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SITTING DAYS—2002

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
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<tbody>
<tr>
<td>February</td>
<td>12, 13, 14, 18, 19, 20, 21</td>
</tr>
<tr>
<td>March</td>
<td>11, 12, 13, 14, 19, 20, 21</td>
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<tr>
<td>May</td>
<td>14, 15, 16, 27, 28, 29, 30</td>
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<tr>
<td>June</td>
<td>3, 4, 5, 6, 17, 18, 19, 20, 24, 25, 26, 27</td>
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<tr>
<td>August</td>
<td>19, 20, 21, 22, 26, 27, 28, 29</td>
</tr>
<tr>
<td>September</td>
<td>16, 17, 18, 19, 23, 24, 25, 26</td>
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<tr>
<td>October</td>
<td>14, 15, 16, 17, 21, 22, 23, 24</td>
</tr>
<tr>
<td>November</td>
<td>11, 12, 13, 14</td>
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<tr>
<td>December</td>
<td>2, 3, 4, 5, 9, 10, 11, 12</td>
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- BRISBANE 936 AM
- MELBOURNE 1026 AM
- ADELAIDE 972 AM
- PERTH 585 AM
- HOBART 729 AM
- DARWIN 102.5 FM
CONTENTS

THURSDAY, 19 SEPTEMBER

HOUSE HANSARD
Inspector-General of Taxation Bill 2002—
  First Reading ................................................................. 6775
  Second Reading ......................................................... 6775
Aboriginal Land Rights (Northern Territory) Amendment Bill 2002—
  First Reading ................................................................. 6775
  Second Reading ......................................................... 6775
Australian Animal Health Council (Live-stock Industries) Funding Amendment Bill 2002—
  First Reading ................................................................. 6777
  Second Reading ......................................................... 6777
Murray-Darling Basin Amendment Bill 2002—
  First Reading ................................................................. 6778
  Second Reading ......................................................... 6778
Treasury Legislation Amendment Bill (No. 1) 2002—
  First Reading ................................................................. 6780
  Second Reading ......................................................... 6780
International Tax Agreements Amendment Bill (No. 2) 2002—
  First Reading ................................................................. 6781
  Second Reading ......................................................... 6781
Taxation Laws Amendment Bill (No. 6) 2002—
  First Reading ................................................................. 6782
  Second Reading ......................................................... 6782
Business—
  Rearrangement ........................................................................ 6782
Ministerial Statements—
  Foreign Affairs: Iraq ...................................................... 6782
Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002—
  Second Reading ................................................................. 6787
Questions Without Notice—
  Taxation: Family Payments ................................................ 6824
  Foreign Affairs: Iraq ...................................................... 6825
  Fuel: Ethanol Content ..................................................... 6826
  Economy: Performance .................................................... 6826
  Fuel: Ethanol Content ..................................................... 6827
  Rural and Regional Australia: Assistance ............................ 6827
Distinguished Visitors ................................................................. 6829
Questions Without Notice—
  Fuel: Ethanol Content ..................................................... 6829
  Transport: Infrastructure Reforms ...................................... 6830
  Fuel: Ethanol Content ..................................................... 6831
  Automotive Industry ....................................................... 6831
  Fuel: Ethanol Content ..................................................... 6832
  Trade: Automotive Industry .............................................. 6833
  Fuel: Ethanol Content ..................................................... 6834
  Workplace Relations: Queensland ...................................... 6835
  Workplace Relations: Queensland ...................................... 6836
Australian Citizenship Day................................................................. 6836
Telstra: Service Charges........................................................................ 6837
Education: Funding .............................................................................. 6838

Questions Without Notice: Additional Answers—
Taxation: Family Payments .............................................................. 6839
Papers................................................................................................. 6839
Leave of Absence............................................................................... 6840

Matters of Public Importance—
Telstra: Service Charges................................................................. 6840
States Grants (Primary and Secondary Education Assistance) Amendment
Bill (No. 2) 2002—
Report from Main Committee...................................................... 6850
Third Reading............................................................................... 6850
Acis Administration Amendment Bill 2002—
Report from Main Committee...................................................... 6850
Third Reading............................................................................... 6850
Egg Industry Service Provision Bill 2002—
Report from Main Committee...................................................... 6851
Third Reading............................................................................... 6851
Egg Industry Service Provision (Transitional and Consequential Provisions)
Bill 2002—
Report from Main Committee...................................................... 6851
Third Reading............................................................................... 6851
Parliamentary Zone—
Approval of Proposal...................................................................... 6851
Bills Returned from the Senate......................................................... 6852
parliamentary zone—
Approval of Proposal...................................................................... 6852
Family and Community Services Legislation Amendment (Disability Reform)
Bill (No. 2) 2002—
Second Reading............................................................................ 6852
Third Reading............................................................................... 6861
Commonwealth Electoral Amendment Bill (No. 1) 2002—
Consideration of Senate Message............................................... 6861
Australian Security Intelligence Organisation Legislation Amendment
(Terrorism) Bill 2002—
Second Reading............................................................................ 6864
Adjournment—
Media: Journalism Standards......................................................... 6868
Gilmore Electorate: Isabel Story...................................................... 6868
Ferguson, Mr Jack............................................................................ 6869
Indigenous Affairs: Native Title....................................................... 6870
Cleary, Mr Rob................................................................................ 6871
United States of America............................................................... 6872
Women: Sport.................................................................................. 6873
CONTENTS—continued

Notices ................................................................................................................ 6874

MAIN COMMITTEE
Statements by Members—
   Health: Medical Indemnity Insurance ............................................................ 6875
   Health: Tough on Drugs Strategy ................................................................. 6876
   Housing: Public ............................................................................................. 6876
   Queen’s Birthday Honours List: Karim Kisrwani ..................................... 6877
   Regional Services: Rural Transaction Centres ............................................ 6878
   Ferguson, Mr Jack ....................................................................................... 6879
Egg Industry Service Provision Bill 2002, and
Egg Industry Service Provision (Transitional and Consequential Provisions)
Bill 2002—
   Second Reading .......................................................................................... 6879
   Consideration in Detail .............................................................................. 6887
Egg Industry Service Provision (Transitional and Consequential Provisions)
Bill 2002—
   Second Reading .......................................................................................... 6887
Dairy Industry Legislation Amendment Bill 2002—
   Second Reading .......................................................................................... 6887
   Consideration in Detail .............................................................................. 6900
Transport Safety Investigation Bill 2002, and
Transport Safety Investigation (Consequential Amendments) Bill 2002—
   Second Reading .......................................................................................... 6901
   Consideration in Detail .............................................................................. 6916
Adjournment—
   National Party of Australia ....................................................................... 6916
   Roads: F6 Link Road ................................................................................... 6918
   Housing: Supported Accommodation ....................................................... 6919
   Makin Electorate: Tee Tree Gully Community Services Forum ............... 6920
   Braddon Electorate: Sugar Industry ............................................................ 6921
   Kalgoorlie Electorate: GMF Health ............................................................. 6923
Transport Safety Investigation Bill 2002, and
Transport Safety Investigation (Consequential Amendments) Bill 2002—
   Consideration in Detail .............................................................................. 6924
Transport Safety Investigation (Consequential Amendments) Bill 2002—
   Second Reading .......................................................................................... 6924
Members of Parliament (Life Gold Pass) Bill 2002—
   Second Reading .......................................................................................... 6925
Health Legislation Amendment (Private Health Industry Measures) Bill 2002—
   Second Reading .......................................................................................... 6937
Thursday, 19 September 2002

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

INSPECTOR-GENERAL OF TAXATION BILL 2002
First Reading

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

Second Reading

Mr COSTELLO (Higgins—Treasurer) (9.31 a.m.)—I move:

That this bill be now read a second time.

This bill will establish an independent statutory office of Inspector-General of Taxation. Establishing the Inspector-General will fulfil the government’s election commitment to strengthen the advice given to government in respect of matters of tax administration.

The Inspector-General will provide a new source of independent advice to the government. The role will act as an advocate for all taxpayers, including Australian business and will provide an avenue for more effective conflict resolution than currently exists.

The bill provides for the appointment of an Inspector-General of Taxation by the Governor-General for a fixed term of up to five years. The terms of appointment and strict prerequisites for dismissal will ensure that the Inspector-General enjoys a high degree of independence.

The Inspector-General will be able to conduct reviews of tax administration and invite submissions from the public on a matter that is under review. The Inspector-General may initiate a review on his or her own initiative and the Treasury ministers will be able to direct the Inspector-General to conduct a review.

The bill provides for the Inspector-General to have strong powers to compel production of documents by tax officials and to take evidence from tax officials where this proves necessary. This will ensure that systemic tax administration issues can be rigorously pursued and resolved.

However, the bill will not compromise the absolute independence of the Commissioner of Taxation in the administration of the tax laws. The Inspector-General will not be able to direct the Commissioner other than to require the disclosure of information for a review.

The bill will not affect the powers or functions of other taxation review agencies, including the Ombudsman. The Inspector-General is required to consult with the Ombudsman and the Auditor-General at least once a year. The consultation process is intended to avoid duplication of effort in reviews of tax administration but will not compromise the Inspector-General’s discretion to determine his or her work program.

This bill will not impose any additional obligations on taxpayers nor increase their compliance costs. The compulsive investigative powers of the Inspector-General will not extend to taxpayers, since the Inspector-General will be reviewing systemic tax administration issues and not the tax affairs of individuals or businesses. The bill prevents taxpayers from being identified in reports by the Inspector-General.

I would like to acknowledge the advice and recommendations the government received from the Board of Taxation. I would also like to thank those who participated in the public consultation process convened by the Board of Taxation—taxpayer representative groups, the tax advising professions, businesses and individuals. I commend the bill to the House and present the explanatory memorandum.

Debate (on motion by Mr Albanese) adjourned.

ABORIGINAL LAND RIGHTS (NORTHERN TERRITORY) AMENDMENT BILL 2002
First Reading

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

Second Reading

Mr RUDDOCK (Berowra—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (9.35 a.m.)—I move:

That this bill be now read a second time.
This bill reflects the continuing commitment of this government to securing the legitimate title to traditional lands on behalf of Aboriginal people of the Northern Territory.

The Aboriginal Land Rights (Northern Territory) Act 1976—which I will hereafter refer to as the land rights act—provides a mechanism whereby traditional Aboriginal land in the Northern Territory, referred to in schedule 1 of that act, may be granted to Aboriginal people with the agreement of this parliament. Since the land rights act came into operation in 1977 a total of some 64 separate parcels of land have been scheduled under the act. This amendment will bring the total to 69.

