporates many programs that are currently dissipated in small groups around New South Wales and unfortunately are incapable of achieving the results that their leaders would like to see.

Why can’t they do that? They lack resources and they lack the capacity that is generated by critical mass and by working together. If we were to do this in New South Wales, we would start to break new ground in so many areas where agriculture needs to hold its pre-eminent position as one of Australia’s most important exporting industries—and to hold that position against all odds and world competition.

Australia has had the reputation of being a producer of unprotected goods, and of being agriculturally clean and green. We have a
great built-up and pent-up demand for our goods on the world market. How are we to keep that going? We cannot keep that going unless we are investing in an appropriate way in research and development. I am pleased to see that the Minister for Education, Science and Training is here listening with great attention to this speech. I have tried to get the attention of previous education ministers on this subject; fortuitously, tonight, I have a great opportunity and I thank him for being here.

If we can consolidate our education and research, we will not only improve the quality and extent of our research but we will punch above our level of input. There are 27 institutions in Australia dealing with agricultural research and education. That is far too many. In many cases, they are small groups trying to provide a service because the institution feels that they have got to supply a comprehensive service to all their clients in their catchment area. I do not necessarily believe that that is the right solution. I would rather go for high quality and excellence, and a comprehensive program of research and teaching at a very high level. We ought to be looking at the whole concept of ‘paddock to plate’. We ought to be looking at agricultural engineering and agricultural economics. We ought to be looking at the processes of marketing and agricultural accounting. We should be looking not only at the traditional agricultural topics but also at a wide range of topics so we cover the area for our agriculturalists whether they eventually work in banks, as financial advisers, product providers or supervisors in service industries or whether they are out on the farms or working in food technology. We are producing the best teachers and the best scientists in Australia.

We should consolidate the institutions in New South Wales by closing some elements of the University of New South Wales. In addition, parts of the University of Sydney can no longer operate on the Broadway campus and the university needs to rationalise its campus in the Campbelltown area. The high-tech and intensive teaching programs in Broadway should be consolidated and there should be some sort of mutual recognition with the University of Western Sydney based on Hawkesbury College. We should also consider the Orange campus and, further out, the Trangie campus. You will then have a difference in climate and agricultural conditions and an opportunity to provide a comprehensive program for trainees and for the clientele. You would be able to run everything from intensive agriculture—horticulture—which has great export prospects, right through to broadacre farming and broadacre pastoral pursuits.

There is a great opportunity for the government and, particularly, the government of New South Wales, to make a commitment to this process. I have spoken to ministers in the New South Wales government on this issue—and I will not deny that John Aquilina has been a good friend of mine over many years.

Mr Slipper—Come on!

Mr CADMAN—I know that John Aquilina, at times, from our point of view, is misguided, but he is a pretty decent bloke despite all that. John Aquilina and David Kemp both wanted to move together on this issue, but the intervening elections made it very difficult for federal and state ministers to go up against the academics. I would tell my colleagues, ‘If you want to get into the political event of the century, try fiddling around with the role of academics and changing what they do!’ The intensity of politics in that area is just unbelievable. They are so protective of their turf and so conservative: they do not like change and they do not want to do anything that is different. Compared with the arena that we operate in—and I know my colleague from Macquarie understands this very well indeed—they are so reluctant to change, advance or improve. It will be a very adventurous, or in the words of Sir Humphrey, a ‘courageous’ minister who will take steps in this area.

In this process of change that I am advocating, I have had great support from the Vice-Chancellor of Sydney University. That man is a gifted educator and has a great opportunity, and it is a pity that his senate is so polluted with corrupt political activities and has been so destroyed in its membership by the activities of the Australian Labor Party.
Mr Latham—Mr Speaker, on a point of order, I was enjoying parts of the speech by the honourable member for Mitchell, but he has strayed a long, long way from the Higher Education Funding Amendment Bill 2002, and I would ask you to bring him back to some sort of relevance to the bill.

The SPEAKER—I was listening closely to the member for Mitchell’s comments. I wondered when I heard him mention ‘senate’, but I realise he was talking about the senate of the University of Sydney. It was in that context that I felt he was relevant. I would, however, ask him to come back to the matter of education as outlined in the bill.

Mr CADMAN—I acknowledge the comments from the member for Werriwa and I seek leave to continue my remarks at a later time.

Leave granted; debate adjourned.

BILLS RETURNED FROM THE SENATE

The following bill was returned from the Senate without amendment or request:

Superannuation Guarantee Charge Amendment Bill 2002

TAXATION LAWS AMENDMENT (SUPERANNUATION) BILL (No. 2) 2002

Consideration of Senate Message

Bill returned from the Senate with amendments.

Ordered that the amendments be considered forthwith.

Senate’s amendments—

(1) Clause 2, page 2 (table items 4, 5 and 6), omit the table items.
(2) Schedule 1, item 126, page 20 (lines 11 to 13), omit the item.
(3) Schedule 2, page 37 (line 2) to page 47 (line 28), omit the Schedule.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (2.38 a.m.)—I move:

That the amendments be agreed to.

This bill has been returned from the Senate. The government agrees to this bill as amended. The schedule reducing the superannuation surcharge has been removed from the bill. However, the government remains committed to this policy which it took to the last election. The superannuation surcharge reduction has been reintroduced into this House in a bill together with the co-contribution. The government also did not oppose a non-government amendment in the Senate to remove the quarterly $1,350 superannuation guarantee threshold from the bill. As a result of this, the monthly threshold for superannuation guarantee of $450 will remain. On that basis, I commend the amendments to the House.

Mr MOSSFIELD (Greenway) (2.39 a.m.)—I rise tonight to make a few remarks about an amendment that was moved to the Taxation Laws Amendment (Superannuation) Bill (No. 2) 2002 in the Senate but sadly voted down. The collapse of superannuation trustee Commercial Nominees left many people devastated, including my own constituents Les and Heather Emerson. I have raised their case on many occasions in this House. For the information of honourable members, Les Emerson retired from his employment, and he and his wife look after a son who is disabled. He was relying on his superannuation payment to see them through the rest of their lives.

The government has, however, after many months and a great deal of lobbying finally agreed to pay compensation to the Emersons and to other victims of this collapse under section 224 of the Superannuation Industry (Supervision) Act. However, the minister, Senator Coonan, has agreed to pay only 90 per cent of the eligible losses. The act allows for 100 per cent to be paid, but the government has come up 10 per cent short. There is no rational argument that can be made to deny these victims the final 10 per cent of their money but the government has chosen to do so anyway.

The amendment moved by my colleague Senator Sherry would have guaranteed 100 per cent compensation to the victims of Commercial Nominees. The amendment would have ensured that Les and Heather Emerson received all of their money back that was stolen from them. This is what the victims wanted. This is what the superannuation industry wanted. This is what the Senate Select Committee on Superannuation,
I am sorry to have to inform the House and my constituents that the Democrats have sold out the victims of Commercial Nominees. They have sold out Les and Heather Emerson. This is a fight that is not yet over. As Senator Sherry indicated, Labor will continue to pursue this matter. I can assure the House that I will continue to pursue this matter as well. Les and Heather Emerson are the victims of fraud and theft. The government have the power to compensate them, and they should do so fully. Ninety per cent is simply not good enough after such a long delay. I call on the Democrats to reconsider their position on this matter and to support the victims of Commercial Nominees by guaranteeing that they are fully compensated.

Question agreed to.

**HIGHER EDUCATION FUNDING AMENDMENT BILL 2002**

Cognate bill:

**HIGHER EDUCATION LEGISLATION AMENDMENT BILL (No. 2) 2002**

Second Reading

Debate resumed.

**Mr CADMAN (Mitchell) (2.42 a.m.)—**I know that the House has been absolutely riveted by what I have had to say. I must confess at this point that it is not completely my own work. I have to confess that I was able to gather a team of very well informed people together to look at agricultural education in New South Wales, and it included people like the—(Quorum formed) I was just about to recount the processes that I used to investigate agricultural education at a tertiary level in New South Wales. What I did was call together the users of graduates and post-graduates, such as people from the banks, financial advisers and people from the service industries, whether they be fertiliser companies or spray companies, agronomists or departments. I called this group together and put to them the proposition that we ought to be doing better in higher education. At this point, I want to relate my remarks loosely to the bill and indicate that, in tertiary education, the rationalisation of these most significant disciplines should be meeting needs and should be more market driven than they currently are.

**Mr Latham—**Full fees?

**Mr CADMAN—I** have no problem with full fees because, if we were really to meet market needs instead of just continuing past practices based on a tenure system, I believe that we would really start to provide the quality of graduates that industries and users need. One of the remarks I struck in this process was that many of the users of graduates found that the quality of people coming to serve them, even of those with higher degrees, was not of the substance they really needed. They were not practical enough, they did not have the scope of world view that was sufficient and they were not of a quality to be completely employable. In part, what we are doing in agriculture education is wasted. As a solution, people like newspaper proprietors, the users of graduates and post-graduates with doctoral degrees and the users in the education system all said, ‘Let’s improve the quality of what we’re doing. Let’s look at a comprehensive approach to agricultural education from paddock to plate so that all the related disciplines are melded into a comprehensive approach. Let’s endeavour to provide a high quality, world-class, excellent focus on what we do in this field and, in doing so, we can consolidate some of the activities’—

**Dr Nelson—**A very important speech is being made here.

**Mr CADMAN—**Thank you.

**Dr Nelson—**A Cadman oration.

**Mr CADMAN—**Yes, it is. I do not mind if members do not listen, but do not interrupt me.

The **SPEAKER—**The member for Mitchell has the call and will address his remarks through the chair.

**Mr CADMAN—**If they can consolidate the process so that the focus is on excellence and on a properly funded process so that we build the links, as I have said, from the University of Sydney in Broadway to Hawkesbury, then we will have an excellent service.
The SPEAKER—Has the member for Mitchell concluded his remarks?

Mr CADMAN—Yes, I have. I wonder where the Labor speaker is. (Quorum formed)

Mr SIDEBOTTOM (Braddon) (2.49 a.m.)—Good morning, Mr Speaker, and, through you, good morning to my colleagues here and on the other side. I think the person who organised this legislative program could not have a higher education degree, because whoever organised this could not organise chaos. The fact is that we are now discussing an important piece of legislation—fortunately, the Minister for Education, Science and Training is in the House, and I hope he will stay for some time—because we did not have the chance through you, Mr Speaker, to engage in appropriations and the consideration of appropriations earlier on. There are some measures in this legislation that I would like to make some suggestions to the minister about, before he rushes out.

Before you go, Minister, I was pleased to see that in this bill we have finances related to an excellent program, a graduate diploma in environmental planning at the University of Tasmania. There is $360,000 allocated to that, including six scholarships worth $10,000 each over 2003-05. Minister, in looking at the selection criteria for the scholarships, perhaps you might include a provision for those in rural and remote areas in Tasmania so that they may take some benefit from this excellent initiative. I ask you to look at that so that we can get some equity for those who may make application. I acknowledge the importance of the graduate diploma in environmental planning. For the interest of colleagues, the course in Tasmania will be unique in its focus on strategic and policy issues, Antarctic tourism, rural and regional planning and the health and well-being of local communities. I notice that the last of these aligns with the Royal Australian Planning Institute national policy on livable communities. The focus of the graduate diploma, I am told, will appeal to potential students in Tasmania and many other parts of Australia and is relevant to this government’s and the Commonwealth’s own regional priorities. I acknowledge that excellent initiative.

The bill also deals with the allocation of funds related to the Postgraduate Education Loans Scheme, which I spoke about earlier in the parliament. In this case it is related to providing PELS to four other private institutions: Bond University, Queensland; Melbourne College of Divinity, Victoria; Christian Heritage College, Queensland; and Tabor College, South Australia. My colleague the shadow minister for education spoke at length on the Postgraduate Education Loans Scheme for these four private higher education providers, but I have seen no rationale provided, apart from a promise in the last election, as to why these institutions were chosen. I hope that the minister will look at the anomalies, which the shadow minister for education raised, related to some of the courses of these providers and potential providers—these private institutions. There is an anomaly between HECS funded courses in some universities and PELS funded courses in others, both of an undergraduate and postgraduate nature. I hope the minister takes up those anomalies and we get some form of rationale from him to explain them, and a little bit more accountability related to them.

When we talk about higher education, members on both sides of this House stress its absolute importance both to the present and to the future of this nation. We all aspire to having our young people, and those already educated, continue their education into the future in lifelong education and lifelong learning. Higher education, of course, plays an absolutely crucial role in this. It is absolutely vital that we see this as an investment in human capital and in our nation. We must do everything we can to assist people to access that education.

It is no good people saying that this government or that government is committed to higher education, with record levels of expenditure. In 1999, if my memory serves me correctly, the then minister for education, Dr Kemp, publicly declared that universities in Australia faced financial crisis. It was at the very same time that a document was waved on this side of the House which exposed some plans that Dr Kemp and members of
his advisory staff had in terms of introducing fees into universities. Those plans were quickly dropped and the Prime Minister promised that he would never, ever introduce those fees. Well, the ‘never, ever’ syndrome has continued, and now we have the present minister, Dr Nelson, running around with a number of review papers and, again, we will be discussing education and further education in this country. I hope it is a genuine discussion, though, and it is not dominated purely and simply by what some people may ungraciously call ‘sandstone universities’. If we believe that the vice-chancellors in our Australian universities unanimously agree with some of the proposals that are being put out—and those proposals are also included in the vice-chancellors’ document related to the review, ‘Positioning Australia’s Universities for 2020’—we are sadly mistaken. A number of Australian university vice-chancellors do not agree with some of the measures in the vice-chancellors’ submission to the review.

In their submission, the vice-chancellors countenance the idea of loans to students if they introduce fees—no doubt, something along the lines of PELS and a continuation of HECS. The only thing I would beg if this continues is that this is not done at commercial rates of interest. I think it is hard enough to invest in one’s education as it is, but to carry that extra debt I think would be totally prohibitive. When we consider the proposals of the Australian vice-chancellors, it is very important that we consider them as a whole, and do not, as happens in a lot of reviews, pick and choose pieces, often for political or ideological reasons. I do not care which side is looking at this, it is important that we see it holistically and that we try to provide a system that will be equitable, accessible and affordable. I believe that is absolutely crucial.