The effect of this bill would first of all be to bring within schedule 1 of the land rights act four areas of land that were the subject of the Upper Daly (Repeat) Land Claim. The land, situated about 250 kilometres to the south-west of Darwin, not far from the township of Pine Creek, was the subject of an agreement between the Northern Territory government, the Northern Land Council and the claimants. The agreement was entered into on 15 November 1999 and finalised in February 2002 after discussions relating to native title, the granting of other titles to the Northern Territory government and the making of a lease-back agreement in respect of the Umbrawarra Gorge Nature Park Reserve. The area to be scheduled comprises nearly 110,000 hectares.

The bill will also bring within schedule 1 of the land rights act a single block of land, situated some 40 kilometres north of Alice Springs, near the Stuart Highway. This scheduling proposal arises from the government's decision to provide funding to enable the construction of one of the greatest infrastructure projects in Australian history to proceed: the Darwin to Alice Springs railway. This scheduling proposal arises from the government’s decision to provide funding to enable the construction of one of the greatest infrastructure projects in Australian history to proceed: the Darwin to Alice Springs railway.

Title to this block of land will be granted to the Harry Creek East community. The community's current land is situated on the old north-south stock route and has been rendered unfit for community purposes by its proximity to the Darwin-Alice Springs railway corridor. Hence, the former government of the Northern Territory agreed to grant the community another parcel of land, located only a few kilometres to the south-east of their current land.

With construction of the Darwin to Alice Springs railway having now commenced in the area concerned, the Central Land Council, which has jurisdiction over the area, requested that this land, some 450 hectares of vacant Northern Territory crown land, be granted to the Arapiewe Aboriginal land trust, on behalf of the members of the Harry Creek East community. The Northern Territory government has agreed to this scheduling proposal.

As a result of the scheduling of these parcels of land, the Aboriginal people concerned will be able to have the full rights of enjoyment of their traditional lands in fee simple—in other words, a freehold title in perpetuity.

This bill is further evidence of this government’s commitment to land rights and its acknowledgment of the cultural and spiritual importance of land to Indigenous Australians. However, while supporting the return of traditional land to its Aboriginal owners, the government considers that the land rights act in its current form is in urgent need of repair because it has not assisted, as it should have, in improving the social and economic position of Aboriginal land owners. The provisions relating to exploration and mining on Aboriginal land are a case in point. There has only been one new mine on Aboriginal land in 25 years. There have been over 1,000 applications to explore on Aboriginal land but more than half of those applications remain outstanding.

The government believes that many traditional owners are interested in the development of their lands but the cumbersome provisions in the land rights act are preventing that occurring. With no circuit-breaker in the act, there are endless negotiations.

The land rights act maintains paternalistic aspects, particularly in relation to Aboriginal people needing to go through a distant land council bureaucracy to manage their own land. Regionalisation of decision making in relation to the Northern and Central Land
Councils, and even establishing new land councils where people want them, would assist in quicker land use decisions and greater local control.

The land rights act is over 25 years old and has not been substantively amended since 1987. There are continuing calls for changes to the act, particularly from the land councils, ATSIC and Aboriginal communities across the Northern Territory. The government is currently waiting for the views of the Northern Territory government and the Central and Northern Land Councils on a paper canvassing options for reform, which the government circulated to interested parties earlier this year. I am hopeful that I will receive these views in the near future so that reform of the land rights act can be progressed.

As I have said, amendments to the act are long overdue. However, this bill demonstrates that the government is prepared to continue to work with the existing legislation. This is an act of good faith on our part and I ask the other stakeholders, particularly the two major land councils and the Northern Territory government, to join this government in good faith in seeking the reform of the land rights act.

I ask the opposition to give the matter of amendments to the land rights act priority and to support changes, which will contribute to improving the lives of traditional owners and other Indigenous Australians.

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

 Debate (on motion by Mr Albanese) adjourned.

**AUSTRALIAN ANIMAL HEALTH COUNCIL (LIVE- STOCK INDUSTRIES) FUNDING AMENDMENT BILL 2002**

**First Reading**

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

**Second Reading**

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

That this bill be now read a second time.

The amendments to the Australian Animal Health Council (Live-stock Industries) Funding Act 1996 will enable the new emergency animal disease response, EADR, levies and charges to be paid to Animal Health Australia through the normal appropriation process from the consolidated revenue fund. The amendment bill also provides a mechanism for levy and charge moneys collected in excess of a livestock industry’s liability to the Commonwealth to be appropriated to fund the promotion or maintenance of the health of animals as well as research and development activities as requested by industry.

In February 1998, the then Agriculture and Resource Management Council of Australia and New Zealand, ARMCANZ, endorsed the need for a national policy on funding principles for pest and disease emergency management. Following a lengthy and detailed process commencing in 1998, governments and industry determined that the cost sharing arrangements in place since 1955 were inadequate to deal with the scale of most existing or emerging emergency animal diseases. The Australian Animal Health Council, AAHC, known as Animal Health Australia, coordinated the development of new national cost sharing arrangements for EAD responses, through an exhaustive consultation process involving governments and livestock industry stakeholders. A new cost sharing agreement, the government and livestock industry cost sharing deed in respect of emergency animal diseases, was prepared by Animal Health Australia based on the outcomes of that consultative process. This agreement is known as the emergency animal disease response agreement, EADRA. The arrangements provide for the sharing of the eligible costs of a disease response by governments and affected industries and will replace the previous Commonwealth-states cost sharing agreement.
Under the terms of this new agreement, the Commonwealth may be required to underwrite a livestock industry’s share of costs of an emergency animal disease response. The Commonwealth has agreed to underwrite the cost of reacting to an emergency animal disease outbreak on the proviso that livestock industries, which have signed the EADRA, agree to an appropriate repayment scheme. These signatories have agreed and will fund their responsibilities, under the new agreement, through the imposition of a new animal disease levy. Initially, the new levy will be set at zero, with the exception of the honey bee industry. For all current signatories, except the honey industry, this means that there will be no increase in the levy burden from the outset. To allow the repayment arrangements via a levy or charge to come into law, it is necessary to amend the Australian Animal Health Council (Livestock Industries) Funding Act 1996.

Once an industry’s debt to the Commonwealth has been acquitted, the amendment bill provides for moneys collected in excess of this amount to be redirected to fund the promotion or maintenance of the health of animals. This may include redirection to the industry’s R&D corporation and be deemed to be an R&D levy or charge. This R&D component will be matched by the Commonwealth, as is currently the case. The new EADR levies and charges component will not be matched.

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

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

This legislation has the full support of industry groups and producers. It establishes arrangements for the long-term funding of emergency animal disease outbreaks and so assists in providing certainty for the planning of EAD responses.

This is indeed a significant piece of legislation and secures funding arrangements for disease outbreaks should they occur in Australia. I would like to commend the industry for the role that they have played in accepting a share of the responsibility for meeting the costs of disease outbreaks. Some industries are choosing to put aside funding from their reserves to enable them to meet some of the initial costs associated with the disease outbreak. The honey industry has chosen to immediately impose a levy so that they will have some funds available should a disease outbreak occur. I would certainly encourage other industries to plan in advance to develop a pool of financial resources so that they are able to make a contribution in advance of any disease outbreak and therefore be well equipped and able to meet a disease problem should it arise.

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

Debate (on motion by Mr Albanese) adjourned.
receive guaranteed levels of annual releases of water from the scheme. The River Murray will receive a significant boost in dedicated environmental water, sourced from increased efficiencies in the way we use the water in the river.

The governments of New South Wales, Victoria and the Commonwealth agreed to corporatise the Snowy scheme for a number of very good reasons. The most significant is to ensure that the benefits of competition reform in Australia’s electricity industry can be accessed by the Snowy scheme. The legislation necessary to underpin corporatisation was debated and passed by this parliament in 1997.

The Murray-Darling Basin Amending Agreement, through which governments agreed to the amendments to the Murray Darling Basin Agreement, is one of a series of intergovernmental agreements that will give effect to corporatisation. The Snowy Water licence, issued by the New South Wales government, provides for the operation of Snowy Hydro Ltd within the New South Wales regulatory environment. It specifies rights over water, consultation and direction processes, exchange of data, the annual water licence fee and water release obligations.

Under the Snowy Water licence, Snowy Hydro is required to release minimum amounts of water into the Murray and Murrumbidgee rivers each year. Irrigators and the environment will have ‘first call’ on water under the control of the scheme up to that level. This contrasts with the pre-corporatisation situation, where the volume of annual releases had to be negotiated with the then Snowy Mountains Council each year. The licence also contains release rules designed to avoid unnecessary spills from water storages and to provide additional water security during summer.

As part of the corporatisation process, the governments of New South Wales and Victoria conducted a Snowy Water inquiry to consider the benefits of additional environmental flows in the Snowy River to offset the impact of the diversion of water to the Murray and Murrumbidgee rivers by the Snowy scheme. The Commonwealth government also conducted a comprehensive environmental impact statement to assess all the environmental issues associated with corporatisation of the Snowy scheme and, in particular, to focus on the impacts of additional environmental flows on the Murray-Darling Basin. The governments have decided on the basis of these inquiries to return substantial environmental flows to the River Murray, the Snowy River and key alpine rivers in the Kosciuszko National Park. These flows will be found principally from water efficiency projects in the River Murray and in the Murrumbidgee and Goulburn-Murray river systems.

The Commonwealth has agreed to provide $75 million to fund water savings of up to 70 gigalitres annually that, when released from the Snowy scheme, will be dedicated to achieving environmental outcomes in the River Murray.

The New South Wales and Victorian governments have agreed to a long-term staged process to return 28 per cent of average natural flows to the Snowy River. As a first stage the two governments have agreed to provide $150 million each to achieve a target flow rate of 21 per cent to be returned over 10 years.

Throughout the corporatisation process, the Commonwealth has insisted on a number of important safeguards. First, allocations of water to environmental entitlements must not adversely impact on irrigators. Second, the allocations must not adversely impact on the rights and interests of the state of South Australia. Third, the commercial viability of the Snowy scheme will be maintained. Fourth, water for environmental flows will be sourced principally from verified water savings. Lastly, water for environmental flows in the Snowy and Murray cannot be consumed—they must flow through the river systems to the sea.

In summary, this bill asks the parliament to approve the Murray-Darling Basin Amending Agreement, which will, in turn, amend the existing Murray-Darling Basin Agreement.

These amendments to the Murray-Darling Basin Agreement are necessary in part be-
cause of the revocation of the Snowy Mountains Hydro-electric Power Act 1949 and to implement agreed outcomes from the corporatisation of the Snowy scheme, which occurred on 28 June 2002. The amendments make arrangements for the sharing of water from the Snowy scheme by New South Wales, Victoria and South Australia. They will protect Victoria’s and South Australia’s right to water from the Murray River if New South Wales fails to ensure necessary water releases from the scheme. The amendments also set out arrangements for the transfer of verified water savings and water entitlements into environmental entitlements for the Snowy River and the River Murray.

The amending agreement sets out arrangements for the management of the 70 gigalitres of River Murray environmental entitlements. Before 1 May 2004, the Murray-Darling Basin Ministerial Council will be required to develop environmental objectives and a strategy for retaining and releasing the environmental entitlements. The environmental objectives for the environmental entitlements must be integrated with other environmental initiatives on the River Murray. The amendments will also require the Murray-Darling Basin Commission to release and manage the environmental entitlements in accordance with the strategy developed by the ministerial council.

The governments will be required to inform the commission of proposals to achieve water savings or to purchase water entitlements for environmental entitlements to enable the commission to assess the possible effects of the proposals on the flow, use, control or quality of water.

The Murray-Darling Basin Amending Agreement has been agreed by the Commonwealth government and the governments of New South Wales, Victoria and South Australia. The amending agreement will also require the approval of the parliaments of New South Wales, Victoria and South Australia before it can be implemented.

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

Debate (on motion by Mr Albanese) adjourned.

TREASURY LEGISLATION AMENDMENT BILL (No. 1) 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) (9.56 a.m.)—I move:

That this bill be now read a second time.


The Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001 has modernised and increased the relevance of data collections from financial sector entities, ensuring that the Australian Prudential Regulation Authority (APRA) collects the data it requires for the purposes of its prudential functions. The provisions of the act were proclaimed to commence at certain times to enable a staggered introduction.

The General Insurance Reform Act 2001 has substantially strengthened the prudential supervisory regime for general insurers operating in Australia.

The provisions of the Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001 relating to general insurance, part 3, were intended to commence by proclamation on 1 October 2001 and the General Insurance Reform Act 2001, which amended provisions in part 3, was drafted accordingly, and came into effect on 1 July 2002.

However, the original proclamation of the commencement of part 3 was invalid and a further proclamation was made. This provided that the provisions would also commence on 1 July 2002.

This has led to an ambiguity as it is unclear whether the provisions contained in the

The provisions relate to the role, accountability and responsibility of auditors and actuaries, access to premises and the signing of documents which are all key factors in maintaining an effective prudential framework.

The amendments contained within this bill would ensure that the operation of the two acts had their intended effect by legislating that the provisions of the Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001 commenced immediately before the provisions of the General Insurance Reform Act 2001. This would ensure that, where the same provision is amended by both of the acts, the amendments made by the Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001 operate first.

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

Debate (on motion by Mr Albanese) adjourned.

INTERNATIONAL TAX AGREEMENTS AMENDMENT BILL (No. 2) 2002

First Reading

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

Second Reading

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (10.00 a.m.)—I move:

That this bill be now read a second time.

This bill will provide legislative authority for the domestic entry into force of a protocol amending the Australia-Canada double tax convention and a second protocol amending the Australia-Malaysia double tax agreement. The bill will insert the texts of these protocols into the International Tax Agreements Act 1953 as schedules to that act.

The Canadian and second Malaysian protocols were signed on 23 January 2002 and 28 July 2002 respectively. Details of the protocols were announced and copies made publicly available following the respective dates of signature.

The government believes the Canadian protocol will facilitate trade and investment between Australia and Canada by reducing withholding taxes in some circumstances and reducing the possibility of double taxation of capital gains by extending coverage of the Canadian convention to taxes on such gains.

The second Malaysian protocol will protect Australia’s tax revenue by denying treaty benefits to those who use the preferential tax treatment under the Labuan offshore business activity regime and other substantially similar regimes. It will also operate to extend tax sparing arrangements in relation to certain designated development incentives provided by Malaysia until 30 June 2003. Furthermore, the second Malaysian protocol will update the Malaysian agreement to reflect modern business and tax treaty practices.

The Canadian and second Malaysian protocols will enter into force when the relevant countries have completed all the requirements necessary to give the protocols effect in the domestic law of the relevant countries.

The enactment of this bill, and the satisfaction of the other procedures relating to proposed treaty actions, will complete the processes necessary in Australia for those purposes.

The bill includes an amendment to ensure that interest that is currently not subject to tax in Australia does not become taxable in Australia as a result of changes to the US convention. The bill will also make a number of minor technical amendments to the International Tax Agreements Act 1953.

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

Debate (on motion by Mr Albanese) adjourned.
TAXATION LAWS AMENDMENT BILL
(No. 6) 2002

First Reading

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

Second Reading

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (10.03 a.m.)—I move:

That this bill be now read a second time.

This bill amends the Income Tax Assessment Act 1936, the Income Tax Assessment Act 1997 and the A New Tax System (Goods and Services Transition) Act 1999, to give effect to several taxation measures.

Firstly, the interest withholding tax amendments contained in this bill are aimed at enhancing Australia’s development as a centre for financial services in the Asia-Pacific region. These amendments will extend the categories of exemption from interest withholding tax to improve Australia’s capital markets by removing some impediments to Australian businesses raising finance and eliminating certain compliance costs.

Among those who will potentially benefit from the amendments are those who issue debentures which may be taken up by Australian businesses in the course of business or acting in their capacity as clearing house, and Australian residents who purchase qualifying discounted securities from non-residents.

Secondly, the bill contains a measure that provides a capital gains tax exemption for Australian residents who receive payments under a German wartime compensation fund known as the German Forced Labour Compensation Program.

The exempt payments are made to Australian residents and their heirs who suffered injustices and loss during the National Socialist period—for example, slave or forced labourers—and those who suffered property damage or loss.

The measure satisfies an election commitment made by the government during the 2001 federal election campaign.

Lastly, this bill amends the income tax law so that, from 1 January 2003, friendly societies will be allowed a deduction for investment income paid to recipients of income from special purpose investment products—that is, income bonds, scholarship plans and funeral policies. The deduction, which will apply to products issued on or after 1 January 2003, is to prevent double taxation in the situation where the income, following recent business tax reforms, is assessable income of the friendly society.

It will mean that the income is not taxed in the hands of both the friendly society and the investor or beneficiary. The bill also clarifies the taxation treatment of distributions paid from special purpose investment products.

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

Debate (on motion by Mr Albanese) adjourned.

BUSINESS

Rearrangement

Mr McGAURAN (Gippsland—Minister for Science) (10.07 a.m.)—I move:

That government business orders of the day Nos 1, 2 and 3 be postponed until a later hour this day.

Question agreed to.

MINISTERIAL STATEMENTS

Foreign Affairs: Iraq

Debate resumed from 18 September, on motion by Mr Downer:

That the House take note of the papers, upon which Mr Andren moved by way of amendment:

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

“while the House commends the Government for its strong condemnation of terrorists and their activities and its encouragement of Iraq’s compliance with United Nations’ resolutions the House believes that Australian Defence Forces should not be involved in any action in Iraq that is not carried out under a United Nations’ Resolution”
Mr ADAMS (Lyons) (10.07 a.m.)—It is a pleasure to rise to speak on this motion. The ministerial statement has taken some time in coming, but of course it has now been overtaken by events—and still the Prime Minister has not addressed the parliament on the situation. It was with much relief that I heard Iraq had agreed to allow access by the United Nations for weapons inspections to be undertaken unconditionally. This gives us an opportunity to pull back from taking direct action against Iraq and its people at this time.

Australians do not want to go to war. As with all wars, no-one really wins. Aggression is not the solution to a peaceful outcome, because there are more losers out of it than there are winners, and it is usually the innocent and the disaffected that get hurt. War creates more refugees and more boat people as the displaced and frightened nationals attempt to flee the conflict in their homelands. Iraq’s leadership is bad. Iraq has no human rights and there is much poverty. But adding conflict to the problem will not help the country to build new leadership. Iraq is a complex country and any direct action taken must be with full information on who is most likely to be harmed by such action. There is little point in direct action if the only people that are harmed are those that have little say now.

I worry that our Australian Defence Force would be hard pressed to undertake any further activities at this time, because of its commitments in other areas. We are already in East Timor, Bougainville, the Solomon Islands and Afghanistan, and the East Timor situation is very sensitive at the moment. I do not want us to send our children to war, and I cannot see how we can support the United States without invoking conscription again. The Prime Minister should tell the Australian people if that is his thinking. Do we have the troops at the moment to provide the resources required to assist the US in military action? It is the US that has given up on diplomacy. We have supported the US in a number of conflicts; we have fought side by side with its troops and we have said to ourselves that there are just. But to commit ourselves without considering the outcome for Australia is just plain stupid.

The British Prime Minister will release information on possible Iraqi links to terrorists next week, and we really need to know what these facts are before running after Bush’s warmongers. As Richard Butler said in the Australian on Monday, when he referred to the history of conflict from the Pharaohs to Alexander and from imperial Rome to Napoleon and the recently ended period of European colonialisation:

... the exercise of great power, without self restraint, sets up the circumstances of its own demise.

Iraq has various capacities, based on what was discovered some four years ago. But so have India, Pakistan and other nations, and we are not about to wage war on them. Pakistan has more evidence of Al-Qaeda operations than does Iraq, and yet we have established a good dialogue with Pakistan. We are not planning to take them on militarily, rather we are ensuring that dialogue continues. If we are so keen to know what Iraq’s capacities are, I believe it is necessary to know what each nation’s capacities for war are. Let us put the elimination of weapons of mass destruction on the world agenda and work towards this. The people of the world would, I believe, embrace this approach with enthusiasm.

I doubt whether anyone really knows the US capacity for war making and I cannot see the UN weapons inspectors being allowed to do much investigation there, so I am not sure we can be so insistent as to ask other countries to expose completely their arsenals or capacities without some sort of overall understanding of the United Nations being the umpire. I believe that it will be a crucial test for the Security Council. We need to ensure that the United Nations can act under its own powers and that it is properly resourced to be the independent umpire on any decision to take action against any country of a military nature.