I would like to narrow my comments, if I may, a little further and talk about the difficulties that many families experience, particularly in regional Australia. We have a youth allowance scheme, an Austudy scheme and an accommodation allowance scheme, which assist people who really are in need. I acknowledge that, but I think it is important—and it is almost time—to review the benchmark level of income for people who are eligible for youth allowance, Austudy and the rental accommodation allowance. I have been harping on this for three years now, and I will continue. I wish members on the other side who have spoken to me privately about this would continue to raise this issue. I am glad the minister is back in the House again to share some of these sentiments with us. The problem is that if the income threshold is too low, too many people are omitted from that necessary assistance.

We have people on the other side saying that the revenue received by Australian universities is at record levels. I will not quibble about that, because I cannot argue the economics. However, I can tell you that the costs are rising. We also know that, since 1996, funding has decreased in real terms. So how do we go about assisting people to participate in higher education?

Let us look at the benchmarks for youth allowance, Austudy and rental assistance. Also, let us look at this whole area of independence. Until 1997 the age of independence was effectively 22. The decision to take it to the age of 25 has had a significant impact on families in Australia, not just struggling low-income families but families whom we categorise as so-called middle-class families. Many families receive no assistance at all to assist their young people to study and further their education. And those people in regional Australia who cannot access further education and must live away from home to do so have a double whammy. It is not just the cost, which they are probably prepared to accept in doing their bit for their family and the nation; it is the differential between them having to move away from home compared to somebody who lives in Melbourne, Sydney, Adelaide or even in a regional university location. How do we assist people with a $10,000 or $12,000 differential because of geography, because of the lack of access to higher education, brothers and sisters? How do we assist our colleagues to assist their families?

I would ask, in terms of equity on both sides of this House, that we look at assisting those families. Quite rightly, we have youth allowance; quite rightly, we have Austudy;
and, quite rightly, we have rental accommodation assistance for people on low incomes. But how do we assist people who receive none of those benefits but who have to spend that extra $10,000 or $12,000 per year to overcome the geographical distance? I have made a suggestion that there be some form of taxation compensation for student accommodation based on their accreditation at the university or whatever tertiary institution, their registration and their rent costs on the basis they have the rental and other receipts. I believe it is a question of equity. It is an issue that affects lots of people in terms of being able to go on and further their education. My electorate of Braddon, unfortunately, has one of the lowest retention rates in Australia and also one of the lowest participation rates in further education. How are you as a government going to assist me and other members to assist people to develop the culture of going on and furthering their education? One way we can do that is by offering a little bit of equity in the system.

I will share with you an email I received from a Mr Bruce Marshall who lives up the road from me in the beautiful little township of Kindred. I would like to share some of Bruce’s thoughts with you because I think he sums up the question of equity that I am trying to raise with those of you on the other side who are kindly listening to me. He writes:

We are a two-income family and I would regard us as middle Australia, two-income family before and after the early child rearing days. We have four children, one who has just finished four years of university, one in the fourth out of six years, one starting next year and our youngest child is in year 10. We live in a rural area so our children have to live away from home to attend university. On the average, accommodation and living expenses would be $14,000 per year per child. There are some minor costs such as university fees, travelling, phone costs etc. that I could add to the $14,000.

Being middle Australia “we can afford to pay” with no assistance. The child is ineligible for any assistance so often finds themselves “poorer” than counterparts on Austudy.

It is an anecdotal fact that there are many students not eligible for any financial assistance who are worse off than people who are receiving support. There are students at higher education institutions who are required to not only work part time but to also work long hours. That affects their study so many of them drop their studies because they have to work. That just compounds the issue.

Mr Marshall goes on:

The children collect a HECS debt in the case of our eldest child who has finished, of approximately $22,000 at a very reasonable 3.6% interest. (Drip with sarcasm here please!)

If we were able to afford to pay the debt up front—

and this is an interesting point—

the overall debt would have been very much reduced i.e. we would have received a discount. Where is the equity in this situation? Because we are financially disadvantaged (comparatively) to people on higher incomes we (our son) ends up paying more. Start adding our costs up folks - this is the time we are financially planning for retirement, and consider our son, who is four years salary and $22,000 in debt behind those who commenced work at 18.

As an educationalist—

Mr Marshall is an assistant principal at a local high school—

it is very hard to sell to parents the idea that their children should aspire to a university education, especially if they do not have that level of education themselves. You can hear the comments—

“we’ve done alright” – and they have. But you know that the future prosperity of our country rests on the education of our young people and that the pathway to further training and education should be an attractive exciting prospect for young people, not one with a huge debt and financial disincentives to families.

That email from Mr Bruce Marshall reflects the dilemma experienced by many people who live in regional Australia. They are prepared to do their bit and help their children invest in their future. We have to ensure that the cost of education is kept to a minimum. Of course we have to ensure, too, that that education is qualitatively excellent. I personally do not mind the comments of the minister about looking at the quality of teaching in our universities. I am sure there is evidence out there, and also we can draw on our own experiences at university, of poor quality teaching. At the same time there are exam-
amples of very good teaching. But that should not be at the expense of research and development at our universities. I think it is absolutely crucial that we assist families who have an unfair disadvantage because of geography and their lack of access to education. It is no good talking about the digital age and the age of video conferencing: we want our young people to experience a quality education and, if they have to move away, then we should assist them to overcome that differential.

This bill also has clauses relating to the Australian Research Council Act 2001 and, as I mentioned before, the Higher Education Funding Act 1988. It is a great pity that education played such a small role in the budget that we were forced to listen to some time ago. I have been bitterly disappointed, as I have watched the Treasurer go about his business in this House—he has an interesting technique and no doubt has observed many good examples before him—that he has not talked about education. I would love to hear him talk about that and about those things that are so important to our people, instead of about the bottom line. Let us not kid ourselves: the HECS fees that are charged at universities in our nation are amongst the highest in the world—if my understanding is correct, they are the second highest in the world—so do not think that education in Australia is cheap. People are doing it hard and they need assistance, particularly in regional Australia where they have the disincentives of geography and a lack of access to education, and certainly a financial disincentive.

Mr GEORGIOU (Kooyong) (3.09 a.m.)—High-quality education and research systems are the cornerstone of a civilised, innovative and economically competitive nation. The Higher Education Funding Amendment Bill 2002 and the Higher Education Legislation Amendment Bill (No. 2) 2002 underscore the Howard government’s commitment to Australia’s higher education and research sectors, the sectors that will determine our ability to evolve to meet the challenges of an ever-changing world. Australia’s tertiary institutions produce much of the knowledge and skilled human capital that underpin our nation’s innovative capacity. In many fields our universities are conducting research that is on the cutting edge. For example, Monash University is a world leader in embryonic stem cell research. Monash was one of only 10 institutions worldwide to receive funding from the American National Institute of Health for collaborative international research that may lead to cures for some of mankind’s most feared diseases.

Whilst it is important to recognise the achievements in our tertiary sector of which we can all be proud, it is no less important to recognise that there are areas where scope for improvement exists. The Department of Education, Science and Training’s Higher education report for the 2002 to 2004 triennium provides examples that reinforce this. According to the report, the proportion of Indigenous Australians in the higher education system has increased over the past decade. However, it says:

While Indigenous students have experienced strong growth in higher education over the decade, there was a 15 per cent fall in those commencing higher education in 2000. This contributed to an 8 per cent fall in the total number of Indigenous students.

Similarly, there has been a significant decline in the proportion of students from non-English-speaking backgrounds. The triennial report’s figures also suggest that those with rural and/or low socioeconomic backgrounds have not found it significantly easier to gain access to our tertiary institutions over the past 10 years. I think it is important that the minister’s review of our higher education system does hold out the promise of addressing these issues. I quote from the discussion paper Higher education at the crossroads: an overview paper, which has some very important statements in it, one of which is:

In Australia, there are a number of reasons to be concerned with the current differential rates of access to higher education. First, there is the objective of social justice—which is, I think, a fundamental Liberal commitment—and the equal rights of all Australians to opportunities to enjoy the personal and economic benefits that education, particularly higher education,
might confer. Second, it is increasingly recognised that Australians with low educational levels are vulnerable and at risk of being marginalised in a knowledge-based society in which labour markets require increasingly sophisticated skills and the capacity to access and interpret new knowledge.

(Quorum formed) The discussion paper continues:

While the number of students with an equity group background has increased significantly over the last decade, their share of the student population has remained relatively stable. This may be in part attributed to student aspirations, which play an important part in educational decisions. This is a particular issue for Indigenous students and those from rural or socioeconomically disadvantaged backgrounds. Thought needs to be given to what incentives are appropriate to encourage students from these groups to participate in higher education.

The discussion paper also says:

... the Commonwealth’s equity policy has been based on HECS, which ensures that up-front tuition fees do not prevent an individual attending university. This has now been extended to the postgraduate sector with PELS. Nevertheless some evidence is emerging that older students who have not previously participated in higher education may be reconsidering study because of the impact of HECS.

We look forward to the outcomes of these consultations, and there are a number of issues that will be discussed. This year has seen the introduction of the government’s Postgraduate Education Loans Scheme. This scheme allows eligible students in postgraduate, non-research courses to obtain a loan from the Commonwealth for all or part of their tuition fees. In this sense, the scheme is an important equity measure. It means that no prospective postgraduate coursework student is prevented from studying by an inability to pay up-front fees for their course. The estimated 20 per cent increase in postgraduate coursework enrolments in 2002 would seem to suggest that the loans scheme initiative is meeting with some success. However, I would want to see the final figures roll in before reaching an ultimate conclusion.

Today’s labour market is extremely competitive, and in some fields postgraduate qualifications are not optional but essential. Therefore, it is important that access to a range of professions is not indirectly restricted to those who can afford to pursue qualifications beyond bachelor level. This bill will extend the loans scheme to four additional institutions, including Bond University. As well as being of benefit to prospective students, the extension will also prevent these four institutions from being unfairly handicapped in their ability to attract prospective postgraduate coursework students. It is estimated that this extension of the loans scheme will result in 2,000 more students taking out loans over the next four years. For these students, this measure will make it a little easier for them to fulfil their capacity.

As well as being an equity measure, the extension of the loans scheme also upholds a promise made by the government during last year’s election campaign. The funding amendment bill contains a further measure proposed in the last election in establishing a new graduate diploma in environment and planning at the University of Tasmania. The bill implements the $300,000 funding commitment contained in the budget. The three-year postgraduate course, which is due to commence in 2002-03, will be further boosted by six Commonwealth scholarships, each of which is worth $10,000.

I would like to take this opportunity to outline the overall funding provisions set out in both bills. The first provision of the legislation amendment bill provides base funding of $4,109 billion for 2004 under the triennial funding provisions of the Higher Education Funding Act. In accordance with the act’s annual indexation requirements, there is also a provision for an overall increase in funding of $10 million for 2002 and 2003. The need for these funding adjustments can be traced to a number of factors. The first factor is an indexation adjustment concurrent with movements in the higher education cost adjustment index which takes into account changes in the levels of average weekly earnings and the CPI. In addition, the increase in funding reflects revised estimates of receipts under the Higher Education Contribution Scheme and a revision of the Commonwealth’s superannuation liability.

Since the time of the introduction of the Higher Education Legislation Amendment
Bill there has arisen a need to further revise the total funding amounts. The Higher Education Funding Amendment Bill, as the name suggests, does this. It will increase the total appropriation under the Higher Education Funding Act by almost $150 million in the 2002 to 2004 triennium. This increase is a reflection of revised current and future HECS liabilities. In addition to its sector-wide components, the legislation amendment bill contains measures which will have a positive impact on individual institutions. In the case of the ANU, its operating grants have reflected the fact that its Institute of Advanced Studies has not had access to research funding programs other than the Australian Postgraduate Awards and the Research Infrastructure (Equipment and Facilities) Program. The 1999 white paper ‘Knowledge and innovation’ concluded: ... the isolation of the IAS researchers from the competitive system increasingly operates to the detriment of the research sector as a whole. This bill will effectively remove the current restrictions on the institute and allow it to access the Commonwealth’s block research grants. To account for this, funding from the ANU’s operating grant will be transferred to the funding allocations for the Department of Education, Science and Training’s institutional grants scheme and to its research infrastructure block scheme. Granting the Institute of Advanced Studies access to new research schemes will remove an anomaly that does not apply to most other research bodies. It represents an important step towards a more competitive higher education system. This brings me to the Australian Research Council, the focus of major components of both the bills being debated here.

Honourable member—Put a bit of inflection into your voice.

Mr GEORGIOU—Thank you. The Research Council, together with the National Health and Medical Research Council, is perhaps the most significant contributor to Australia’s research and innovation capacity. The council’s role is at once very important and very demanding—and requires a degree of inflection. It is an independent body that administers a range of Commonwealth research programs and allocates funds to our best researchers on the basis of peer reviewed excellence. Its role is diverse. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

NEW BUSINESS TAX SYSTEM (CONSOLIDATION) BILL (No. 1) 2002
Consideration of Senate Message
Bill returned from the Senate with an amendment.
Ordered that the amendment be considered forthwith.

Senate’s amendment—
(1) Clause 2, page 1 (lines 7 to 9), omit the clause, substitute:

2 Commencement
This Act commences on the day on which the New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Act 2002 receives the Royal Assent.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (3.25 a.m.)—I move:

That the amendment be agreed to.

The House will be pleased, at this time of the morning, that my speech will be particularly short.

Honourable members—Hear, hear!

Mr SLIPPER—I thank my colleagues. The government has proposed this amendment to ensure that business has sufficient certainty regarding the commencement of consolidation measures from 1 July 2002.

Mr McMULLAN (Fraser) (3.26 a.m.)—The opposition will be supporting the amendment. It is not true to say that the government is doing it to give certainty. The government is doing it because it has actually made a mess of the introduction of the consolidation. There are three bills to be dealt with, and they are a package. They are integrated and interrelated. It is extremely difficult for the House to acceptably pass one part in isolation from knowledge of the other two, but it passed here. But the Senate was not prepared to do that, and therefore the government had to move this amendment. The opposition supports the consolidation package. It is a pity that it has not all been introduced. The second bill—at 300 pages—was introduced
today, and the third bill is still to come. This amendment is a small and modest attempt to get alignment of the several bills that are coming in. Therefore, we support it. Allowing this bill to pass will allow the consolidations process to continue and us to go home.

Question agreed to.

TAXATION LAWS AMENDMENT BILL (No. 4) 2002

Consideration of Senate Message

Bill returned from the Senate with an amendment.

Ordered that the amendment be considered forthwith.

Senate’s amendment—

(1) Schedule 3, page 34 (line 2) to page 40 (line 9), omit the Schedule.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (3.28 a.m.)—I move:

That the amendment be agreed to.