We must know more facts. Hopefully, Prime Minister Blair’s inquiries will give us more information. Suspicions are just not enough. However, we must have some trust in the world. I think Iraq has now offered an
olive branch—a possibility of getting the facts we need to ensure that there is no likelihood of Iraq harbouring terrorists that have access to Iraq’s military capacities. I know we cannot be completely sure of the truth from Saddam Hussein; he certainly has done nothing to inspire confidence. And history is proving his unwillingness even to work with the Arab nations. But the alternatives are too horrible to contemplate. We have to start putting more trust back into the world’s peoples and making sure that the UN can do its job using the Security Council. I do not think sabre rattling has a place in today’s diplomacy. I think closer ties of trade and culture are a better way of developing a trust between nations.

I think this government is too eager to follow Bush and his cronies and be patted on the head for its support without really going into Australia’s own developed foreign policy on these issues. I want our position to be decided by our own people and our own leaders. Australia can have its own independent thought. New Zealand has shown its independence on foreign policy. We must walk our own path and make our own decisions about the situation in the Middle East. We must at least show willingness to accept at face value the backdown by Iraq on weapons inspectors. I hope that we continue to negotiate, to talk and to listen to all the debate going on around the world and that we continue to support the very important role that the United Nations plays in keeping world peace.

I commend my leader, Simon Crean, on his strong leadership on this issue, and hope that the people of Australia understand what is involved in the opposition’s position. I reject any move toward military action; I do not believe it is appropriate. We have to give greater support to the United Nations and to its position on undertaking sensible and appropriate action.

Mr SERCOMBE (Maribyrnong) (10.15 a.m.)—I rise to support the balanced and constructive approach outlined by the Leader of the Opposition in dealing with the complex issues involved in this debate on Iraq. Many earlier speakers have dealt with key aspects of the Leader of the Opposition’s approach, and therefore I do not intend to revisit those details. Rather, I would like to use my time to put some of the issues in a slightly broader perspective.

In April this year I had the privilege to be involved in opening an interfaith conference held close to my electorate in Moonee Ponds. A number of Christian and Muslim organisations were involved. The conference included participation by the Australian Catholic University, Pax Christi, Saint Columban’s Mission Society, as well as Sheik Fehmi of the Preston Mosque, the Islamic Council of Victoria and Isik College. The Australian Intercultural Society, and a team around Mr Orhan Cicek, ably organised that particular event. Out of the conference came a renewed recognition of the common value systems and the need, indeed, for brotherhood between these two great religious and cultural traditions.

This approach contrasts with the sort of approach summarised by the now famous phrase ‘clash of civilisations’, which is drawn from a book of the same name by Samuel Huntingdon. This approach represents a fairly cataclysmic view of the future where conflict intensifies across cultural fault lines, the greatest of those being seen as the fault line between the West and the Islamic world.

The Leader of the Opposition spoke of the need to firmly ground Australia’s approach to international issues on a clear understanding of Australia’s national interests. On the Iraq issue we have a number of interests, not least being our longstanding concerns about the proliferation of weapons of mass destruction and, for example, the dramatically expanded trade position with the Middle East that the Minister for Trade has spoken about in this House on several occasions over recent days. In addition to those and other important national interests, I suggest that located as we are as Australians next door to the largest Muslim nation in the world, Indonesia, it is very important that we take account of opinion in the Islamic world in determining our position on important issues. It is certainly in Australia’s national interest, as well as in the interests of the multicultural character of our society, that
our approach to Iraq carries with it a rationale understood by and seen as just by Muslim communities, as indeed was our approach in 1991 on Gulf issues seen as just by the very large majority of people throughout the Muslim world.

Saddam’s regime in Iraq is certainly an obnoxious regime, but the US—and indeed the West’s—general approach to questions in the Middle East carries a lot of baggage. This baggage is dangerous because it can be exploited by vastly different types of figures in the Muslim world, figures such as Saddam, a secular Baathist, on the one hand, and people like Osama bin Laden who, quite to the contrary, is a Wahabi Sunni fundamentalist. They are quite different types of figures in the Muslim world. Nonetheless, the baggage that the West carries in its approach to the Middle East can be exploited by these sorts of figures and, frankly, needs to be addressed.

Central to Muslim public opinion and perceptions of Western double standards is the Israeli-Palestinian issue, and movement must be achieved on this. One of the great tragedies of the last decade, in my view, was the assassination of Yitzhak Rabin by an Israeli extremist. The replacement of the courageous Ehud Barak by someone with the baggage of Sharon has dramatically worsened the outlook for movement towards reconciliation and peace in this particular part of the Middle East. The overwhelming sense of injustice amongst Palestinians, especially over the issues of settlements on Palestinian lands and the support Palestinians receive from other Arabs, and indeed from the Muslim world generally, negatively impacts on the chances of getting the settings right for a long-term resolution to the sorts of issues that the Iraq problem presently raises.

Certainly no-one doubts the overwhelming might of the United States and that, in the event of conflict, there is not much doubt that Iraq would be militarily defeated. But to rebuild the region to avoid new and ongoing crises, to avoid fuelling new and deep resentments leading to renewed terrorism, are outcomes that require the sustained support of the United Nations, the international community and especially the Arab world.

The perceptions of Western double standards on issues such as weapons of mass destruction, human rights and United Nations Security Council resolutions are a huge barrier to achieving the long-term sustainable settlement of issues in the Middle East that are required if we are to achieve long-term cooperative and peaceful relations.

The United States is a society with many great qualities indeed, and the US is a key ally and is key and fundamental to Australia’s security. But also fundamental to Australia’s security is the perception of our nation in the region and in fact broader afield. A good ally has to state its views and defend its interests, not just act as a toady. Indeed, in my view, the United States has major problems in achieving the international consensus it needs for a long-term sustainable set of solutions to the Iraq issue and to the Middle East generally.

The United States has a fundamentally important role in pressuring Israel to achieve a just settlement with the Palestinians. The United States must reconsider the negative role it has played in managing issues around weapons of mass destruction—its unsatisfactory levels of support for measures to control, reduce and, indeed, eliminate biological, chemical and nuclear weapons. The US approach on the issue of the International Criminal Court was another example of the unilateralist tendency that Australia must counsel against. The ongoing attempts of the United States to isolate important nations in the region, such as Iran, are also, frankly, a long-term problem.

International power has a number of components. In terms of raw, hard power—that is, military power—the United States is absolutely unrivalled in the contemporary world. In terms of economic power, the US has massive power, but it does have challengers over the longer term, such as the European Union. It is on issues of ‘soft power’—the third area of international power, the power to win hearts and minds throughout the world, including the Islamic world generally and the Arab world in particular—that the United States must place renewed emphasis. In terms of winning the war on terror, the West and the United States
in particular need the help and understanding of others, especially Arab and Moslem communities, which at present are often resentful. These are the reasons great care must be taken on the Iraq issue and why our approach as part of the broad community of Western nations needs to be measured carefully.

Ms JACKSON (Hasluck) (10.24 a.m.)—I am not here today to argue the merits of this impending war, and I am not here to posture, predict or hypothesise. What I want to do is to speak directly to my constituents in Hasluck, and I want to make sure that they know where I stand and how I feel about this issue. Many constituents—those who have phoned, written, emailed and spoken to me on occasions over recent months—have all echoed my own feelings on the possibility of war in Iraq, and Australia’s involvement. I have not felt or heard such anxiety and fear since, as a young woman, my own political interests were in part motivated by the peace marches on Palm Sunday in the early 1980s when there was an all-pervading fear of the inevitability and ultimate devastation of nuclear war. It is little wonder that my constituents are responding in this way to the constant images of death and violence, bullying and hatred, which are flooding our mass media. These fears have not been allayed by a government which, it seems, cannot make up its mind, which has no coherent policy or, for a while there, any idea of how it was going to decide Australia’s role in this global crisis.

I recently conducted a survey of young people in Hasluck. Twenty per cent of them said directly that war was one of the top three things that concerned them. Another 14 per cent expressed an interest in overcoming intolerance, racism and poverty to try to make the world a safer and more harmonious place. Young people in Hasluck, and I dare say in the rest of Australia, are well aware of current world events and are better informed than ever before. They know well the oft quoted maxim: it is the old men who declare wars, but the young men who must fight them. Perhaps in this day and age it is appropriate to say: the young men and women who must fight them. They will demand that their representatives make informed decisions. They have seen the destruction wrought on the Afghanistan community in the war against terror. They know that more civilians have been accidentally killed in Afghanistan in the war against terror than were killed on September 11. They know that the victims of war are not just those killed but those who are forced to flee for their lives, and they know that this impacts on their own lives in their own country.

I am proud to be able to endorse the statements of the Leader of the Opposition and the shadow minister for foreign affairs. I am proud that it is the Labor opposition which has consistently presented a thoughtful and measured approach to this question. The flip-flopping of the government has served only to heighten fear and uncertainty. As one of my constituents said yesterday, her relief at the statement by the Iraqi foreign minister undertaking that weapons inspectors would be able to enter Iraq was palpable. But no doubt this brief respite was shattered by the US President’s almost rejection of the offer. It seems it is a ploy and a play for time that we cannot accept this statement at its face value—and our Prime Minister agrees.

How can my constituents have confidence in a government which has refused, up until now, to debate the issue in parliament until pressure from Labor and the community became overwhelming; a government which has time and again refused to acknowledge its responsibilities as a founding member of the United Nations; a government which blindly follows the tortuous posturing of the United States as it asserts its dominance? Policy seems to be based on a childish maxim: if my weapons of mass destruction are bigger than your weapons of mass destruction, then I am right.

I want my constituents to know where I stand. I do not profess to be an expert in defence weaponry or foreign affairs, but I do know that, as Nelson Mandela recently said, when asked why he was speaking out on this issue:

... the problems are such that for anybody with a conscience who can use whatever influence he may have to try to bring about peace, it’s difficult to say no.
I am sure that Mandela would also concur with the words of Benjamin Franklin:
There never was a good war or a bad peace.
These are words we would all do well to remember during the coming weeks and months. I want my constituents in Hasluck, from Midland to Maddington, from Kalamunda to Kenwick, to know that I support Labor’s plan for a multilateral, UN-brokered solution. I will bring to bear whatever influence I can to prevent this war. I recognise the threat posed to the world community by Saddam Hussein. I recognise that there could be circumstances in which Australia’s participation in a war with Iraq is necessary, however peripheral it may be. But if and when this happens, we must know that we have done everything humanly possible to prevent it and that it is done under the auspices of the UN. The evidence that we have had presented by this government is not new; we have lived with the current threat for months, if not years. What has changed that we must now considering actions which will undeniably have devastating consequences? I will finish by quoting Samuel Butler, a 19th century poet, who said:
An unjust peace is to be preferred before a just war.

Mr LLOYD (Robertson) (10.29 a.m.)—I move:
That the debate be now adjourned.

The SPEAKER—The question is that the debate be now adjourned.

Mr Andren—I call for a division.

The SPEAKER—I am conscious of the member for Calare’s call for a division. However, as he is aware, I do need two voices to call for a division in order for a division.

Mr Windsor—I call for a division.

The SPEAKER—Order! A division is required. Ring the bells.

A division having been called and the bells having been rung—

The SPEAKER—As there are fewer than five members on the side for the noes, I declare the division resolved in the affirmative, under standing order 204. The names of those members who are in the minority will be recorded in the Votes and Proceedings.

Question agreed to, Mr Andren and Mr Windsor dissenting.

AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION LEGISLATION AMENDMENT (TERRORISM) BILL 2002

Second Reading

Debate resumed from 21 March, on motion by Mr Williams:
That this bill be now read a second time.

Mr MELHAM (Banks) (10.36 a.m.)—Labor support very strong security laws to protect the Australian people from international terrorists. But we do not support the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002. We want to hunt down and arrest terrorists—but only terrorists. We want to protect peaceful, law-abiding Australians from infringements of their rights. This bill fundamentally fails to advance these two equally important objectives. The Attorney-General has argued that the Australian community must be prepared to accept sacrifices of rights and liberties in the name of security. Time and again the government declares that the world changed on 11 September. Australia’s democratic values did not change on 11 September. Our rights and liberties did not change on 11 September. The government has got this profoundly wrong. These principles cannot be traded off against each other. We must be diligent in taking measures to protect the community from terrorist threats. We must be equally vigilant in protecting civil liberties and democratic freedoms.

Labor are going to vote against this bill for the following reasons: it does not protect our civil liberties; it gives worrying new powers to the security services, powers they have never had before; it goes further than corresponding legislation in other countries facing terrorist threats, like the United States and the United Kingdom; and its most grievous excesses are unnecessary and will do nothing to combat terrorism. Its failure to protect children is simply vindictive and stupid. The difference between Labor and the government on this bill is clear. Labor will
not only combat terrorism; we will protect the liberties that terrorists want to destroy. The government’s bill, if not significantly amended, will do long-term damage to our civil liberties. The Australian people have always opposed any attempts to restrict their liberties, and this bill arguably goes further than any legislation has ever gone. Professor George Williams is right when he says: 

While we need a national legislative response to terrorism, any new laws must strike a balance between national defence and security, and important public values and fundamental human rights. We must not pass laws that damage the same democratic freedoms we are seeking to protect from terrorism.

As Professor Williams concludes, this bill does not strike the right balance between security and protecting our rights.

The need to combat terrorism is clear. September 11 last year highlighted the reality that the world faces new threats from international terrorism that must be confronted. Terrorism today is dominated by several different trends that in recent years have become increasingly intertwined. The emergence in the 1990s of terrorism motivated by religious violence and supported by a global funding network has set in motion profound changes in the nature and capabilities of terrorists that are still unfolding. The direct threat to Australia should not be underestimated: Australia is not immune to terrorist threats. Equally, it should not be overstated. In May this year the Director-General of ASIO, Dennis Richardson, told a terrorism conference in Hobart that there were currently no credible threats to Australia from international terrorists. We need careful and realistic assessments of potential threats, not politically driven rhetoric and alarmist headlines.

Current antiterrorist measures need to be strengthened, and Labor have already demonstrated that we will work with the government to provide those laws. Parliament has already passed the first raft of antiterrorism legislation, but only after significant amendment by the opposition to remove the more draconian aspects. Two parliamentary committee reports have been undertaken into this bill: one by the Parliamentary Joint Committee on ASIO, ASIS and DSD and the other by the Senate Legal and Constitutional Legislation Committee. Both contain members of the coalition and both found that in its current form the bill would be open to serious abuse as a result of a significant increase in government powers. This is what the chairman of the parliamentary joint committee, the member for Fadden, David Jull, said in presenting the report, a view endorsed by the Senate committee:

The bill is one of the most controversial pieces of legislation considered by the parliament in recent times. In its original form, it will provide for a person to be detained for up to 48 hours incommunicado without legal representation and with the right to silence removed. If further warrants were issued, a person could be detained indefinitely.

The proposed legislation, in its original form, would undermine key legal rights and erode the civil liberties that make Australia a leading democracy.

The committee has proposed a number of important amendments, including a seven-day limit on detention; a requirement for representation by security-cleared lawyers; protocols governing detention and interview, which are subject to parliamentary scrutiny; protection against self-incrimination; the exclusion of anyone under 18 years of age from interrogation and detention; accountability and reporting measures in relation to warrants; and a three-year sunset clause.

The Senate committee’s report, tabled on 18 June 2002, focused on whether the executive can authorise the detention for questioning of someone not suspected of any offence and whether the issuing of questioning warrants by magistrates is an exercise of judicial or executive power. The Senate committee said:

In the event that the Government accepts all the PJC’s recommendations, the Committee recommends that the Bill, as amended, proceed without further review by this Committee. In the event that the recommendations are not adopted, the Committee reserves the right to revisit its consideration of this Bill.

Unfortunately, the government’s response does not adequately address the concerns of these two committees. The government supports only 10 of these recommendations.
These 10 recommendations are as follows. Recommendation 1 aims to ensure that only federal magistrates issue all warrants and federal judges issue ‘all warrants where detention will exceed 96 hours’. Previously the government was proposing that members of the Administrative Appeals Tribunal could issue warrants. This is dangerous because members of the AAT, other than presidential members, are now appointed for fixed periods and lack entrenched independence or tenure. They are dependent upon the favour of the executive if seeking reappointment, and this may influence their decisions.

Recommendation 2 suggests a provision be included ‘giving the Attorney-General the power, by way of regulation, to nominate an authority that can issue a warrant under the Bill’. Recommendation 3 is that the maximum period of detention be limited to seven days, after which that person must be released. Recommendation 4 proposes a requirement that the Director-General of ASIO must seek the consent of the Attorney-General before requesting further warrants on a suspect. Recommendation 5 aims to ensure that people are immediately brought before a prescribed authority.

Recommendation 8 is that people be given ‘protection against self incrimination for the provision of information relating to a terrorism offence’. Recommendation 9 suggests the introduction of ‘penalty clauses that will apply to officials who do not comply with the provisions of the Bill’. Recommendation 11 requires disclosure by ASIO in its declassified reports of the total number of warrants issued under the bill. Recommendation 13 advises that the Director-General of ASIO should notify the Inspector-General of Intelligence and Security every time he seeks the minister’s consent to a warrant. Recommendation 15 suggests a requirement that people must be advised that they have the right to seek judicial review of their detention after 24 hours.

While these measures improve the bill, the government rejected five of the most important recommendations. These recommendations were as follows. In recommendation 6, regarding lawyers, the joint committee recommended the bill be amended to provide for legal representation for people who are the subject of warrants, with a framework for the appointment of security cleared lawyers. The government proposed an alternative model whereby a person must be provided with access to a security cleared lawyer after 48 hours of detention. This raises the question: what is going to happen to those people during the first 48 hours? The government also proposes that once a person is allowed to have a lawyer, they cannot consult privately with them. The critical 48-hour period with no lawyer is unacceptable. Even when allowed a lawyer, it is not possible for an individual to consult privately with their lawyer without ASIO listening.

In these circumstances, it is very unlikely that law societies and bar associations would cooperate. We must remember that the right to have a lawyer present when being questioned is in the US Constitution; it is the sixth amendment. We have to ask ourselves: if the United States, which is the main target of terrorists, can allow people who are detained to have access to lawyers, why shouldn’t Australians have this right? This is a totally unnecessary and provocative clause.

Recommendation 7 is on protocols. Given the extraordinary nature of the new powers being proposed for law enforcement and intelligence agencies, the joint committee proposed protocols be developed ‘to govern custody, detention and the interview process’ and that the act ‘not commence until the protocols are developed and in place’. The government proposes that the exercise of any powers under the act be delayed until the protocols are in place but that the commencement of the bill not be delayed. Labor cannot accept this. If the powers under the bill are not to be used until protocols are developed, let us have the protocols adopted at the same time as the bill. That is the only way the parliament can ensure that the protocols are acceptable.

In recommendation 10, regarding children, the parliamentary joint committee recommended the bill be amended to ensure no person under the age of 18 is detained or questioned. Currently the only reference to children in the bill is the placement of restrictions on strip searching of children under
the age of 10. Even ASIO itself agreed that
the detention of children should be looked at
again. The government has proposed, in re-
sponse to the joint committee report, that
children under the age of 14 not be detained
or questioned and that children aged between
14 and 18 only be detained if they are under
suspicion and have a lawyer and a parent or
guardian present. While the government ar-
gets the age of 14 is an appropriate threshold
as it corresponds to the age of full criminal
responsibility, it is inappropriate that the
government propose the same time periods
for detaining children.

This is what Dr Jenny Hocking of Monash
University had to say:

It is extraordinary that a democratic nation ad-
hering to notions of the rule of law can even con-
template the passage of legislation which would
permit children to be taken and held incommuni-
cado without their parents’ knowledge, let alone
consent. That children can be held without suspi-
cion of their involvement in any offence, without
legal representation, strip searched and ques-
tioned is an appalling proposal and one which has
no place in a humane and just society.

They are sentiments with which I whole-
heartedly concur. All Australians—and
Muslim Australians in particular, with their
cultural sensitivities relating to nudity and
strip searching—find it abhorrent that chil-
dren could be treated like terrorists. The pro-
visions contravene up to six articles of the
Convention on the Rights of the Child. It is
simply wrong to treat children this way, and
Labor wants children excluded from deten-
tion under this bill.

In recommendation 12, the joint commit-
tee has proposed a sunset clause that will
terminate this legislation after three years.
The government has opposed this. The gov-
ernment proposes instead a review by the
parliamentary joint committee after three
years. Labor agrees with the joint committee
that a sunset clause would be a significant
accountability mechanism. It will ensure that
the continuation of the bill has to be publicly
debated. While from time to time strong se-
curity measures may be needed, any result-
ning restrictions on our rights must not con-
tinue indefinitely. Having a sunset clause
allows us to decide when the measures are
no longer needed. A sunset clause would be a
powerful confidence-building measure for
the Australian people and would reassure
them that the legislation will be used only as
long as the terrorism threat remains and only
for the purposes of combating terrorism. The
US Patriot Act contains such a clause; so
should our legislation. As Professor Williams
says:

Without such a clause, this bill cannot be seen as
a short-term immediate response to September 11.
It will bring about a permanent change to law-
enforcement in Australia, and it will entrench the
notion that the detention of people who may have
useful information is an appropriate tool for the

gathering of information about criminal activity.