The government reluctantly accepts these amendments, given the realities of numbers in the other place. The government thinks that Labor’s reasons for opposing this measure are perhaps based on some misconceptions but, in the interests of the passage of the rest of the bill, will allow the Senate’s amendment to proceed. I therefore commend the amendment to the chamber.

Mr McMULLAN (Fraser) (3.29 a.m.)—Obviously the opposition will be supporting the amendment: it is the government accepting the amendment which we proposed in the Senate. It was a significant reflection of proper priorities. We felt that in the budget, where such stringent cuts were being made, it was inappropriate as a matter of priority to be providing between $40 million and $50 million in a tax cut to wealthy overseas executives, and we were not prepared to support that package.

There is an interesting debate about whether it is a good principle or not, and that is a debate we may have another day, but it certainly is a matter of priorities. We are adamant. We welcome the fact that the Taxation Laws Amendment Bill (No. 4) 2002 is going to be passed because the cap on the depreciation schedules does need to be passed. We are unhappy with the cost of that proposition and the way in which it has been handled, but we are pleased that at least the bill will be passed. The bill will provide certainty to business, but it is $1.9 billion or in fact, on the latest figures from the government, $2.6 billion of revenue forgone. There are many important social policies which could have been implemented with that $2.6 billion. It is a very strange priority but, nevertheless, the general principle of giving business some certainty is valuable and, accordingly, we welcome the government accepting this very good opposition amendment. It will make this bill marginally more equitable.

Mr LATHAM (Werriwa) (3.30 a.m.)—It is nice to have a third speaker in the debate about a Senate message because, as the Parliamentary Secretary to the Minister for Finance and Administration knows, the leader of government business gagged debate and would not allow a third speaker at 20 minutes past one to give a five-minute speech when the House had no other pressing business. I joined with my colleague the shadow Treasurer in pointing out that the Labor opposition is here to help when it comes to fiscal responsibility, when it comes to correcting the fiscal recklessness of the Howard government and moving the budget out of deficit and into surplus and ending all the uncertainty about the budgetary position. We are here to help by supporting this particular measure. We are pleased to see it be passed in the House.

Mr Slipper—At this time of the morning, Mark?

Mr LATHAM—I note the interjections from those opposite and, accordingly, I draw your attention to the state of the House. (Quorum formed)

Question agreed to.

BILLS RETURNED FROM THE SENATE

The following bills were returned from the Senate without amendment or request:

New Business Tax System (Imputation) Bill 2002

New Business Tax System (Over-franking Tax) Bill 2002
New Business Tax System (Franking Deficit Tax) Bill 2002

COMMITTEES

Membership

The SPEAKER—I have received messages from the Senate acquainting the House of the appointment of certain senators to certain joint committees from 1 July 2002. Details will be recorded in the Votes and Proceedings.

HIGHER EDUCATION FUNDING AMENDMENT BILL 2002

Cognate bill:

HIGHER EDUCATION LEGISLATION AMENDMENT BILL (No. 2) 2002

Second Reading

Debate resumed.

Mr GEORGIOU (Kooyong) (3.35 a.m.)—The role of the Australian Research Council is diverse. It supports research endeavours across a spectrum of disciplines, ranging from the humanities to the sciences. The Higher Education Funding Amendment Bill 2002 will legislate for the provision of the funding to the Research Council that was outlined in Backing Australia’s Ability, which allocated $736 million over five years. Forward estimates for the calendar years 2004 and 2005 indicate that the council will receive $174 million and $204 million respectively from Backing Australia’s Ability alone. In addition to legislating for the funding outlined in Backing Australia’s Ability, a revision of the council’s funding caps, as documented in the funding amendment bill, will further increase its level of Commonwealth funding. Over the next three years—2003, 2004 and 2005—the revised cap will increase total funding to the council by over $52 million. The council will receive over $356 million in 2003, which will rise by approximately 15 per cent in 2004 and again in 2005.

These are significant amounts of money, and they flow from the government’s commitment to bolstering Australia’s research capacities. The Higher Education Legislation Amendment Bill (No. 2) 2002 will also amend section 48 of the Australian Research Council Act 2001 to grant the minister the capacity to formally approve research grants for a period of four years, rather than the maximum of two years currently allowed under the act. The extension will serve two purposes. It will reduce the burden of paperwork involved in administering grants, resulting in greater efficiency and not insignificant cost savings. It will also provide a level of certainty to the grant holders themselves.

The amendments to the ARC Act outlined in the legislation amendment bill will also allow the Research Council board to create advisory committees without the approval of the minister—other than those specifically involving advice on funding allocations. This will give the Research Council greater flexibility when seeking expert advice. There are also a number of housekeeping measures that make minor amendments to the Higher Education Funding Act. (Quorum formed) I commend the bills to the House.

Ms HALL (Shortland) (3.39 a.m.)—The Higher Education Legislation Amendment Bill (No. 2) 2002 and the Higher Education Funding Amendment Bill 2002 are pieces of legislation that impact upon the provision of higher education in Australia. When the Howard government introduces any legislation that has implications for education, it needs to be scrutinised with care as this is a government that has a sad record in this area, one that is most notable for its elitism and its defunding of our great public universities.

The Higher Education Legislation Amendment Bill (No. 2) 2002 will update previous legislation and is generally legislation that will benefit the higher education sector. Included in the legislation is indexation of arrangements, additional funds provided under Backing Australia’s Ability and revised estimates for HECS contributions and the Commonwealth superannuation liability transfers of funds and operating grants advancements to particular universities. These are all fairly non-controversial measures, unlike some of the proposals being floated by the Minister for Education, Science and Training, proposals that will change the face of higher education in Australia.

The Higher Education Funding Amendment Bill 2002 is the piece of legislation that
is of greatest concern. This legislation extends access to the Postgraduate Education Loans Scheme to four private providers: Bond University in Queensland, Melbourne College of Divinity, Christian Heritage College and Tabor College in South Australia. It establishes a graduate diploma in environment and planning at the University of Tasmania and it permits the Institute of Advanced Studies at the ANU to access research schemes. The most controversial issue is the proposed extension of the Postgraduate Education Loans Scheme. That is going to be extended to the four institutions that I mentioned before. This will require access by the four institutions to at least some of the provisions of the Higher Education Funding Act.

PELS was introduced in 2002 to provide loans for students enrolling in fee-paying postgraduate non-research courses in the Commonwealth funded institutions listed in HEFA. PELS is already available to students of one private provider, the University of Notre Dame Australia. This was really introduced for undergraduate teacher education and it was especially designed for Indigenous programs at the Broome campus. The university is also seeking an extension of this. The 2002-03 budget papers include provisions for the extension of PELS to four institutions. They note that the estimated cash value of loans to students at these institutions was around $A18.7 million over four years. The amount is considered an asset and is not shown as an expense. Estimated repayments are for over $A0.6 million over three years.

The government has what I consider an elitist approach to education—

Mr Ciobo interjecting—

Ms HALL—So do all of us on this side of the House. This is an approach that has its roots in the 1950s. It believes that the right people, from the right background, should pay money to get the education that they deserve. It believes that they should have the best education. This has been seen in the previous parliament, where this government decided to channel money into category 1 private schools at the expense of needy public schools in our community, schools that 70 per cent of students attend. Also, this government has a philosophy that, if you do not pay for something, you do not value it. It is seeking to take this through into higher education. I seek leave to continue my remarks at a later date.

Leave granted, debate adjourned.

WORKPLACE RELATIONS AMENDMENT (FAIR DISMISSAL) BILL 2002

Consideration of Senate Message

Message received from the Senate acquainting the House that the Senate insists upon its amendments disagreed to by the House and desires the reconsideration of the bill by the House in respect of the amendments.

Senate’s amendments—

(1) Schedule 1, page 3 (before line 4), before item 1, insert:

1A Subsection 42(3)
Omit “A party”, substitute “Subject to subsection (3A), a party”.

(2) Schedule 1, page 3 (before line 4), before item 1, insert:

1B After subsection 42(3)
Insert:

(3A) The Commission must not grant leave under subsection (3) to a counsel, solicitor or agent acting for a fee or reward in a conciliation under Subdivision B of Division 3 of Part VIA of this Act unless it is satisfied that it would assist the just and expeditious resolution of the proceeding, having regard to:

the complexity of the proceeding; and

the capacity of another party to the proceeding to secure representation; and

the likely cost of such representation; and

any other matter the Commission considers relevant.

(3) Schedule 1, page 3 (before line 4), before item 1, insert:

1C After section 170CA
Insert:

170CAA Minister to publish information to assist employers and employees

(1) The Minister, in consultation with the relevant Minister of each State and Territory, must publish information, which may include practical examples, to as-
sist employers and employees to comply with this Part.

(2) After publishing information under subsection (1), the Minister must promote the publication in workplaces and make it readily available free of charge.

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

1D Subsection 170CE(3)

Repeal the subsection, substitute:

(3) If:

(a) an employee’s employment has been terminated by the employer; or
(b) more than one employee’s employment has been terminated by the employer at the same time or for related reasons;

a representative of the employee or employees may, on behalf of the employee or employees, apply to the Commission for relief:

(c) on the ground that the termination was harsh, unjust or unreasonable; or
(d) on the ground of an alleged contravention of section 170CK, 170CL, 170CM or 170CN; or
(e) on a ground or on any combination of grounds in paragraph (b), and the ground in paragraph (a).

(5) Schedule 1, item 2, page 3 (lines 7 to 27), omit the item, substitute:

2 Subsection 170CE(6)

Omit "", (3)".

(6) Schedule 1, item 4, page 4 (lines 29 to 33), omit the item.

(7) Schedule 1, item 5, page 4 (line 34) to page 5 (line 3), omit the item.

Schedule 1, item 6, page 5 (lines 4 to 8), omit the item.

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (3.44 a.m.)—I move:

That the amendments be considered forthwith.

Mr LATHAM (Werriwa) (3.45 a.m.)—Mr Speaker—

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (3.45 a.m.)—I move:

That the question be now put.

Question put.

The House divided. [3.49 a.m.]

(The Speaker—Mr Neil Andrew)

Ayes .......................... 75
Noes .......................... 60

Majority ............ 15

AYES

Abbott, A.J. Anderson, J.D.
Bailey, F.E. Baird, B.G.
Baldwin, R.C. Barresi, P.A.
Bartlett, K.J. Billson, B.F.
Bishop, B.K. Bishop, J.I.
Brough, M.T. Cadman, A.G.
Cameron, R.A. Causley, I.R.
Charles, R.E. Ciobo, S.M.
Cobb, I.K. Costello, P.H.
Downer, A.J.G. Draper, P.
Dutton, P.C. Elson, K.S.
Entsch, W.G. Farmer, P.F.
Forrest, J.A. * Gallus, C.A.
Gambharo, T. Gash, J.
Georgiou, P. Haase, B.W.
Hardgrave, G.D. Hartsuyker, L.
Hawker, D.P.M. Hockey, J.B.
Hull, K.E. Hunt, G.A.
Johnson, M.A. Jull, D.F.
Kelly, D.M. Kemp, D.A.
King, P.E. Ley, S.P.
Lindsay, P.J. Lloyd, J.E.
Macfarlane, I.E. May, M.A.
McArthur, S. * McGauran, P.J.
Moylan, J. E. Nairn, G. R.
Nelson, B.J. Neville, P.C.
Panopoulos, S. Pearce, C.J.
Prosser, G.D. Pyne, C.
Randall, D.J. Ruddock, P.M.
Schultz, A. Scott, B.C.
Slipper, P.N. Smith, A.D.H.
Somyay, A.M. Southcott, A.J.
Stone, S.N. Thompson, C.P.
Ticehurst, K.V. Toller, D.W.
Truss, W.E. Tuckey, C.W.
Vale, D.S. Wakelin, B.H.
Washer, M.J. Williams, D.R.
Worth, P.M.

NOES

Adams, D.G.H. Albanese, A.N.
Bevis, A.R. Bretenor, L.J.
Byrne, A.M. Cox, D.A.
Crean, S.F. Crosio, I.A.
Danby, M. * Edwards, G.J.
Thursday, 27 June 2002

Mr McCLELLAND—Taking that interjection, we do firmly believe that the government, in trying to take away the right to a fair go all round, is misguided. It is poor policy, because it will apply to only a fraction—about 25 per cent to 30 per cent—of small businesses. The government is misleading the small business community to even suggest that this is an answer to the complexities of unfair dismissal laws. The amendments moved by the Senate address those complexities. They address the cost factors. This is not about politics—as clearly the government has indicated by refusing to accept the amendments moved in good faith, after sound debate in the Senate. We are about retaining a system of a fair go all round. The concept of a fair go all round is as Australian as rugby league, as Aussie Rules, as meat pies—

Opposition members interjecting—

Mr McCLELLAND—and as rugby union—I thank the member for his interjection. We are about making sure that both employees and small business proprietors can have a fair go, and they can have that fair go with our amendments. The amendments will give them that because they will simplify the procedure, they will take lawyers and paid agents out of the conciliation stage, they will reduce costs and, indeed, they will take away a considerable amount of the misinformation that has been promoted by the government.

I notice, for instance, that the member for North Sydney in question time promoted examples of the operation of unfair dismissal laws. More often than not, the examples referred to by the member for North Sydney have been examples of state laws applying to unfair dismissal. This itself shows the flaw of the government’s reasoning because, if the government’s proposals go through unmended, we will have a situation where workers with different rights will be working side by side. Nothing could be more confusing than that for small business, nothing could be more conducive to disruption of the workplace.

When you ask yourself what small business needs, the answer is clarity. They need clarity of the concept of a fair go. The concept of a fair go simply means these three
things: if you are going to sack someone because of misconduct, you put the allegations to them; if you are going to sack someone because of poor performance, you give them the opportunity of correcting their poor performance—if they do not, then you let them go, but that is procedural fairness—if you are going to sack someone because of the operational requirements of the business, you explain the situation and give them an opportunity to have their say as to whether there is any alternative. That is all we are talking about when we are talking about the concept of a fair go.

Instead of peddling misinformation that was rejected by the Federal Court of Australia—the nonsense that this act, by making it easier to sack people, is going to create jobs—what the government should be doing, as one of these amendments indicates, is promoting decent information explaining those basic concepts of the fair go, simplifying procedures and reducing costs by taking lawyers and paid agents out of the equation. In summary, the government should consider these amendments, which have been moved bona fide, after rational argument in a constructive fashion. This government has shown that it is all about politics. It is after a double dissolution trigger. It is not about making life easier for small business. In fact, if it goes ahead with its amendments, it will simply confuse and cloud the procedures between state and federal laws.