Recommendation 14 concerns IGIS pow-
ers to suspend interviews. The joint com-
mittee recommended that the Inspector-
General of Intelligence and Security be given
the power to suspend interviews because of
noncompliance or impropriety. The govern-
ment rejects this and proposes instead that, if
the IGIS have concerns, they raise them with
the prescribed authority and the Director-
General of ASIO. Once again, this amend-
ment is an important confidence-building
measure. It ensures that ASIO will not be
able to abuse its powers of detention and
interrogation. We must remember that these
powers of detention and interrogation for
ASIO are new. These powers are normally
limited to police. There is grave concern in
the community that ASIO will abuse these
powers.

Labor have two additional concerns not
pursued by the joint committee. We are con-
cerned that the bill allows people to be de-
tained who are not suspected of any criminal
activity. This is a fundamental and unaccept-
able departure from established legal and
human rights principles in this country. This
is something I simply cannot accept. We are
concerned that the bill allows people to be
questioned by ASIO rather than a law en-
f orcement agency. The Law Council of Aus-
t ralia correctly points out that, under the pro-
posed warrant system, ASIO obtains for the
first time coercive interrogation powers. This
would involve a significant shift in the tradi-
tional role of ASIO as a secret intelligence
gathering and analysis agency. Professor
George Williams argues:
The powers conferred by the ASIO bill have the potential to impact severely upon basic rights and liberties. Such powers should not be granted to an organisation, except in circumstances where their exercise is subject to a high level of accountability, including public scrutiny. This is natural and necessary where an organisation is given intrusive and coercive police-like powers ... It would be difficult, if not impossible, for ASIO both to be sufficiently secretive to adequately fulfil its primary mission, as well as sufficiently open to scrutiny as would be necessary for it to exercise the powers set out in the ASIO Bill.

These measures involve radical departures from established legal and human rights principles, and they go further than equivalent United States and United Kingdom laws. While the US detains aliens without charge, it cannot do so to its own citizens. Professor George Williams is right when he says that the ASIO bill would establish part of the apparatus of a police state and that it would not be out of place in some former dictatorships. He adds that, if passed in its current form, this bill could be challenged by the High Court because it breaches basic constitutional and legal principles.

If the bill is passed in its current form, Australians not suspected of any offence could be detained by ASIO for questioning—and ASIO has never had powers of detention before—those detained by ASIO would not have the right to legal advice, ASIO would be given the powers to detain children for questioning and the government’s proposals would significantly change the role of ASIO by giving it powers of coercion and detention. For these reasons, the amended ASIO bill proposed by the government is unacceptable.

It is our belief that the measures being insisted upon by the government are unnecessary to combat terrorism. ASIO already has extensive powers to investigate terrorist activities, including the use of telecommunications interceptions, listening devices and tracking devices, covert searches, and inspection of postal items. The Australian Federal Police’s authority to investigate terrorist activities has also been broadened this year with the enactment of new offences relating to terrorist organisations. The bill may also be unconstitutional. This is extremely important, because the law may be declared invalid at the very time it is being applied. If this occurs, Australia would be left unprotected from terrorist activity.

This is what Labor will do. The Australian people will not accept these infringements on their civil liberties. When the bill is introduced into the Senate, Labor will move for its referral to a Senate references committee to examine alternative ways of enhancing the capacity of our law enforcement agencies to counter terrorism without compromising civil liberties. Labor proposes that the Senate committee: develops an alternative regime in which questioning to obtain intelligence relating to terrorism is conducted not by ASIO but by the Australian Federal Police, including appropriate arrangements for detention of terrorist suspects and questioning of persons not suspected of any offence; investigates the relationship between ASIO and the Australian Federal Police in the investigation of terrorist activities or offences; reviews the adequacy of Australia’s current information and intelligence gathering methods to investigate potential terrorist activities or offences; and determines whether the bill, in its current form or amended form, is constitutionally sound. The Senate must examine alternative ways of enhancing the capacity of our law enforcement agencies to counter terrorism without compromising civil liberties.

The government has had more than 12 months to come up with laws that will provide new protections against terrorism. It has failed. Australia needs new laws to deal with terrorists and to protect our rights. In its current form, this bill does neither. Labor is not soft on terrorists. A number of such pieces of legislation have passed this parliament with Labor support. Indeed, the Intelligence Services Bill 2001 predated the attacks of September 11. In that instance, a joint committee was set up to examine that legislation and it improved that legislation.

We have very recently supported radically amended bills, bills that were radically amended because of Labor’s concerns—laws that Labor believed were needed to fill in
existing gaps within our existing system of laws, but laws that targeted terrorists, not individual citizens who were not terrorists; laws that complied with human rights standards, sound criminal justice principles of the presumption of innocence. We effectively amended those bills to remove what we believed were excessive powers, powers that were not necessary to combat a terrorist threat, but powers that could also be abused. For the last 20 years I have held a practising certificate as either a solicitor or a barrister in the New South Wales jurisdiction and the ACT jurisdiction.

Mr Ruddock interjecting—

Mr MELHAM—For the benefit of the minister at the table, I was admitted as a solicitor in July 1979 and was then called to the bar on 25 September 1987. My practice was exclusively criminal law, so I am very conscious of protecting the liberties of our citizens and proper criminal justice principles—the presumption of innocence, the burden being on the Crown and having a standard of evidence that will not result in injustice. And we have a litany of examples from not only Australian history but United Kingdom history where injustice was done—for example, the Birmingham Six and the Guildford Four. We need to learn from the mistakes of the past, not repeat the mistakes of the past.

The threat of terrorism is a threat to our democratic values, our institutions and the rule of law. The way to combat terrorism is to defend our institutions, to defend our values and to defend the rule of law, not to weaken them. That is why Labor is taking the approach it is in relation to this particular bill. This bill is an overreaction by the government. It is a sledgehammer to crack a walnut. It is not necessary. There are other ways to do the job. We have a record of sitting down and engaging with the government. In relation to the other bills that were eventually passed, heavily amended, it was chalk and cheese when you compared the draft that came into the House and the final bills. That is the way it should be in relation to this bill in its present form and even in its amended form. Therefore, I move:

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

“the House

(1) notes with concern:
(a) the Government’s response to the report of the Parliamentary Joint Committee on ASIO, ASIS and DSD is inadequate;
(b) the Government proposes that, for the first time, Australians not suspected of any offence could be detained by ASIO for questioning;
(c) the Government proposes those detained by ASIO do not have the right to legal advice for the first 48 hours of their detention;
(d) the Government proposes children can be detained by ASIO for questioning; and
(e) the Government’s proposals will significantly change the role of ASIO by giving it powers of coercion and detention,

(2) expresses the view that this Bill contains serious compromises to civil liberties and alternative approaches should be more thoroughly explored in place of the measures proposed in this Bill”.

I reiterate: the place where the September 11 attack occurred does not propose the measures contained in this bill and, indeed, has constitutional protection for its citizens that would not allow the measures proposed in this bill. The United Kingdom has experience of terrorism and it is not proposing provisions such as those contained in this bill. I commend the amendment to the House.

The DEPUTY SPEAKER (Hon. I.R. Causley)—Is the amendment seconded?

Mr Griffin—I second the amendment and reserve my right to speak.

Mr DUTTON (Dickson) (11.06 a.m.)—People in this place quite often, and on an increasingly regular basis, hear some rather bizarre outbursts from the member for Banks. This morning has been no exception. In fact, some of the words we have heard from the member for Banks this morning really indicate to me the great problems that the Australian Labor Party have in Australian society today. We saw it yesterday with the complete lack of leadership of the Leader of the Opposition in relation to the Kyoto agreement. We have seen it also in relation to a number of other matters. This opposition is
completely out of touch with the Australian people. They are showing no leadership on this issue and they are certainly not reflecting the views and experiences of the Australian public.

Not since involvement in past conflicts have ordinary Australian citizens been concerned about the day-to-day safety of our community. The fact that the world is now a much smaller place means that it is wrong and naive for a government such as ours to pretend that we are immune to such threats or acts of terrorism as those seen in the United States in recent times. Australia has traditionally been afforded a luxury of geographical isolation, which has contributed to the notion that the threat of attack is diminished. Now with technological advancements being made on a constant and rapid basis, Australia can no longer be afforded that luxury. It is dangerous to assume that we are not potential targets and it is dangerous to do nothing, as others in this House would do if they occupied this side of the chamber.

The Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 will permit ASIO to regain the upper hand that is required in the current climate. It will permit ASIO to operate with a sense of ability in a time of crisis and it will permit all Australians to feel more secure. This bill forms part of the overall package that has been designed to upgrade and strengthen Australia’s counter-terrorism capabilities. It is accompanied by the Telecommunications (Interception) Legislation Amendment Bill 2000, the Suppression of the Financing of Terrorism Bill 2002, the Security Legislation Amendment (Terrorism) Bill 2002 and the Border Security Legislation Amendment Bill 2002. Combined, these bills will effectively and efficiently give Australia’s intelligence organisations and the wider community confidence in our ability to properly police our own backyard when required to do so.

The Australian Security Intelligence Organisation must be given these powers to combat terrorism. This bill relates specifically to the powers of ASIO in relation to the questioning and detention of persons suspected of being part of or able to provide information and intelligence in the investigation of terrorist offences. The ability to detain and question people for up to 168 hours after the obtainment of a warrant is of paramount importance in this type of investigation due to the speed at which such acts need to be investigated and acted on. If only the plans of the New York terrorists had been discovered 168 hours before they were maliciously carried out. If only those plans had been discovered, thousands of innocent lives could have and would have been saved.

As the leaders and elected representatives of this nation, it falls upon us to ensure that Australia is able to properly protect its citizens from acts of terrorism. It also falls upon us to ensure that such acts are thoroughly investigated. To properly investigate such matters it is important that adequate powers exist in this regard. It is also important that the basic and ordinary rights of a person being questioned are upheld—this is reflected in the bill. Recent attempts to inflict acts of terrorism in the United States and around the globe have been thwarted, principally because other people—who were not directly suspects but had knowledge of other people’s whereabouts—have provided crucial information to authorities. Thus, there is clear and documented evidence to suggest that preventative measures in relation to acts of terrorism have an unambiguous benefit to the broader community.