(Time expired)

Question put:
That the motion (Mr Abbott’s) be agreed to.
The House divided. [4.05 a.m.]
(The Speaker—Mr Neil Andrew)

Ayes.......... 77
Noes.......... 60
Majority........ 17

AYES

NOES

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (4.10 a.m.)—I move:

That the bill be laid aside.

Question agreed to.

BILLS RETURNED FROM THE SENATE

The following bills were returned from the Senate without amendment or request:

Diesel Fuel Rebate Scheme Amendment Bill 2002

Export Market Development Grants Amendment Bill 2002

House adjourned at 4.11 a.m. until Monday, 19 August 2002 at 12.30 p.m., in accordance with the resolution agreed to this day.

NOTICES

The following notices were given:

Mr Laurie Ferguson to move:

That this House:

(1) pays tribute to the thousands of dedicated people across Australia who are involved every week in ethnic community broadcasting;

(2) recognises that the Australian Ethnic Radio Training Project (AERTP), auspiced by the National Ethnic and Multicultural Broadcasters Council, performs a vital role in providing nationally available, quality, accredited, value-for-money competency-based training for aspiring ethnic community broadcasters;

(3) acknowledges there is an ongoing demand for such training from new broadcasters, new programs, new language groups and from existing groups; and

(4) calls on the Government to provide further financial support to AERTP to ensure that it continues to operate beyond the 2002-2003 financial year.

Mr Price to move:

That the following amendments to the standing orders be made:

(1) Insert after standing order 61:

“62 Unless moving the second reading of a bill or unless leave of the House is given, a Member may not read his or her speech.”

(2) Insert after standing order 84:

“84A Notwithstanding any other provisions of the standing orders and subject to the discretion of the Chair, a Member may ask a Member making a speech to allow the Member to ask a question or make a comment relevant to the Member’s speech”

“84B A Minister moving the second reading of a bill received from the Senate may have the terms of his or her speech on the bill incorporated in Hansard”.

(3) Standing order 101:

(a) After the provisions under “Tuesday”, insert:

“Wednesday:


(b) Omit “Wednesday and Thursday”, substitute “Thursday”:

(4) Standing order 106A:

After “Monday”, insert “and Wednesday”.

(5) Insert after standing order 111:

“111A Before the end of each period of sittings, the Speaker must present to the House a list showing the Ministers who have made ministerial statements since the last tabling of such a list, the subject of each statement, the time taken and the time taken by any other Members speaking in response to the statements”
The DEPUTY SPEAKER (Hon. I.R. Causley) took the chair at 9.41 a.m.

STATEMENTS BY MEMBERS

Trade: Banana Imports

Mr KATTER (Kennedy) (9.41 a.m.)—I rise to speak about the impending IRA that is coming out on the banana industry. The Biosecurity people were in Innisfail for hearings last week or the week before, and I put a simple question to the head of the Biosecurity team. I asked: what applications has Biosecurity rejected in the last two years? She stumbled and bumbled and ran around the mulberry bush, so I asked it again. She did the same thing; then I asked it a third time and a gentleman who was with her, a senior officer, said, ‘Oh, well, there was the apples case.’ I said, ‘No, there wasn’t; you people agreed to apples.’ I said, ‘The Senate overturned your decision. In the same way that the parliamentarians overturned your decision, the Prime Minister overturned your decision on cooked chicken meat. So don’t tell me that.’

I asked the question five times and I am still waiting for an answer. I assume that these people simply say yes to every application that comes before them, which is an absolute disgrace. The lady said, ‘We, of course, have the bar much higher than most other countries.’ I said, ‘Don’t you come here and say that; it is absolutely disgraceful that you would come here and say that.’ I said that in the case of mangoes, a very big product that we produce in Australia, we cannot get into the United States because we have a seed weevil. The United States just says, ‘You’ve got a seed weevil; you can’t come in.’ So the United States set the bar.

When the durian application came in from Thailand, they had seed weevil. I said, ‘You’ve got no worries because the bar has already been set by the Americans.’ Of course, within two or three months, durian was allowed in from Thailand. So these people are a disgrace.

I do not have time this morning to go into the various aspects of the matter, but the proposition with bananas is incredibly simple. They have black sigatoka; we do not have black sigatoka. Black sigatoka is, to this industry, what foot and mouth disease is to the cattle industry. Does anyone in this place seriously think that any country on earth would allow beef in from a foot and mouth disease country? No way, Jose! But one must wonder, and I am a cattle producer myself, what would happen if there was an application from a foot and mouth disease country to bring beef into this country, because these people say no to nothing. They are obsessive free traders and think it is their duty not to protect this country from disease but to protect this country from people who believe that we should have some protection, in the general sense of the word.

We had an outbreak of black sigatoka. One little farm got it, and it spread quickly throughout the entire Tully Valley, which is responsible for about half of Australia’s banana production. The cost was $42 million; the losses were maybe $150 million a year. (Time expired)

The DEPUTY SPEAKER (Hon. I.R. Causley)—Before calling the honourable member for Paterson, could I make a comment that I think is attributable not just here but to the main chamber. Even though you might be on a speakers list it does not guarantee you the call. You have to seek the call from the Chair.
Paterson Electorate: Emergency Relief Funding

Mr BALDWIN (Paterson) (9.44 a.m.)—Today I would like to talk about emergency relief funding, and I congratulate the groups in my electorate, such as the Buckets Way Neighbourhood Centre, which will receive $8,685; the Dungog Neighbourhood Centre will receive $8,685; the Maitland Neighbourhood and Information Centre, $35,302; Mirdaribba Local Aboriginal Land Council, $5,898; Raymond Terrace Neighbourhood Centre, $82,523; St Vincent de Paul, Maitland, $34,753; Tomaree Neighbourhood Centre, $8,685; Worimi Local Aboriginal Land Council, $7,209.

This funding will go directly to the welfare agencies, who then provide cash, food vouchers, transport fares and payments for utility and medical bills for people in urgent financial difficulties. For many people, the help they receive through an emergency relief service will mean that they can pay for heating, put food on the table or buy essential medicines. Emergency relief goes some way in helping to prevent ongoing hardship by linking people to other support services such as financial advisers and family counsellors. The value of this program is that we not only help people to deal with their immediate financial situation but also encourage self-reliance by addressing the causes surrounding the financial difficulties.

The emergency relief program is based on a partnership between the government and the community, with dedicated volunteers often serving on the front line, assisting people who experience sudden financial crises. I welcome this grant of $191,740 to the electorate of Paterson. This is part of an overall funding of $8.7 million which will be provided to New South Wales and which will go to 308 community welfare organisations as a part of the emergency relief program. This will also represent part of a boost of $540,000 to last year’s financial funding and provide much needed support to people in short-term crisis centres.

I would remind the House of an incident that happened not long after the election last year—that is, the wind storms that came through Port Stephens and devastated the area; it looked like a cyclone had gone through. It took the roofs off houses and destroyed power lines and a lot of infrastructure but, most importantly, it upset the lives of a lot of people in the area. If it had not been for the people in the emergency relief centres and the neighbourhood centres providing much needed support to our community, these people would have been much worse off than they were as a result of the storms. So I would like to congratulate those individuals who put the time and effort in on a volunteer basis. I also congratulate the federal government for providing the funding needed for this support to be given.

Newcastle Electorate: Energy Australia Stadium

Ms GRIERSON (Newcastle) (9.47 a.m.)—I am very pleased to announce to the House that the New South Wales government is today announcing support for the people of Newcastle with a commitment of $23.6 million for the redevelopment of our football stadium, Energy Australia Stadium. The people of Newcastle will be delighted with this announcement, particularly after the wonderful game last night that saw many of our players add so much to the playing of football in Australia. I now call on the Prime Minister to show his commitment by matching these funds and supporting this proposal.

A new stadium for Newcastle is not just about football: it provides the important regional infrastructure that we need, infrastructure that will allow us to develop a sport related tourism industry and opportunities for employment. Energy Australia Stadium is located on a unique
site devoted to sport and leisure. The opportunity now for Newcastle would be to lead a won-
derful new industry that could certainly attract jobs to our city.

Newcastle and the Hunter region are doing it tough. At the moment, our unemployment rate is the highest in the country. We need jobs, and we need them now. We are a very special community with a unique community pride and spirit. We are determined, we are supportive and loyal to each other and we certainly love our football. But at the moment we need some assistance from government. The New South Wales government will put that there today, and that will create a great number of jobs in Newcastle. I encourage the Prime Minister, through our local representatives the member for Paterson and Senator Tierney, to find some funds for this project. I think a $5.6 billion windfall from the sale of the Sydney airport is a starting point. Originally, the minister suggested that that should be spent on infrastructure. We say, ‘Here is your opportunity, Minister; John Howard, here is your opportunity to delight the Australian people and to certainly give the people of Newcastle some encouragement at an important time for them.’

In asking for these funds, we understand that proposals do not come lightly, but this proposal has the complete support of the Newcastle and Hunter region community. It is certainly always a delight to be amongst Newcastle people when we are winning. Even when we are not winning, Newcastle people are heart, soul and lots of hard work. We need some commit-
ment now. I call on my colleague who is sitting in this chamber today to support this proposal. I hope when he meets this afternoon with the Prime Minister’s chief of staff he will be more persuasive than he is at tipping winners in football competitions. I wish him well. Newcastle people will be delighted.

Pacific Aerospace Simulation Pty Ltd

Mr TOLLNER (Solomon) (9.51 a.m.)—The Northern Territory has produced its fair share of people who make the national and international limelight in the arenas of academia, business and sport. Today I would like to talk about a gentleman from the Northern Territory called Chris Benton. He has been living in the Northern Territory since 1960. Chris was born in 1958 and was educated in the Northern Territory and, shortly after leaving school, did an apprenticeship with the RAAF as an instrument fitter. He did several jobs after leaving the RAAF—with Kruger Trailers, ICI Amatil and at the East Point Military Museum for the Royal Australian Artillery Association. He took a trip to the United States and visited the Ev-
ergreen Aviation Museum and from there a few ideas started to germinate in his mind. He came back to Darwin and in 2000 formed a company called Pacific Aerospace Simulation, and started to transform his dream into reality.

One of the important developments that has set the course for the production of the company has been his developing liaison with the Boeing Aircraft Corporation. Boeing provided the Territory company with technical information, and Chris has put everything on the line to nurture and develop his business strategy, which will put Darwin on the world map. I believe that his ideas are sound and that the business needs to continually develop its strategy. His progress in the flight simulation business so far has been very dramatic, but the next steps need further development. With a little assistance I am sure we can produce another world renowned Territorian.
Bendigo Electorate: Printing Industry

Mr GIBBONS (Bendigo) (9.52 a.m.)—On several occasions in the last couple of weeks in parliament I have raised the fact that the Treasurer of Australia ratted on the agreement with the book printing industry in Australia. I am referring to the PICS program—the Printing Industry Competitiveness Scheme—which was originally introduced to offset the tariff on imported papers, a tariff which still exists. The Enhanced Printing Industry Competitiveness Scheme was introduced as part of a written commitment given by the government to the Democrats to offset the impact of the GST on books, which were previously tax free. The agreement was signed by none other than the Prime Minister of Australia in his letter to Senator Meg Lees on 16 August 1999. So we have to assume that the Prime Minister was more than happy to rat on an agreement, that bears his signature, with Australia’s book printing industry.

I have met with industry representatives over the last few weeks and had several discussions with them, and they are extremely angry. This is not about protection for the industry; it is not about giving the industry a handout. It is about honouring an agreement that was put in place to get the GST legislation through the parliament in 1999. The Treasurer ratted on the agreement by abolishing both schemes prematurely in the last budget. As I said, the agreement bears the signature of the Prime Minister of Australia.

The industry is so angry that it is now talking about singling out 10 coalition MPs in marginal seats throughout Australia and waging a campaign against them in the run-up to the next election. I guess the printing industry, by definition, will be very well placed to do that, and I can only support that activity. As I said before, this is not about a handout; it is not about protection. It is about honouring an agreement which the Treasurer and the Prime Minister have ratted on. I urge those opposite to make sure that the agreement is upheld. I urge people to make sure that both schemes are delivered as per the agreement in full. If they do not, then I am sure that we will see an ongoing campaign in 10 marginal seats by the printing industry to try to unseat some coalition members. That is a pretty heavy action to take but the industry is very angry. I repeat what I have said twice before: this is not about handouts; this is not about protection; it is about honouring an agreement that the Treasurer and the Prime Minister of Australia have ratted on.

Census: Marriage Statistics

Mr ROSS CAMERON (Parramatta—Parliamentary Secretary to the Minister for Family and Community Services) (9.55 a.m.)—I rise today to speak about the publication by the Australian Bureau of Statistics of the marriage and relationship data for the electorate of Parramatta and to draw the attention of the chamber to an article in today’s Sydney Morning Herald by Adele Horin. The ABS data shows, in a snapshot, that in the Parramatta census collection area there are 51,532 men and women who are husbands or wives in a registered marriage and 5,393—roughly one-tenth—who are partners in a de facto marriage. We have 11,629 lone persons, which I think is the fastest growing category, and we also have 5,698 lone parents—roughly the same number as parents in a de facto relationship.

My experience in Parramatta, as a snapshot of the rest of Australia, highlights the great challenges we face as a nation—challenges to which I and others have recently referred in the media. Adele Horin’s article titled ‘Men commit ... to staying single’, which appears on page 3 of the Sydney Morning Herald today, draws attention to an American study of 60 unmarried
men aged 25 to 33, which is part of an annual report on the social health of marriage in America released by Rutgers University in New Jersey. It lists the top 10 reasons why men are not marrying. Interestingly, most of them are saying they are in favour of marriage; they are just not doing it yet.

Those reasons are: firstly, men can get sex without marriage. So I urge women, if necessary, to withhold sex. Secondly, they can enjoy the benefits of having a wife by cohabiting rather than marrying. I would say: don’t give up your negotiating position by moving in. Thirdly, they want to avoid divorce and its financial risks. Life involves risks, and I urge those who are married to continue to invest in their relationships to avoid that risk. Fourthly, they want to wait until they are older to have children. I note merely that fertility delayed is often fertility denied. Fifthly, they fear that marriage will require too many changes and compromises—to which I would say change and compromise are a part of life and they ought to accept that. Sixthly, they are still waiting for the perfect soul mate and she has not appeared yet—to which I would say that the grass is in fact not greener; all of us are imperfect and get used to it. Seventhly, they face social pressures not to marry. The rest of us ought to encourage people to get married. Eighthly, they are reluctant to marry a woman who already has children. Ninthly, they want to own a house before they get a wife. Tenthly, they want to enjoy single life for as long as they possibly can. All of us have to get behind this effort and urge our friends and colleagues to do the right thing and get married. (Time expired)

Ruxton, Mr Bruce

Mr QUICK (Franklin) (9.58 a.m.)—In the short time remaining in this debate before we consider legislation, I would like to place on the record my tribute to Bruce Ruxton, who retired yesterday. Whilst I do not necessarily agree with everything he said, he has worked tirelessly for the veteran community in Australia over a long period of time. He has stirred governments of both political persuasions to make sure that veterans and war widows have been looked after. We should pay a great mark of respect to him and all the other people in the veteran community who work tirelessly, day in and day out, to make sure that their commitment over a long period of time is not forgotten by people in this House.

Ruxton, Mr Bruce

Mr NEVILLE (Hinkler) (9.59 a.m.)—In the short time available to me, I would like to endorse, from the government’s point of view, the comments made by the previous speaker, the member for Franklin. I think Bruce Ruxton has carried out—

The DEPUTY SPEAKER (Hon. I.R. Causley)—Order! Unfortunately, in accordance with standing order 275A, the time for members’ statements has concluded.

JURISDICTION OF COURTS LEGISLATION AMENDMENT 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) (10.00 a.m.)—The opposition fully supports the passage of the Jurisdiction of Courts Legislation Amendment Bill 2002, which essentially has four main purposes. Firstly, it facilitates the establishment of the ACT Court of Appeal; secondly, it abolishes appeals from the ACT Supreme Court to the full court of the Federal Court of Aus-
tralia; thirdly, it abolishes the office of judicial registrar in the Federal Court; and, finally, it makes minor amendments to Federal Court practice and procedure.

In terms of the establishment of the ACT Court of Appeal, the ACT is blessed by the competence of its judiciary. It is a good thing, I believe, for the territory to have the ACT Court of Appeal, and the judges of the ACT, given their calibre, will have no difficulty at all in regularly discharging that appellate function. The ACT government has passed the Supreme Court Amendment Act 2001, which provides for an ACT Court of Appeal to hear appeals from the ACT Supreme Court. The provisions of this bill complement that legislation.

I note that the Attorney-General has indicated that the current system of Federal Court judges being appointed as additional judges to the ACT Supreme Court will continue and these judges will be eligible to sit on the Court of Appeal. I welcome the Attorney-General’s efforts to ensure that parties in the ACT Court of Appeal will continue to benefit from that input of additional judicial expertise. I understand that the Federal Court itself quite enjoys that role, which tends to give a wider variety of matters to deal with. There is no doubt that the cross-fertilisation of judicial talent considerably enhances the delivery of justice in the ACT.

There have been no judicial registrars in the Federal Court for some years. Judicial registrars used to handle less complex litigation but such work is now performed by the Federal Magistrate’s Court. The opposition agrees that the provisions proposed to be repealed no longer serve any practical purpose. The other amendments which relate to the practice and procedure of the Federal Court are non-controversial, and many we can be quite proud of as reflecting the way the Federal Court has developed.

The amendments will allow the registrar to appoint as a marshal a person who is not engaged under the Public Service Act 1999. This overcomes the difficulty experienced by the court when a ship must be arrested in a remote area where there is no person employed under the Public Service Act who could act as a marshal. Another amendment will allow the Chief Justice to refer part of a matter to the Full Court. Again this clarifies an existing power possessed by the Chief Justice, but that is entirely sensible. If there is an element of complexity that can be resolved by the Full Court but does not require the whole matter to go there, it will facilitate that.

The Federal Court’s interlocutory jurisdiction where a matter is referred by a tribunal or a judge will be amended. This will facilitate the hearing of interlocutory matters by a single judge. Also, a single judge in an appeal will be allowed to order that an appeal be dismissed for want of prosecution, or failure to comply with a direction of the court. This will overcome a difficulty experienced by the court in constituting a full bench, which quite often in centres other than Melbourne or Sydney can involve the court flying judges in from interstate to dispose of vexatious appeals.

A writ, commission or process will be allowed to be signed by the affixing of an electronic signature. The Federal Court is to be congratulated in terms of the degree to which it is promoting the use of new technology in the filing of documents and also in the use of video links and so forth. It is really among world’s best practice, if not an international leader, in promoting the use of electronic technology.

Another amendment will allow locally engaged diplomatic staff to witness affidavits. This brings the act into line with other legislation concerning the witnessing of documents. It will
provide clearer provision for the use of video and audio links in proceedings. That also facilitates the electronic communication that I have previously noted. I commend the court for those developments.

I note that the government also proposes minor amendments to the bill following further consultations with the Federal Court and the opposition supports that procedure. I congratulate the Attorney-General’s Department for its ongoing dialogue with the Federal Court on improving the court’s procedures. I am not suggesting that there is any reluctance on the part of the Federal Court for that to occur. The Federal Court is tremendously sophisticated in its ongoing review of procedures to make them more practicable in terms of access and the speed with which justice is delivered. The opposition is pleased to support the provisions of the Jurisdiction of Courts Legislation Amendment Bill 2002 and wishes the ACT Court of Appeal every success. The ACT is very fortunate indeed in the calibre of judges that it has, and they will have no trouble at all in fulfilling the important appeal role.

Dr STONE (Murray—Parliamentary Secretary to the Minister for the Environment and Heritage) (10.06 a.m.)—I thank the Member for Barton in articulating the opposition’s very strong support for the Jurisdiction of Courts Legislation Amendment Bill 2002. It is a very timely and excellent new piece of legislation with the amendments that it presents today.

The Jurisdiction of Courts Legislation Amendment Bill 2002 amends the Federal Court of Australia Act 1976 and the Judiciary Act 1903 to allow the Australian Capital Territory to establish an ACT Court of Appeal. It is appropriate for the ACT to establish an appeal court with the consequent removal of the appellant jurisdiction of the Federal Court. The bill also amends the Federal Court Act to abolish the redundant Office of Judicial Registrar and makes some change to the practices and procedures of the Federal Court that will improve the efficiency of the court. Again, I thank all of the honourable members who have contributed to the debate on this important bill.

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) (10.08 a.m.)—by leave—I present a supplementary explanatory memorandum to the bill and move government amendments (1) and (2):

(1) Schedule 2, item 10, page 8 (line 34) to page 9 (line 2), omit the item.
(2) Schedule 2, item 25, page 16 (lines 8 and 9), omit subitem (3).

The supplementary explanatory memorandum has the strong support of the members on the other side. I commend the adoption of the bill with its supplementary explanatory memorandum.

Question agreed to.

Bill, as amended, agreed to.

Ordered that the bill be reported to the House with amendments.
MINISTERIAL STATEMENTS

East Timor

Debate resumed from 5 June, on motion by Mr Ian Macfarlane:

That the House take note of the following paper:

East Timor—Ministerial Statement, 15 May.

Mr SNOWDON (Lingiari) (10.09 a.m.)—Firstly, I apologise for reading this speech. Normally—as most members will know—I do not read my speeches, but I consider this to be an important speech and therefore I want to make sure I get what I want to say on the record. The year 1975 was a year of cataclysmic events. We had the shredding of our own political and constitutional conventions with the blocking of supply by the Senate and the dismissal of the Whitlam government by a Governor-General with the counsel of a few and accountability to no-one. This event confirmed the anachronism of Australia as a vassal of an unelected monarch and the need for constitutional reform and an Australian republic.

I remember well the events of 11 November that year, just as I remember rallying that December in the streets after news of the Indonesian invasion and occupation of East Timor and the overthrow of the Fretilin government. This event had particular poignancy for me, as I knew of the great debt that Australia owed to this small, impoverished former Portuguese colony because of the sacrifice of its people during World War II in protecting and working with Australian soldiers. I have, since my first election to this place in 1987, spoken on a number of occasions about the debt that we as a nation owe these humble but courageous people as a result of these sacrifices. In November of that year in this place—or at least in the great debating chamber in the Old Parliament House—I said:

The history of the position of successive Australian governments on this issue is well known and, I am afraid, is not an inspiring one. It is difficult at times to understand Australia’s priorities in terms of its defence of human rights and self-determination when so often we prefer to ignore what is happening in our own backyard.

In a more general sense the Western history of colonialism and exploitation hardly justifies our claiming to be the champions of human rights. We in the West do not have any proprietorial claims to ‘universal humanist’ values. Such ideas transcend time and place; they transcend arbitrary geographical boundaries. If we in Australia wish to be considered as adherents to the universal values of human rights and of cultural, religious and political freedom of the right to self-determination, we must be consistent. We must be consistent both within our national boundaries and in our relations with other countries.

In a later debate on a historic motion on East Timor in this place on 27 November 1991, in reference to the events of the Second World War, I said:

In 1942, the soldiers of the 2/2 and 2/4 Independent companies, or the commandos as they became known, were engaged in East Timor.

I then referred briefly to an article by Kenneth Davidson in the Age of Thursday, 14 November 1991, in which he detailed the important role played by those soldiers and the sacrifice and suffering of the East Timorese. He wrote:

Strategic realities for Australia have not changed much since the 1940s when Australia sent naval ships to Noumea to expel the Vichy Governor after Japan entered the war and left 400 commandos on East Timor to harass a full division of Japanese troops.
The 12,000 troops Japan left on Timor were not available for the campaign to take Port Moresby via the Kokoda trail, in which Japan unsuccessfully used one-and-a-half divisions.

On Timor, the aptly named “sparrow force” caused 1,500 Japanese casualties for the loss of 40 Australians. The real casualties were suffered by the East Timorese who lost 40,000 as the Japanese wiped out whole villages suspected of offering succour to the Australians.

This encapsulates neatly the debt we owe. It is a debt written in blood with the suffering of the East Timorese. It is to our unending shame that, on 7 December 1975, we acquiesced in the Indonesian invasion and annexation and the subsequent misery and loss of life that resulted as years went by. It was a human tragedy on a grand scale and yet we saw successive Australian governments bow to the Indonesian occupation without a whimper. The path of freedom for the East Timorese is bathed in the blood and the sacrifice of an estimated 240,000 or more who lost their lives under the occupation of the Indonesians. Despite the oppression of the Indonesian military occupation, the East Timorese were able to resist and, through the will of the people and the use of guerrilla tactics not dissimilar to those of the 2/2 and 2/4 Independent companies of World War II, win their freedom.

I am saying these things not to assert any vindication but merely to set the backdrop to acknowledging those many East Timorese heroes whose lives were lost and the role played by many in our own community in support of the East Timorese resistance and the fight for independence. Sadly, until 1999, Australia’s role in this struggle was not a flattering one. First we had the Whitlam government giving succour to Indonesian designs over East Timor. Then we had the Fraser government complicitly sitting by as the events of December 1975 unfolded and subsequently giving de jure recognition to the illegitimate Indonesian occupation. Shamefully, this recognition was reaffirmed by the Hawke government in 1984.

Mr Speaker, I am not here trying to revise history. The public record will show that I have on previous occasions referred to the shame of Australian policies in relation to East Timor since 1975. Since the first days of the Indonesian invasion, I have been a supporter of the East Timorese in their struggle for independence. As a member of this place and of the Australian Labor Party, I was uncomfortable with the Hawke and Keating governments position on East Timor and expressed this discomfort here in the parliament. But I was forever humbled by the courage and determination of the East Timorese, who endured so much and who, despite the privations, suffering and sacrifice, never averted from their goal of independence.

As well, I was also mindful of the struggle being fought here at home by those advocating the East Timorese cause. People who may have been members of the East Timorese diaspora or members of church and support groups or trade unions or activists and friends—people who never lost their faith or belief in the justice of the East Timorese struggle, despite the policies of successive Australian governments.

In the Territory, there was a core of dedicated supporters who, despite the spiteful antipathy of the CLP government, never lost hope and never gave up. I moved to the Northern Territory in 1976. I became involved, soon after, with like-minded people who supported the East Timorese, particularly in the trade union movement. I met many refugees who fled the Indonesian occupation of their country, refugees who would, under current policy, as likely as not be detained for long periods behind barbed wire, almost as a reward for escape, until a determination was made as to whether or not they were legitimate refugees.
In the years after 1975, Australians from all walks of life showed that they were willing and prepared to make their own sacrifices in an effort to assist the Timorese struggle. In the Territory, there were those who took action which was dangerous and for which, under the proposed legislation on terrorism, they would doubtless have been jailed for lengthy periods. There were those who had fled East Timor but maintained their involvement in the struggle through organising locally and internationally. They were vital to the ongoing support of the resistance. Some of those who were central to this process and who formed the main committee in Darwin were Alfredo Ferreira, Agiou Perreira, Lourdes Perreira, Laurentino and Maria Perez and Jose Gusmao. Internationally, there was the Nobel award winning work of Jose Ramos Horta.

There was also a core of activists from the non-Timorese community in the Top End, some of whom took great personal risk—people such as Manny Manolas who, with three others, sailed his boat, The Dawn, out of Darwin bound for East Timor. With Manny on the boat were Rob Wesley-Smith, Jim Zantis and Cliff Morrow. The purpose of their voyage was to deliver medical and other supplies. The boat was seized by Customs and they were arrested while they were still in Australian waters. They were held in jail overnight and then were put before a court. Their defence lawyer was successful in getting weapons smuggling charges withdrawn. They were bailed and eventually found guilty and released on bonds.

Manny Manolas was charged with leaving port without clearance and his boat was confiscated and badly damaged. He applied to Customs for it to be returned. He was offered $7,000 compensation, although it had cost $30,000 to fix. He was eventually made a ‘take it or leave it’ offer of $14,000. Coincidentally, the then Minister for Customs was John Howard who was written to by Rob Wesley-Smith, who sought the release of the medical supplies. This request was refused.

Another intriguing episode in the Territory involved the establishment and maintenance of radio contact with the resistance forces in East Timor. A group of territorians, including Rob Wesley-Smith and, importantly, a leading member of the then Waterside Workers Federation of Australia, Brian Manning, ran a clandestine radio operation in and around Darwin, dodging the authorities who were attempting to close down the radio. One of the Timorese involved in this activity was Antonio Belo who was caught in Knuckey Street, in Central Darwin, on the radio.