The United Kingdom’s experience also provides for the provision of information relating to the commission or possible commission of terrorist acts through the Terrorism Act 2000, as well as the Prevention of Terrorism Act 1974 and 1989, which impose the duty of informing police of information relating to possible future terrorist acts. This is a direct example of Australia needing to become more consistent with the rest of the world in the fight against terrorism and the specific ways and means of doing so.

In this bill, which we are discussing in the House today, to require a person to provide information or produce records and such, the Attorney-General must be satisfied by existing evidence or reasonable grounds that the issuing of such a warrant will assist in the collection of information which cannot be
obtained by other means to the same degree of effectiveness. Such a warrant must be requested by the director-general of a prescribed authority, who may either be a federal magistrate or a senior legal member of the AAT. Where detention is to exceed 96 hours, a federal judge must issue the warrant. The prescribed authority may only issue such a warrant if it is also satisfied that it will assist in the collection of intelligence otherwise unobtainable by further means to the same degree of effectiveness. The detained person may be precluded from legal assistance for 48 hours if the Attorney-General believes he or she may attempt to alert those who may be involved in terrorism offences or the planning of such offences. This goes to show the complete disregard, as I said earlier, that the member for Banks has for the people of Australia.

As with the British Prevention of Terrorism Act 1974 and 1989, in the Australian version—in this case, relating to the powers of ASIO—a suspect or other person may be held for a period of 48 hours. Detention of persons suspected of being involved in similar acts of terrorism, financing of terrorism or planning for a terrorism act is also dealt with in the United States by the USA Patriot Act 2001. To further demonstrate how this type of power is being applied in legislation around the world for the very same reason that the coalition is attempting to do—that is, the greater protection of our citizens and the prevention and investigation of terrorist acts—Canada has implemented the Anti-Terrorism Act 2002. The Canadian act allows police and other law enforcement agencies to detain a person for 24 hours if they believe a terrorist act will be carried out and that the detention of that person will prevent that from happening.

The ALP love to pretend that they, and everybody else around them, are somehow magically shielded from the problems that unfortunately exist in our world today. They can no longer take the approach of leaving the tough decisions to the government whilst sitting on their hands. The bill which is now coming through this House presents the opposition with the perfect opportunity to stand up and demonstrate to the Australian community that they care about their welfare, that they care about public safety and that they have the ticker to make the tough decisions by supporting the government not only in this House but in the Senate. Sending the bill to a drawn out committee process in the Senate does not help the Australian people. It is a back-door way of appeasing left wing interests in the community while pretending to give the bill the support it deserves.

The formation of ASIO in 1949 represented Australia's first real attempt to provide a law enforcement agency with the capability of protecting Australians. In 2002, over half a century later, we still have the same responsibility to ensure that ASIO's powers are relevant to the changing nature of crime in this country and around the world. Terrorists have significantly developed and honed their skills since 1949. Therefore, we must match that by supporting progressive and relevant powers like those contained within this bill today. That is why the coalition government is ensuring that ASIO has the appropriate abilities and powers to deal with what are current and relevant issues.

There is never a more relevant and current threat than that of terrorism. The ALP may well oppose these measures, but that is only because they themselves are not current, nor are they relevant to contemporary Australia. For some reason the man in the street understands the need for these powers, given the times we live in, but the opposition do not. Why is it that the ALP are intent on basically opposing this bill merely because they are in opposition? By sending the bill to another committee, or into the Senate, they may as well just vote no here and now. Why is it that the ALP do not want to face up to their responsibility of ensuring the safety of the very people who have placed them in this chamber as their representatives?

The Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 ensures that ASIO has adequate powers to properly carry out its duty in relation to acts of terrorism, be they in the past or future. It is an unfortunate reality that the threat or the potential occurrence of politically motivated violence or destruction must be dealt with by this House in the form
of legislation. We have been charged by our electors to represent their views, opinions and aspirations for this country, and maintain their safety. What the Howard government is proposing is reflective of that need and is understood by the Australian people.

The fear campaign that the opposition parties have attempted to impose on everyday Australians has failed—and failed miserably. The reason it has failed miserably is that, just like every other opposition fear campaign, it is untrue and does not reflect what the overwhelming majority of the electorate is thinking. When the opposition parties should be embracing this legislation on behalf of the people they represent, they have gone out of their way to distance themselves from the cold reality that we face today. Yet again the opposition have failed and have proven that they simply do not have what it takes to make the tough decisions in the national interest.

How can an opposition that is performing as badly as this one even pretend that they are a viable alternative to this government? As those opposite are aware, this bill provides for a higher and increased level of safety and certainty for all Australians. In past decades Australia has been geographically isolated from both terrorism and acts of politically motivated violence. This can no longer be assumed. Air travel, which is now readily available from anywhere in the world, is just one example of the method used for the delivery of both weaponry and personnel. The assumption that our country is immune from such violence is a false one and should not be encouraged, as it has been by those opposite. That is a dangerous practice.

As I have mentioned already, many other countries have responded in real and practical ways to the new threat of violence that has been sparked by the tragic events of September 11 last year. It would be completely irresponsible for this government not to attempt to ensure that adequate measures had been put in place to protect the Australian people. This bill is being debated here today because it is the responsible thing to do. If the opposition ultimately choose not to accept this bill, that is a clear sign that they do not have the interests of those who elected them to this place at heart. This is not an opportunity for the opposition to play politics; it is an opportunity for the opposition to show that they have some ticker, that they have the interests of the Australian people close to their hearts and that they have the maturity to support government legislation when it counts. I hope, as does everyone on this side of the House, that this legislation does not ever get tested through the course of terrorist related events or actions in Australia. It is important, though, that we are prepared and able to deal with it when it happens or possibly, even more importantly, before it happens.

The true test of a government is how it reacts when the going gets tough. That is why the Howard government is preparing for whatever may occur and ensuring that our peak intelligence and law enforcement bodies have the powers and abilities to prevent and investigate such offences. To limit these agencies to a level of discretionary power that does not allow them to do their job in times of uncertainty is to betray the Australian people. We have been trusted to provide a safe and certain environment, and we will deliver that. Hopefully, through taking the initiative and being proactive, the Howard government can at least lessen the chance of a tragedy such as that seen in the United States ever occurring in this country. It is important to understand that this bill, while being introduced as a result of incidents in other parts of the world, is not reactive but proactive and, if ever required to be enacted upon, will undoubtedly contribute to the saving of many innocent lives.

There was once a time when this type of legislation would have been unthinkable, because there was simply not a need for it, nor anything close to it. Yes, this bill gives a certain amount of power to law enforcement and intelligence agencies, but it does so because that is what ASIO needs to do its job now. The powers are not excessive; they are necessary. Hopefully we will never have to face that awful reality of a terrorism attack on our community and our way of life but, as I said, it is an issue that we need to deal with now. The Labor Party’s reaction to this bill is
to send it off to another committee, to delay
the process further to try to capitalise on
what they see as a subsiding in the mood of
the Australian people. As I said in my open-
ning remarks, it demonstrates the fact that
they are completely out of touch with the
Australian community and the way in which
it supports this government and the way in
which this government is supporting the
Australian people. I commend the bill to the
House.

Mr McCLELLAND (Barton) (11.22
a.m.)—I rise to support the amendment
moved by my colleague the member for
Banks to the Australian Security Intelligence
Organisation Legislation Amendment (Ter-
rorism) Bill 2002. Just commenting on the
contribution of the previous speaker, the
member for Dickson, who referred to legis-
lation in Great Britain and the United States,
I point out to the member that that legislation
is based on a citizen committing a transgres-
sion of the law before they are detained. In
that context it is fundamentally different
from what is being proposed in the legisla-
tion we are debating, where no transgression
is required, simply that it is suspected that
the person has information that could assist
ASIO in their inquiries. That effectively is
unprecedented in this country and has not
been the model for those other countries
which we believe set an appropriate example
as to how this sort of legislation can be
framed.

It is just nonsensical to even suggest that
Labor are not as committed to the fight
against terrorism as the government. We are
on record as consistently saying that terrorist
violence is the most fundamental abuse of
citizens’ human rights and that it is the most
fundamental obligation of government to
protect the security of citizens and to ensure
that, as far as possible, citizens can live their
lives free of fear. Indeed I would say, and
any objective commentator would say, that
we have worked with the government pro-
ductively and constructively to pass now a
series of five separate pieces of legislation in
the security area. As a result of our contribu-
tion in ensuring consultation with the
broader community, that legislation now has
broad community support. When you are
talking about security legislation, if you have
broad community support it is going to be
administered much more effectively.

No-one who understands the tradition of
the ALP can suggest that the ALP has not
been passionately committed to the security
of Australia. Our Prime Ministers Curtin and
Chifley are respected right across the politi-
cal spectrum for the contribution that they
made to this nation during the Second World
War. In the case of Curtin, it is interesting to
note that he was a passionate advocate
against conscription in the First World War,
yet when Australia was under threat in the
Second World War he was the Prime Minis-
ter who introduced it. That is an indication of
his commitment, as are his other acts. In de-
fending ourselves against that tyranny of
terrorism, we must also ensure that we do not
ourselves create mechanisms for tyranny,
perhaps not to be exercised now but to re-
main on our statute books to be exercised at
a later time. That point was made well by
Prime Minister Menzies after the declaration
of hostilities in the Second World War when
he introduced the National Security Act in
1939. He said this:

What ever may be the extent of the power that
may be taken to govern, to direct and control by
regulation, there must be as little interference
with individual rights as is consistent with con-
certed national effort ... the greatest tragedy that
could overcome a country would be for it to fight
a successful war in defence of liberty and to lose
its own liberty in the process.

Those words are prophetic. Menzies is re-
spected on the other side of the House and
his comments should be noted by those on
the other side of the House.

We have to ask ourselves what we mean
by this concept of liberty. While any soldier
before they left our shores probably would
not give you a dissertation on the theories of
liberty, they would have a general concept in
their own mind as to why they were going to
war in defence of our principles of democ-
racy and liberty. A prominent American con-
servative, a Texan by the name of David
Simmons, was a consultant to the United
States delegation to the United Nations con-
ference on international organisations after
the Second World War. He subsequently be-
Representatives 6797 

Thursday, 19 September 2002

Representatives 6797

came First Assistant Secretary-General of the state of Texas, a state not known for its radical views. In analysing this concept of liberty by looking at the documents being debated at that time, he said:

These historic documents exemplified perfectly that man has but one fundamental right—the right to be let alone. That right, of course, may be impaired or forfeited by the owner of the right. For example, if one person invades another’s right to be let alone and kills such other, he forfeits his right and may be subjected to lawful penalty by his Government.