These and other Australians living in the Top End carried out this important work at great risk to themselves. Others involved in various ways included Bill Day and Jack Phillips and journalists John Loizou, Ken Whyte, Tony Walker, Jamie Gallacher and Tony Haritos.

And then there were some politicians who, despite the relative unpopularity of the cause for the mainstream, kept the issue rolling—people such as Ken Fry, Cyril Primmer, Tom Uren, Jean McLean and Jean Melzer and the Territory’s Ted Robertson. Importantly, also, there were some whose ongoing involvement with and support for the East Timorese grew out of their intensely personal experience of the Second World War. One of those was Paddy Kenneally, a courageous and tough former member of the 2/2nd independent company who fought in Timor in 1942 and who later in the war fought alongside my own father, Tom Snowdon, with the same unit.

Paddy was uncompromising in his belief in justice for the East Timorese and visited East Timor on a number of occasions during the Indonesian occupation. Paddy, typical of those
brave souls he fought with, remained steadfastly committed to his belief and to the East Timorese people. He is a man of great virtue. Let there be no doubt, these people acted with great courage. They were committed to assisting the East Timorese win their freedom. They were at once horrified and spurred on by the oppressive violence of the Indonesian occupation and the tragic loss and waste of life, typified by the massacre at Santa Cruz.

There has been in this parliament for many years an East Timorese friendship group, despite the policies of successive governments acknowledging the legitimacy of the Indonesian occupation and annexation. The members of this friendship group over the years should be applauded for their ongoing interest in and support for the East Timorese in their struggle. Now we can justly say we have at least partly repaid the debt we owed, although we should not believe that our souls have yet been cleansed, especially when we contemplate the loss of East Timorese lives during the period of the Indonesian occupation.

However belated this payment may have been, it was crucial in securing the peace after the vote of the East Timorese for independence from Indonesia, and the decision by the United Nations administration to administer the affairs of this new nation pending the development of a constitution and the election of a new government.

During this period there were many Australians who played an important role: our defence forces, who have acted with professionalism and courage, and the civilian police volunteers who, unarmed, were crucial to the maintenance of law and order and acted always with aplomb. Two of these officers, both men of integrity, courage and compassion, Don Barnby, who is sitting in the chamber, who was at Glenoe, and Ian Standish, who was at Bacau, now work in the parliament as security officers. There were many others, from church workers and non-government organisation employees to the head of the Australian mission in Dili, James Batley, and his staff.

In the period after the ballot, I came quickly to appreciate the important role of the Catholic Church—the commitment of the priests, nuns, brothers and lay workers from various orders who sought refuge from the marauding and murderous thugs who so despised the vote for independence that they engaged in acts of gross terror, violating in the most wicked and evil ways the people of East Timor.

I had close contact with many UN personnel and NGO volunteers—people for whom I have the greatest admiration and who have become close friends. I consider myself extremely lucky. After the events of August 1999, I was able to support the work of many in the current East Timorese leadership who came to Darwin to organise for the first democratically elected East Timorese government—people such as Jose Ramos Horta, someone I knew well from his many years dedicated to the struggle while in exile, ensuring that the voice of the resistance and the fight for justice for the East Timorese remained on the international agenda. Others include Dr Mari Alkatiri, now Prime Minister of East Timor and a man of great compassion, dedication, sacrifice and ability, and other people who are now ministers—Mrs Ana Pesoa and Estanislau de Silva.

I was privileged to be able to welcome to Australia Xanana Gusmao and escort him onto the floor of the House, along with Jose Ramos Horta, during the last parliament. It was with great pride that I was able to attend and witness the handover of power to the republic of East Timor’s President, Xanana Gusmao, and Prime Minister Mari Alkatiri. Not only was I a wit-
ness to the righting of a terrible and tragic wrong as the East Timorese finally took control
over their own affairs, but I was present at the birth of the newest nation on the planet.

Even prior to this momentous event, I had been privileged to attend as a guest the swearing
in of the first Constituent Assembly. Sadly, though, despite the symbolic and historic signifi-
cance of this event, there was no official representation at a political level from the Australian
government—no foreign or defence minister, not even a humble parliamentary secretary or
government backbencher was there to represent the Australian government.

Before this I had the opportunity to attend the first Fretilin conference after the Indonesian
occupation, as well as the launch of the party’s first campaign for the election of the Con-
stituent Assembly. I also attended the conference of the National Council of Timorese Resis-
tance, the CNRT, after the United Nations took over the administration of East Timor. We in
this place are struggling with the need to introduce legislation to counter terrorism. The irony
of this is that if the legislation originally debated in this chamber had been in place after 1975,
as likely as not many Australians, including me and other members of parliament, would have
been jailed for supporting a terrorist organisation because of our support for East Timorese
resistance, whether Fretilin or Falantil.

Since 1999, I have visited Timor on, I think, eight occasions. I have previously pointed out
I had the honour of attending the swearing in of the inaugural Constituent Assembly. You may
recall, Mr Deputy Speaker, that I reported to the House about this occasion. I said:

I was privileged to be at the swearing in of these members of the Constituent Assembly. I was pres-
ent with the new Chief Minister for the Northern Territory, the Hon. Clare Martin, and the Northern
Territory Minister for Industry, Business, Resource Development, Asian Relations and Trade, Territory
Insurance, Australasian Railway and Racing and Gaming, the Hon. Paul Henderson. We were honoured
guests on the floor of the chamber...

I am a strong believer in the view that those who are so privileged as to be elected to this
place have a special responsibility—a responsibility to do what is right. (Extension of time
granted)

As I said, I have a strong belief that those who are so privileged as to be elected to this
place have a special responsibility to do what is right and, most particularly, to give whatever
opportunities we can to those who have missed out. This includes supporting and advocating
on behalf of those elsewhere in the world who have been oppressed by imperial domination.
We should recognise and accept that as a comparatively wealthy and vibrant democracy we
have a special responsibility to give a hand to those countries, particularly in our region, who
are less fortunate and who are struggling with developing and maintaining democratic institu-
tions. It is, after all, in our interests to do so.

The test for us now as a nation will be how we deal with this new democracy, our neigh-
bour. Will we treat them fairly? Will we accept their right to seek to renegotiate the seabed
boundary between us? Will we accept our obligation to ensure that there is a fair distribution
of the wealth that is created as a result of the development of the resources within the Timor
Sea? I believe that the events which led ultimately to the vote in August 1999 were horrific
and that we as a nation basically denied our own responsibilities to this small, oppressed na-
tion. Subsequently, however, we have done a great deal to remedy that wrong. We have a
great deal more yet to do. I believe that, given the will of our nation and the will of our peo-
ple, we can do so, but we must have the will of government. It is important that the Minister
for Foreign Affairs and the Prime Minister, when they are sitting down negotiating with the East Timorese, understand that the East Timorese rightly believe they have a legitimate right to argue over the issue of a seabed boundary. It has been my privilege to address the House.

Debate (on motion by Mr Neville) adjourned.

ADJOURNMENT

Motion (by Mr Neville) proposed:
That the Main Committee do now adjourn.

Middle East: Israeli-Palestinian Conflict

Mr DANBY (Melbourne Ports) (10.27 a.m.)—Tony Blair has just been on international television exploding another piece of conventional wisdom. The British Prime Minister, a Labour Prime Minister, has explained that the current conventional wisdom on who will run a Palestinian state is something that those of us who are interested in achieving a solution should look beyond. Of course, it is the conventional wisdom that any people should elect their own leadership, but this is a leadership that has—as I think is widely conceded around the world now—never missed an opportunity to miss an opportunity. Arafat ought to be considered by the rest of the world in the true light of his word and deed. I believe the key factor that has convinced Prime Minister Blair and many people around the world, including the US President, of the remoteness of any solution between the two peoples being achieved under the current Palestinian leadership is the fact that 50 per cent of the suicide bombings that are taking place in that part of the world are organised by the Al-Aqsa brigades, a part of Mr Yasser Arafat’s Fatah organisation. These suicide bombings are organised not by the extremist Islamic movements amongst the Palestinian Arabs but by the mainstream heart of the Palestinian movement. These are not random acts of desperate people. I want to recount some of the words of the international editor of the Age, Mr Tony Parkinson, who has dealt with this in a way that I think is unanswerable:

The international community has struggled to come to terms with the phenomena of suicide bombings. Firstly, because it operates outside the moral universe in which most of us live. Secondly, because it sits awkwardly with conventional analysis of the Middle East conflict, in which Palestinians are portrayed as helpless victims and the Israelis as tormentors.

But, as each new episode of terror occurs, the demand for moral clarity becomes more pressing. For how much longer can well-meaning supporters of the Palestinian cause—and some of them are here in Parliament House—in the Arab world, in Europe, in the United States and in Australia—sully their intellectual honesty by seeking to excuse inexcusable acts of terror?

The plain truth is that suicide bombers are the war toys of the extremists in Hamas, Islamic Jihad and Yasser Arafat’s Fatah movement.

As I said, 50 per cent of all of the suicide bombings since the beginning of the year have been ordered by the Al-Aqsa Martyr Brigade, part of the mainstream Fatah organisation. When we debate this issue, one of the very depressing things to see is that people do not seem to engage each other on the facts of what has happened. This is a very difficult intellectual problem for people who do want to reach a solution, because the person whom we are trying to negotiate with is in fact writing cheques and ordering these suicide bombings. Parkinson goes on:
The timing and nature of the attacks is systematic, orchestrated to achieve maximum terror, as part of a broader strategy to weaken Israel’s will to resist.

As a tactic of war, it is barbaric, repugnant and an affront to civilised values. Moreover, it is counter-productive.

Over the weekend, Mr Arafat, in a comment depressing for its tardiness, said that he would now accept the offer made to him by the former Labour Prime Minister of Israel, Mr Ehud Barak, at Camp David and at Taba. After all of this blood and gore, we have the depressing cheek of this man to say that he would now accept what was offered to him on a silver platter. The repeated failure of Palestinian leadership is a great shame for all of humanity. I find it interesting that the views of Arafat among the Palestinian people are starting to crack. Edward Said, who is not a person I would normally quote, recently said in the Egyptian daily *Al-Ahram*:

If there is one thing along with Arafat’s ruinous regime that has done us more harm as a cause it is this calamitous policy of killing Israeli civilians, which further proves to the world that we are indeed terrorists and an immoral movement. For what gain, no one has been able to say.

Indeed. I note that Hanan Ashrawi and a group of Palestinian intellectuals have written the same thing in a prominent Belgian and an Israeli newspaper. This problem of suicide bombing will come to Australia if it is able to destroy a democratic society like Israel. All people of whatever political views must stand up and say that suicide bombing, homicide bombing, is not a way to achieve political ends.

**International Criminal Court**

Mr KING (Wentworth) (10.32 a.m.)—I rise today to speak on Australia’s ratification of the Rome Treaty 1998, the passage of which, in the form of the International Criminal Court bills, should occur through the House of Representatives and the Senate this week. If passed this week, it will be ratified on or before 1 July so that Australia can participate in the World Assembly in September. Before I make further comments about that, may I simply endorse the just delivered words of the member for Melbourne Ports. They reflect what I had the opportunity to say the other day on the Middle East and I endorse them.

I wish to say three things about the treaty and the bills that effect its ratification. There has been much said in the House, and no doubt much will be said in the Senate, regarding the general tenor of the treaty and of the bills that ratify it, but I will limit myself to three issues. The first is what I call the in-out, out-in principle as to the operation of the statute; the second is as to its historical significance; and the third is as to Australia’s role in the September World Assembly. I do so as someone who has been an officer in the Australian Naval Reserve for some 14 years and a member of the legal panel throughout that time who has appeared in Defence Force magistrate’s hearings and courts-martial, from the indefensible punch-up in the Woolloomooloo pub to serious offences on the high seas.

I take into account the observations of my senior officers—the current CDF, Admiral Barrie, and the new CDF as of 1 July, General Cosgrove—who, along with other senior leaders of Australia’s military forces, support the ratification of the treaty. They do so, essentially, for two reasons. Firstly, we have an excellent system of military justice and, secondly, they believe, as do I, that ratification is consistent with our major foreign policy objectives. They are the abolition of international terrorism and ensuring those who commit atrocities against innocent civilians and opponents in war—the butchers of the future—will not go unpunished,
an aim which has been that of the world community since the establishment of the Red Cross in 1863 and the first of the Geneva conventions in 1864.

Let me say something briefly about the in-out, out-in principle which I mentioned, which deals with the problematic issue of sovereignty. The relationship between articles 12 and 13 of the statute and 1 and 17 of the statute is a significant one. Articles 12 and 13 make provision for jurisdiction of the International Criminal Court, which I have to say I would prefer was named the International War Crimes Tribunal. It does so to permit cases to be brought before the tribunal, either by reference from the UN Security Council, from a state party or prosecutor in respect of atrocities on the soil of any ratifying party, including in a case where the party has not ratified but accepts jurisdiction pro tem—that is, in a one-off case. Can it be imagined that any responsible Australian representative could allow one of his or her citizens to be prosecuted by such a court, knowing that if we ratified we could ensure that that person would be dealt with by the Australian military tribunals? That is the whole point of the ratification process, once the 60 countries that have ratified have done so and brought it into existence. In other words, sovereignty argues for ratification, not against it. That is why I call it the in-out, out-in principle. Time does not permit me to deal further with the details of that principle, but it is incorporated in the articles which I have mentioned.

I have briefly touched on the historical significance of the treaty and it has been mentioned in some of the declarations. For example, the Israeli declaration, when that country signed the declaration, is significant in setting out the importance and historical significance of the signing of the treaty for that country. Those principles very much apply to our own. It is important that we do ensure that those butchers of the future, who infringe all principles of humanitarian law, are brought to justice, unlike the situation in the past. Finally, let me speak about September. We must be there, and we should aim to get the prosecutor positions rather than the judge positions. Australia should participate to the full because of our disproportionate influence at this time.

Aviation: Sydney (Kingsford Smith) Airport

Mr Murphy (Lowe) (10.37 a.m.)—The government sale of Sydney airport to Southern Cross Airports Corporation for $5.6 billion this week, even though the five-year-old noise sharing targets for Sydney airport are still not being met, is more than just another Howard government broken promise. It is a callous betrayal of hundreds of thousands of Sydney’s noise affected residents, particularly in the inner west and my electorate of Lowe. Mr Deputy Speaker, the government repeatedly told my constituents that Sydney airport would not be sold until the aircraft noise problem was resolved. In truth, the government has never really been interested in fairly sharing aircraft noise, as evidenced by its refusal to make Airservices Australia implement the now five-year-old long-term operating plan for Sydney airport that would ease the unfair noise burden suffered by residents of Haberfield, Ashfield, Croydon, Abbotsfield, Concord, Concord West, Drummoyne and Five Dock.

Airservices Australia’s Sydney airport operational statistics for May 2002 show residents to the north of Sydney airport are experiencing over 26 per cent of air traffic movements, well above the long-term operating plan targets of 17 per cent that noise affected residents were promised five years ago. I am holding these statistics here this morning because, quite plainly, the Deputy Prime Minister ignored these statistics when he answered my question in question time on Tuesday, just dismissing aircraft noise in Sydney. It has not been resolved, and I seek leave to table these statistics because they show quite plainly, just for this year—and it is con-
sistent with the pattern over the last five years—that Sydney’s air traffic noise to the north is continuing.

Leave not granted.

Mr MURPHY—I suppose I should say what would you expect because the government is being totally dishonest. And worse still is the government’s arrogant disregard for residents trying to make a legitimate complaint. Cynically the government has tried to reduce the number of official complaints by forcing residents to now pay for the privilege of registering a complaint about aircraft noise. In October last year the seven-day-a-week toll-free aircraft noise inquiry line was replaced by an inferior local call service. The Howard government has abandoned noise-affected residents after promising the people of Sydney that the airport would not be sold before the noise problems were resolved.

Whatever the Howard government may say, the truth is that it has had five years to honour its promises to the long-suffering residents of Sydney. Not only has it failed to deliver but it is going to get worse. When I say get worse, we are currently running at over 300,000 air traffic movements in and out of Sydney per year. It is going to increase to 496,400. Why is that going to happen? Notwithstanding the Deputy Prime Minister talking about the 80 cap movement per hour protecting the residents of Sydney, if you multiply 80 movements per hour by 17 hours a day multiplied by 365 days a year, you get 496,000 movements.

The Southern Cross consortium in concert with Macquarie Bank, who bankrolled this project, are obviously driven by the economic imperatives. They are out to make money. We know that they are going to make sure that over the next 20 years we are going to see a further 200,000 air traffic movements. Moreover, there is going to be pressure on the curfew and pressure by the new owners of the 99-year lease for Sydney airport to increase the air traffic movements. Increasing the air traffic movements means more business and more money for those vested and sectional interests who want to see the airport operate more profitably. The tragedy of all this is that there is going to be even more unbearable levels of aircraft noise over the next 20 years.

The damage has been done. This government is accountable, and I am going to continue to remind the Deputy Prime Minister of his broken promises and his dishonesty. I predict that he will continue to sell the people of the bush down the line and the regionals will be pushed out to Bankstown which will operate as an overflow airport so that louder, larger, noisier jets go into Sydney airport. You cannot trust the Deputy Prime Minister. (Time expired)

Electoral Reform

Mr NEVILLE (Hinkler) (10.42 a.m.)—I wish to speak today about a matter which is almost as important as the future of our democracy—that is, electoral reform. We are talking about an issue that goes to the heart of our system of government. Voter enrolment is the most basic transaction between the public and its government. Quite simply, the operational side of democracy is built in the first instance upon the voter enrolment process. At present in order for a person to be enrolled to vote they must be over 18 years of age, an Australian citizen and able to demonstrate that their place of residence is within the geographic boundaries of the electorate. A person must then have their voter enrolment witnessed by someone. I am not having a go at my colleagues opposite, but we saw during the Queensland electoral rorts fiasco that people witnessed multiple enrolment forms. In fact, quite openly members of the
government fell and resigned their portfolios and seats on the basis that they had been participating in this unconscionable practice.

Premier Beattie has come out with a whole list of reforms, in which, surprisingly, he intrudes into the processes of enrolments in the other political parties. In my 40-odd years in the National Party, I have never known a person’s enrolment to be challenged. We have a very simple procedure. There is a roll available; you pay your subscription and you are a member. It has no union overtones, there are no affiliation fees involved. It is a very simple thing. But we are going to be regulated in the same way as the ALP and, I imagine, the Liberal Party will be. We are even going to be told how we have to conduct our preselections. That is an incredible intrusion into the running of political parties.

When the disallowance to the Electoral and Referendum Amendment Regulations 2001 was tabled in the Senate, I believe by Senator Faulkner, it knocked out an appropriate enrolment procedure. All that was being asked of people was that they present some evidence of identification and that they get someone in the community—a doctor, a clergyman, a JP, someone of standing in the community—to witness their enrolment form. What could be simpler and more straightforward than that? If you want to go to a bank and open an account, you have to have an identification points score. Any of you coming from Sydney to Canberra, when you go to pick up your electronic ticket, must show some identification. If you go to a video shop, you have to sign up to certain requirements and identify yourself, as you do if you want a variation to your drivers licence or the registration of your vehicle. But identification for the most fundamental thing of the lot, the integrity of the electoral roll, where there were going to be two very simple procedures, was rejected and disallowed in the Senate.

One of the excuses given by Labor senators was that it would be too difficult for young people. If there is some rock-and-roll group coming to a nightclub or to a licensed function in my electorate, I can tell you, the kids aged 18 years and two or three months never have any trouble at all in getting their identification together. They want to be there to hear the rock-and-roll group. I cannot believe our kids are so dumb that they cannot take to the AEC some photographic evidence, some reasonable form of identification and verification that they are who they say they are.

We just do not want scams going on where we see people enrolled at vacant allotments or multiple enrolments at the one address. This measure would have gone a long way toward cleaning up the starting point of the operational side of the democratic process. I am bewildered that Labor senators would have disallowed this very important thing that would have complemented what is being done in the states.

Budget: Disability Support Pension

Ms ELLIS (Canberra) (10.47 a.m.)—Disability and disability services have been in the headlines of late, and I would like to reflect on where we are up to with the whole debate surrounding disability services. In July 2000, in the life of the then current Commonwealth-State Disability Agreement, the very important decision was taken that there was a level of unmet need that had to be addressed. At that time, Minister Anthony announced and put press releases out that he had agreed to an additional level of funding—at that point, $100 million—to go into the Commonwealth-State Disability Agreement funding regime to meet that unmet need. The budget that has just been brought down by the government attempted to announce some $500 million over five years as new money, when in actual fact that was a reflection of
the unmet need that the government itself had agreed, back in July 2000, to meet—a little bit of a deceit in the way that the budget purported to announce some new money.

On the level of deceit, I refer to *Disability and Carer Connections*, July-August 2001, a publication put out by Centrelink. This contains the following information regarding disability:

As a person with a disability, what does *Australians Working Together* mean for you?

The Government has developed a package …

These changes will come in over the next few years and won’t affect your payment rates. There are no new requirements for people with disabilities. You will NOT have to work.

Later the then Minister for Community Services, in the same document, says:

There will be absolutely no extra obligations placed on people with disabilities.

That statement was made in relation to the trumpeted changes under the *Australians Working Together* program. Come forward to now and keep those comments in mind. We currently have the changes to the DSP legislation floating around in the ether in the Senate—I do not think it is going to appear on paper. We have the quality assurance bill, which is a bill that has been passed by both houses without concurrence, that will affect the operation of business services—in other words, sheltered workshops employing people with disabilities. We have the current negotiations that are under way right now for the next five-year Commonwealth-State Disability Agreement. We have no guarantee from the government that they will meet unmet needs in that new agreement. We have absolutely no guarantee that appropriate indexation will be involved in that agreement. And, as far as I understand at this stage, there are no undertakings to include appropriate growth funds—in other words, funds that will adequately address the very well predicted and expected growth in need for people with disabilities over that period of time.

Also, in the last week or 10 days, the Minister for Family and Community Services announced that she had given $9.22 million for employment services as a one-off to assist in the changes that are occurring in the employment services area for people with disability. The sum of $9.22 million is to be shared between 950 organisations nationally, which I think comes to around $7,000 or $8,000 each. No-one would ever turn down an extra dollar, but we have to be serious when we consider what that actually can do when these very organisations are attempting to deal with increased needs, higher costs, increased insurances and the quality assurance bill demanding that they pay people an appropriate wage. We really have to wonder where it is going.

In the last few weeks the minister has had her personal advisers travelling around Australia talking and listening to people within the business services area. I would never for one moment suggest that that sort of consultation should not occur, but one would imagine that it should have occurred well before all these other decisions had been taken and thrown upon this parliament and upon the community at large. We have a very important meeting tomorrow in Melbourne. That is the ministerial meeting between Minister Vanstone and the ministers for disability around the Commonwealth to further negotiations for the Commonwealth-State Disability Agreement. Disability groups around this country are pinning their hopes on that meeting. We do not want any more deceit. We do not want any more blackmail from the Commonwealth. It is no good the minister at the federal level entering into ministerial discussions and negotiations with a determination not to give an inch: intransigence leads to a failed
outcome. What we do need is for this government and the minister to approach those negotiations and discussions in an honest fashion with the determination to reach an outcome that will suit one group. *(Time expired)*

**Telstra: Sale**

Mr HATTON (Blaxland) (10.52 a.m.)—Yesterday the shadow minister for communications, Mr Lindsay Tanner, member for Melbourne, and I participated in an MPI about the most critical issue facing this government and this country—that is, the future of Telstra. It should be 100 per cent owned by the Australian people, but it is 50.1 per cent owned by them. This government are determined to fully privatise Telstra if they are able to get it through in the next few months, as the Minister for Communications, Information Technology and the Arts intends, and it would be almost entirely dominant within the Australian market. We are looking at something like 95 per cent of the total market being taken up by Telstra—75 per cent of the revenues. We have a situation where what was a total monopoly would be turned into an effective privatised monopoly. We know that, given the history of the Commonwealth Bank and of Qantas, once government companies go into private hands, the government of the day has no real ability to control the destiny of that company.

Qantas have just indicated in the last day or so that they have plans to shut down routes in regional Australia. It is not in the interest of their shareholders. They no longer think they should be carrying that burden. They do not accept it as a social responsibility. They cannot have it imposed on them. They are looking at their company’s bottom line. If that is the case for Qantas, how much more so would that be the case for a privatised Telstra? Labor and the Democrats have launched an inquiry in the Senate to look at this future question. This has been attacked by the minister. It just so happens that the Senate inquiry was launched at the same time that the minister indicated very clearly that this decision will be taken not in years ahead but in the months ahead. On the ABC yesterday, he said:

We’re still on track ...

We’re wanting to ensure that service levels are adequate. I think we’re moving in the right direction.

These things take time but we’re talking months, not years.

The report continues:

He said it was close to moving towards a confrontation with the opposition and minor parties on selling the government’s 50.1 per cent stake in Telstra.

The minister then said:

I think we are inexorably moving to a confrontation on this issue ...

I think over the coming months we would hope that there would be a recognition on all sides that you simply can’t go on the way you are and something has got to give.

It is pretty clear to anyone—in black and white—that this government will be moving in the coming months to try to sell off Telstra completely, and it is already bringing the National Party along with that. The Deputy Prime Minister yesterday tried to equivocate and say that what they are talking about is simply moving to have a look at benchmarking, moving to have a look at how well they are going with providing services to the bush.

Labor know the service provision has not been good enough; Labor know that Telstra has not done enough in regional Australia; and Labor know that Telstra needs to stay there. What we also know, fundamentally, is that the kind of service provision required in regional Aus-
tralia is the kind of service provision that needs to be run through a government provider. That is why it is still important to have Telstra half owned. That is the guarantee to people in the country, in regional and remote Australia—that they will still get their services, that the government cannot walk away from it, that it cannot slip out and say, ‘Oh, I’m sorry. There’s a private provider out there and, if they’re not going to do it, it’s up to the market,’ and so on.

The future of country people in Australia needs to be underwritten by this government. That is why other governments overseas, when they have sold off their telcos, have not sold 100 per cent. They have kept half of it under government control. That allows a choke chain to be kept on the dominant market player and that choke chain to be ripped really tight so the monopolist—the one that really controls the situation here—does not become a completely private monopoly and so that the consumers can be defended by the government, can be supported by the government. *(Time expired)*

**The DEPUTY SPEAKER (Hon. D.G.H. Adams)—**Order! The time allowed for the debate has expired.

Main Committee adjourned at 10.58 a.m.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Copyright: Legal Deposit Scheme
(Question No. 124)

Mr Martin Ferguson asked the Minister representing the Minister for Communications, Information Technology and the Arts, upon notice, on 13 February 2002:

(1) When will the Government act on the recommendations of the February 1999 Copyright Law Review Committee to guarantee the extension of the Commonwealth’s legal deposit provisions to publications in electronic form.

(2) Will the Government guarantee that redefining the definition of “library material” in the Copyright Act will cover forms of publication such as microforms, audio-visual materials and electronic publications.

(3) Is the Minister able to say whether legal deposit legislation in Victoria, Tasmania and South Australia already cover publications in all forms.

(4) Unless the extension of the definition of legal deposit is attended to urgently, is the coverage of the national collection of library material relating to Australia and the Australian people weakened.

Mr McGauran—The Minister for Communications, Information Technology and the Arts has provided the following answer to the honourable member’s question:

(1) The Government has held discussions with industry, the National Library of Australia (NLA) and ScreenSound Australia in response to the CLRC’s recommendations. This consultation is addressing a wide range of complex issues, including:

- the potential costs to industry and the institutions, and how they should be met;
- issues associated with the definition of electronic materials; and
- access to electronic material acquired under legal deposit, in light of copyright owners’ concerns and the need for continued availability of research materials.

Government institutions and industry are yet to reach agreement on these issues. The Government’s final response will take all these considerations into account.

(2) See (1). The definition of material that should be covered by the Commonwealth’s legal deposit legislation is the subject of continuing discussions between the Government, the national collecting institutions and industry.

(3) The legal deposit schemes of the State Libraries of South Australia, Tasmania and Victoria extend to audiovisual material published in physical formats (eg tapes, videos, CDs). The deposit scheme of the State Library of Victoria also extends to other electronic material published in physical formats (eg CD ROMs), which it collects selectively (as does the NLA). However, these State schemes are not as comprehensive as the CLRC recommendations, which propose legal deposit covering all electronic materials. No Australian library currently maintains a compulsory legal deposit scheme that collects copyright materials in all formats, including dynamic material such as websites and other online publications.

(4) The National Library and ScreenSound Australia together maintain highly important collections of Australiana, encompassing a broad range of material from microform and pictorial works to popular films and oral history sound recordings. The NLA also maintains, through a series of voluntary arrangements with the State libraries and the publishing industry, a world-class collection of CD-ROMs, DVDs, floppy disks and online publications. Its PANDORA collection of online material is particularly impressive, as one of the first and most comprehensive collections of its type in the world.

Any change to the current definition of legal deposit is being carefully considered to ensure that the capacity of our institutions to maintain their world class collections is not weakened.

Defence: HMAS Arunta
(Question No. 297)

Mr Price asked the Minister Assisting the Minister for Defence, upon notice, on 14 May 2002:
(1) Is she aware of the statement from the Chief of Navy on Thursday, 10 January 2002 about allegations concerning navy personnel from HMAS Arunta alleged to have occurred at the Golden Bosun Tavern and other places on Christmas Island, towards or at the end of HMAS Arunta’s deployment to intercept illegal immigrants.

(2) Was an independent inquiry conducted to review the allegations, as indicated by Vice Admiral Shackleton; if so, when and by whom.

(3) Was there a report upon the completion of the inquiry; if so, when was the report competed and to whom was the report delivered.

(4) Is she or her staff aware of the findings of the report arising from the inquiry; if so, when did she or her staff become aware of the findings; if not, why not.

(5) Why has the report not been made public and when is it intended to do so.

(6) What were the findings of the inquiry.

(7) Have any navy personnel been charged; if so, when and what are the charges; if not, why not.

Mrs Vale—The answer to the honourable member’s question is as follows:

(1) I am aware of Vice Admiral Shackleton’s media statement of 10 January 2002 following allegations made by the Sydney Daily Telegraph that there was a cover up by the Navy of unacceptable behaviour by members of the Arunta ship’s company while the ship was at Christmas Island.

(2) The allegations have been thoroughly investigated, independently of the Navy chain of command, by a senior Army officer and by Royal Australian Air Force (RAAF) Service Police. The senior Army officer commenced an administrative inquiry on 11 January 2002 to determine the facts and circumstances of the allegations. He submitted his report to the Chief of Navy on 5 February 2002. This report resulted in a disciplinary investigation of six alleged incidents by the RAAF Service Police. Lawyers in the Australian Defence Force (ADF) Prosecution Office then reviewed the RAAF Service Police report, dated 2 April 2002, and provided advice on the reports and the available evidence.

(3) The reports of the administrative inquiry, RAAF Service Police investigation and ADF Prosecution Office legal advice were delivered to the Chief of Navy. Regular advice summarising the reports has been provided to the Minister for Defence and myself.

(4) Yes. I was advised of the outcomes of the RAAF Service Police disciplinary investigation by the Chief of Navy on 22 April 2002. Further clarifying advice was provided on 28 May 2002.

(5) The reports will not be made public due to privacy considerations and the need to ensure that any future disciplinary trials are not prejudiced. The Chief of Navy released a media statement on Tuesday 4 June 2002 announcing the outcomes of the investigations.

(6) Six allegations were investigated by the RAAF Service Police. One of mishandling of evidence, one series of allegations involving three indecent assaults by a male sailor on a female sailor (with the possible involvement of a second male sailor during one of incidents), one of physical assault by a female sailor on a male sailor (the same male and female sailors involved in indecent assault allegations), one of obscene behaviour by sailors and one of nude swimming in the Island swimming pool.

The most serious allegations relate to three separate incidents of a male sailor touching a female sailor, outside her clothing, at the Golden Bosun Tavern on Christmas Island. During one of those incidents, a second male sailor was initially thought to be involved, however further investigation made it clear that he was not responsible for any wrongdoing. At the request of the female sailor, the indecent assault allegations were handled under Defence Unacceptable Behaviour instructions, rather than laying charges under the Defence Force Discipline Act. The male sailor involved in the indecent assault allegations was counselled and formally cautioned. He was also required to apologise to the female sailor and to undertake additional behavioural training.

Another serious allegation involves the mishandling by a senior Service Police sailor of potential videotape evidence relating to alleged incidents of sailors exposing their genitals in public at the Golden Bosun Tavern. The videotape did not contain evidence relating to the alleged indecent assaults. The RAAF Service Police investigation into this allegation was recently completed and the investigation report is currently being considered by the ADF Prosecutions Office.
(7) Of the remaining allegations, consideration is being given to laying charges against two sailors in respect of allegations of obscene behaviour in a public place and being naked in the Island swimming pool. Subject to the findings of investigations that are still being reviewed, consideration may be given to laying additional charges.

**Immigration: Ship Jumpers**
(Question No. 348)

**Mr Martin Ferguson** asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 14 May 2002:

(1) In 2000-2001, what has been the cost to shipping companies for ship jumpers who are in detention centres.

(2) What was the cost to each shipping company to return ship jumpers back to their country in 2000–2001.

(3) What has been the average time ship jumpers have remained in detention.


(5) In 2000-2001, how many unauthorised ship jumpers had successful migration outcomes and of these, (a) how many were successful protection visa applications and (b) from which countries did they originate.

(6) Is it still the case that crew entering Australia by ship are covered under the Special Purpose Visa.

(7) Is there a requirement by Australian Customs Service officers to notify his Department of all ship entries and the number of crew on each ship.

(8) What, if any, checks are carried out by his Department regarding character issues of any crew on ships.

(9) Are any checks carried out against his Department’s movement alert list; if not, why are they exempt.

(10) How many migration applications by ship jumpers in the last three financial years where rejected on grounds of character.

(11) How many applications for the period 1 July 1996 to May 2001 had successful protection applications and what were the nationalities of these people.

**Mr Ruddock**—The answer to the honourable member’s question is as follows:

(1) Under the Migration Act, shipping companies are liable for the cost of detention and removal of crew who desert their vessels and become unlawful non-citizens in Australia. The cost of detention and removal of 18 crew who deserted their vessels in 2000-2001 was $97,461.

(2) The Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) does not record data on the cost to each shipping company of detention and removal of deserters.

(3) The average time deserters remained in detention in Australia in 2000-2001 was 55 days.

(4) In 2000-2001, 3 deserters lodged protection visa applications.

(5) Of the 3 deserters who lodged protection visa applications in 2000-2001, (a) 1 was successful and (b) the applicant was a PRC citizen.

(6) Yes, crew of non-military ships entering and departing Australia during the course of their voyage are taken to hold Special Purpose Visas.

(7) There is no requirement under the Customs Act to notify DIMIA of all ship entries and the number of crew on each ship. However, the Australian Customs Service (ACS) checks details of all crew and passengers on each ship entering Australia against ACS and DIMIA alert lists and reports to DIMIA if there are any persons of concern on a ship.

(8) ACS checks all crew and passenger lists against ACS and DIMIA alert lists, reports any persons of concern to DIMIA and seeks direction before the vessel enters an Australian port.

(9) See answer to (8) above.

(10) The Department does not keep separate data on deserters whose visa applications have been rejected on character grounds.
(11) For the period 1 July 1996 to May 2001, 9 deserters were granted protection visas in Australia; of these 4 were from Iran, 1 from Algeria, 1 from Turkey, 1 from PRC and 2 were stateless persons.

**Trade: Motor Vehicle Imports**  
(Question No. 386)

Mr Kerr asked the Minister representing the Minister for Justice and Customs, upon notice, on 27 May 2002:

(1) Has the Minister’s attention been drawn to the case of Mr David Eberle’s importation of a second-hand motor vehicle from the USA.

(2) Why is the Minister’s Department insisting on assessing the value of the vehicle on an invoice that was produced three and a half years prior to the vehicle’s point of entry into Australia.

(3) Are other valuation methods available; if so, why has neither the Minister nor his Department reviewed the decision.

Mr Williams—The Minister for Justice and Customs has provided the following answer to the honourable member’s question:

(1) Mr Kerr should be aware that the importation of the second-hand motor vehicle was drawn to my attention. Mr Kerr wrote to me on this matter in August 2001 and again in September 2001. I replied to Mr Kerr in October 2001.

(2) The Customs Act 1901 (the Customs Act) requires the Australian Customs Service (Customs) to determine the value of imported goods in accordance with the provisions contained in that Act. The first valuation method to be considered is the transaction value method which uses the price actually paid or payable for the goods. In this case, a transaction value could be determined and that value was applied, notwithstanding that the transaction took place more than three years before the goods were imported. The motor vehicle was placed in long-term storage in the USA, and so the condition of the motor vehicle did not deteriorate between the time of purchase and the time of exportation to Australia.

(3) The valuation provisions of the Customs Act contain eight different valuation methods, which are considered in sequential order. As the transaction value method was applicable, that was the only valuation method that could be used. More than 95 per cent of all imported goods are valued in this manner. The Chief Executive Officer of Customs wrote to Mr Kerr in December 2001 advising him that the original valuation decision of Customs had been reviewed twice. Both reviews confirmed that the correct valuation method had been applied.

**Lucas Heights: Liquid Waste Dump**  
(Question No. 427)

Mrs Irwin asked the Minister representing the Minister for Finance and Administration, upon notice, on 28 May 2002:

(1) Is the Minister’s Department responsible for the site of the former IWC liquid waste dump at Lucas Heights, NSW.

(2) Was the site used to dump materials including dioxins, phenols, organo-chlorides and heavy metals.

(3) Has any pollution monitoring been carried out at the site or on adjoining land.

(4) Have the results of any testing been made public.

(5) Is the Minister’s Department aware of plans by the Gandangara Local Aboriginal Land Council, the owners of land downstream of the site, to develop their land as a reserve with full public access.

(6) Has the Minister’s Department been approached by the Gandangara Local Aboriginal Land Council for test results of pollution monitoring in the vicinity of their land.

(7) Has the Minister’s Department insisted on payment of almost $10,000 to provide this information to the owners of land downstream of the IWC liquid waste dump.

(8) Has the Minister’s Department taken any measures to contain groundwater pollution from the IWC site; if so, what measures have been taken.
Has the Minister’s Department contributed to the rehabilitation of any contaminated sites in the vicinity of the IWC site; if so, what measures have been taken.

Mr Costello—The Minister for Finance and Administration has supplied the following answer to the honourable member’s question:

(1) Yes.
(2) The Commonwealth did not operate the waste dump. From 1969 to 1980 the waste dump was operated by Industrial Waste Collection and Cleanaway. The Commonwealth has not been advised by these companies of what has been dumped at the site.
(3) Yes.
(4) No, but the results have been provided to the NSW Labor Government’s EPA.
(5) The Gandangara Local Aboriginal Land Council has not advised the Department of Finance and Administration of any development plans.
(6) No.
(7) No.
(8) No. The operator of the waste dump undertook site closure measures to contain pollution.
(9) See answer to Question 8.

Adult Migrant Education Program
(Question No. 436)

Mr Laurie Ferguson asked the Minister for Citizenship and Multicultural Affairs, upon notice, on 29 May 2002:

(1) Does the Government plan to run paid advertisements in Belgrade, Guangzhou, Ho Chi Minh City, Hong Kong, Manila and Shanghai urging potential migrants to Australia to utilise their entitlements under the Adult Migrant Education Program (AMEP), as indicated in an article entitled “Migrants given help” in The Sunday Telegraph of 10 March 2002.
(2) If so, what is the (a) specific rationale for the proposed overseas advertising campaign, (b) budget allocation in 2002-2003 and subsequent years for background research and associated preparation costs, (c) budget allocation in 2002-2003 and subsequent years for the advertisements and (d) basis on which the particular target cities for the advertisements were chosen.
(3) If the newspaper report was incorrect, what action, if any, has he taken to correct the public record.
(4) What is the budget allocation in 2002-2003 for his Department to advertise or promote availability of AMEP assistance in (a) mainstream Australian newspapers, (b) ethnic newspapers published in Australia and (c) ethnic and community radio stations in Australia.

Mr Hardgrave—The answer to the honourable member’s question is as follows:

(1) The Government does not plan to run paid advertisements in Belgrade, Guangzhou, Ho Chi Minh City, Hong Kong, Manila and Shanghai urging potential migrants to Australia to utilise their entitlements under the Adult Migrant English Program (AMEP). The Sunday Telegraph’s reference to an ‘international advertising campaign’ referred to the development and distribution of new information materials for distribution through our overseas Posts.
(2) (a)-(d) The report of The Sunday Telegraph followed my launch in February this year of new information materials - posters and flyers - promoting the AMEP to targeted groups. These materials were developed by the AMEP to help improve the program’s reach to eligible clients. The needs of particular groups of new arrivals with lower than average participation rates in the AMEP were identified and researched in consultation with Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) staff overseas. The materials produced aimed to heighten awareness about the AMEP and explain to these particular groups the importance of learning English for successful settlement.

The development of the materials, including translations into six languages, cost $29 000, drawn from the AMEP’s promotional budget. Promotion of the AMEP continues to be a joint responsibility of the government and AMEP service providers, who are contractually required to promote the AMEP.
(3) No action is necessary to correct the public record.

(4) (a)-(c) There is no budget allocation in 2002-2003 for AMEP advertising or promotion in mainstream Australian newspapers, ethnic newspapers published in Australia or ethnic and community radio stations in Australia. The Government’s promotional strategy for the AMEP involves distribution of a range of information materials both onshore and offshore.

Trade: Export Market Development Assistance
(Question No. 460)

Ms Vamvakinou asked the Minister for Trade, upon notice, on 4 June 2002:

Since 1996, what is the level of export market development assistance provided to private firms and companies registered in the postcode areas of (a) 3036, (b) 3037, (c) 3038, (d) 3043, (e) 3046 (f) 3047, (g) 3048, (h) 3049, (i) 3059, (j) 3060, (k) 3061, (l) 3064, (m) 3427 and (n) 3428.

Mr Vaile—The answer to the honourable member’s question is as follows:

From and including the 1995/1996 financial year until the 13 June 2002, the following level of export market development assistance has been provided to private firms within each of the following postcodes;

(a) $14,768 was provided within postcode 3036;
(b) nothing was provided within postcode 3037;
(c) nothing was provided within postcode 3038;
(d) $2,634,362 was provided within postcode 3043;
(e) $616,403 was provided within postcode 3046;
(f) $422,400 was provided within postcode 3047;
(g) $141,889 was provided within postcode 3048;
(h) nothing was provided within postcode 3049;
(i) nothing was provided within postcode 3059;
(j) nothing was provided within postcode 3060;
(k) $1,346,564 was provided within postcode 3061;
(l) $828,999 was provided within postcode 3064;
(m) nothing was provided within postcode 3427 and
(n) $16,091 was provided within postcode 3428.

This amounts to a total of $6,021,476 of export market development assistance.