This is the contrast I am making. We have a right to be let alone, to be free from arbitrary interference from government, unless the citizen forfeits that right by transgressing the law. That is the basis of the United Kingdom model and that is the basis of United States model. It would be quite simple to have a model based on that principle here, but the government has not done so. Simmons analysed those documents in terms of the development of that principle, that fundamental right to be let alone, which he took back 800 years to the famous clause in the Magna Carta, chapter 29, which says:

No Freeman shall be taken, or imprisoned, or be disseised of his Freehold, or Liberties, or free Customs, or be outlawed, or exiled, or any otherwise destroyed; nor shall we go upon him, nor set upon him, but by the lawful Judgment of his Peers, or by the Law of the Land.

Over the centuries, that has been construed as being that no-one shall be subject to disadvantage or arbitrary interference other than by due process of the law. Indeed, that is the basis of the American constitutional right of due process. That was the very principle of the writ of habeas corpus—that is, the right to bring an individual before the courts to ensure that the executive government did not have arbitrary power of detention. In other words, it was to give the courts control of a citizen’s freedom in the context of potential arbitrary or autocratic action by the executive arm of government.

But we are concerned that, quite clearly, this legislation does enable arbitrary action by the executive arm of government. It enables a person to be detained by the Australian Federal Police, at the request of ASIO, but not even as a result of having committed any transgression of the law. I will give a couple of examples. As a result of amendments, the legislation, as I understand it, will apply to children now above the age of 14, albeit that a parent will be entitled to be present at the time. My second daughter has just turned 15. In many ways, you take for granted the quality of the parents whose homes she visits. If she were to be confronted with one or other parent being involved with some organisation that came to the attention of ASIO, ASIO would have the right to detain her—aside from a parent being notified—without her school and a medical practitioner being notified, simply because she had information that came to her attention because of being involved in an event.

More relevantly perhaps, take the involvement of a journalist. A journalist producing a story for public interest on a potential terrorist activity could be detained by ASIO, wanting to delve further into the source of their information. The journalist—as journalists would want to do—invariably may want to protect their source. I think it is solidly arguable that if national security were at stake, perhaps a journalist should be required to divulge that source if it were going to prevent a terrorist incident. The point is that that journalist would be confronted with that pressure without even the opportunity of having a lawyer to advise them of the consequence of not providing the information and of not revealing their source in those circumstances—the consequence being, of course, five years imprisonment. That has to alarm all journalists who could quite easily be confronted with that sort of situation. Again, we are talking about detaining people in secret in circumstances where they have not committed an offence. Interestingly, the quote of the day in the New York Times on 27 August was:

Democracy dies behind closed doors.

If you think about that concept, quite clearly that statement has impact. That was an extract from a judgment of Judge Damon Keith, commenting on trials that were taking place in respect of the deportation of individuals from the United States.
To return to that theme—to those comments of Simmons to which I referred earlier—on the first floor of Parliament House we have, in pride of place just opposite the ticket locker up there, an original copy of the Magna Carta. We have it in pride of place because it is so fundamental to our institutions of government. Indeed, it was the original compact between the citizens and the Crown. It was extracted at great sacrifice from the tyrant King John and signed at Runnymede, an island on the Thames River, on 15 June 1215. The actions of that tyrant king were so outrageous, in terms of his transgressions of the liberties of individuals, that no king of England has since taken the name John. We have as our Prime Minister someone with that name, but that has occurred on both sides of the House.

The significance of the Magna Carta in developing our principles of government cannot be understated. It was the basis of the quote, ‘Every man’s house is his castle’. That was a quote from Edward Coke, the famous Attorney-General during the reign of Queen Elizabeth I. Tracking these principles through history, we see that these are fundamental principles of government that must underpin our approach to all legislation. These are vital principles and, if we depart from these fundamental principles, we are doing not only the citizens of today’s Australia a great disservice but also the citizens of future Australia a great disservice. To emphasise how these principles do overlap centuries, the young Prime Minister Pitt, in Great Britain in 1783, commented on this concept that every man’s home is his castle—these days you would say that every man or woman’s home is their castle—putting it in these terms:

The poorest may, in his cottage, bid defiance to all forces of the Crown. It may be frail, its roof may shake; the wind may blow through it; the storm may enter; the rain may enter; but the King of England may not enter; all of his forces dares not cross the threshold of the ruined tenement.

That was a principle stated three centuries ago by the British Prime Minister.

Mr Hardgrave—Pitt the Younger.

Mr McCLELLAND—Pitt the Younger—after whom Pitt Street in Sydney is named.

That is a very important quote. Every person’s house, no matter how rickety it may be or how inadequate it may be in holding back the tempest, is adequate in keeping out the Crown—unless that person transgresses the law, unless that person forfeits the right. But that is not what we are talking about in this legislation. The person who is detained—and I keep stressing this—does not have to transgress the law at all. This legislation empowers an officer of the Australian Federal Police to cross that doorway and to detain the person because ASIO suspects the person is in possession of information.

Again I want to point out the contrast between that situation and that which exists under the United Kingdom Terrorism Act 2000, which actually imposes on citizens a positive obligation—which we would all accept as a reasonable obligation to impose—to disclose information which he or she knows or believes might be of material assistance:

(a) In preventing the Commission by another person of an act of terrorism;

(b) In securing apprehension, prosecution or conviction of another person, in the United Kingdom, for an offence involving the Commission, preparation or instigation of an act of terrorism.

The British legislation contains measures by which a citizen is able to communicate that information. The failure to communicate that information results in a transgression of the law for which a person can be detained—but, again, not detained in secret, as in the case that we are contemplating. I would have a fundamentally different view of this legislation if it was premised on the basis of a citizen transgressing an obligation that we reasonably imposed upon them.

A point that I want to make is: in being gung-ho, in wanting to make political points in legislation and in wanting it to appear to the Australian public that you are ‘tough’, there is a real risk of introducing legislation that is only going to be struck down by the High Court. As we indicated during the second reading debates in respect of legislation restricting the right of review of migration decisions at the time, the privative clause contained in the legislation had every prospect of being struck down by the High Court.
Thursday, 19 September 2002   REPRESENTATIVES 6799

I note that just two weeks ago the High Court heard an application, and I understand from the feedback given by the court—although I do not wish to pre-empt the decision—that there is every prospect of that occurring. How competent and professional are we as legislators if we pass legislation for the purpose of indicating to the electorate how tough we are, how gung-ho we are, when at the time it is required it is challenged and set aside by the High Court and therefore the detention is thwarted and the ability to obtain information is thwarted because the fundamental base of the legislation is contrary to the Constitution? There are already indications in the High Court that this legislation as presently framed would face real risks. For instance, in Lim’s case the High Court was at pains to point out that it was for the courts to consider the circumstances in which people should be detained and not the executive arm of government. That point was made in these terms, where the court said quite clearly that such a law which enabled the executive to detain people free from judicial consideration ‘manifestly exceeds the legislative powers of the Commonwealth’.

Again I ask: how competent can we be as legislators if we do not recognise these points? The views of the High Court are not based on a whim or the force of an immediate argument, but based on these principles going back 800 years, arising from that fundamental document on the floor of the first parliament, from that very principle that citizens have a right to be let alone unless they transgress the law. This legislation is not based on that fundamental principle. We should restate in this House that principle as the basis of each and every act of parliament. (Time expired)

Mr CIOBO (Moncrieff) (11.42 a.m.)—Mr Deputy Speaker:

Freedom—no word was ever spoken, that has held out greater hope, demanded greater sacrifice, needed to be nurtured, blessed more the giver, damned more its destroyer or come closer to being God’s will on earth. And I think that’s worth fighting for, if necessary.

Those are the words of General Omar Bradley. I raise them in the context of this debate on the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 because I think they bring into the minds of all present in this chamber and of those listening the importance of what we are discussing here today. One year and eight days ago there was a defining moment in the history of modern civilisation. I believe each individual, no matter where they were at that time, is able to remember what they were doing when they first heard of the attacks that had taken place against the World Trade Centre and the Pentagon and when they heard about the flight that crashed in Pennsylvania. It was a defining moment and it was a vicious attack. A defining moment like that requires a very strong response—a response that must demonstrate the commitment of Western democracy to counter these types of attacks. It also, however, must be a response that is balanced, that is reasoned and that is reasonable. It must be a response that balances the need to aggressively pursue those who threaten liberty, with the required nourishment and protection of the liberties that make Western democracies the shining flame of freedom throughout the world.

This bill achieves this balance. The bill that is before the House today allows us to pursue those who would use the freedoms that we enjoy on a daily basis to cloak their evil intent—an intent designed to subvert our freedom. ‘In the face of today’s new threat, the only way to pursue peace is to pursue those who threaten it.’ This is a quote from a source that I do not know. However, I thought it most poignant because we must now take up the challenge of pursuing those who would threaten to subvert the very freedoms that we all enjoy.

This government has taken very strong and decisive steps, in stark contrast to the filibustering that the opposition has been engaged in. We have responded to the new terrorist landscape and the new geopolitical issues that face us on a daily basis, and we have responded appropriately with this bill. This bill is good public policy. It incorporates changes that adjust our operational capability, our infrastructure and our legislative framework. The changes incorporated into this bill are important to protect Australia
and the Australian people, and the Australian people should know that this legislation is designed to protect them.

The changes to the ASIO powers incorporated into this bill are required to allow ASIO the opportunity to act as an agency largely unfettered by constraints that historically were okay but that now simply do not meet the challenges that this new terrorist landscape presents to us. The changes incorporated in this bill allow ASIO to discover and prosecute those people who would seek to perpetrate the most heinous crimes on Australian citizens and on the Australian community—and hopefully, through these powers, ASIO will be able to do this before the crimes are committed.

The bill, in essence, empowers ASIO to seek a warrant to allow the detention and questioning of people who may have knowledge or information in relation to terrorist activity or a planned terrorist attack. It incorporates a number of important safeguards, and I highlight that a warrant is a measure of last resort. It is a measure that appropriately balances individual rights—the rights we have been lectured on for the past 20 minutes by the member for Barton—with the rights of the community to an expectation that a government will stand up and meet the challenge and deliver the appropriate legislative framework to ensure the community can feel safe as they go about their business. The strict safeguards incorporated into this bill include a requirement that, for example, for ASIO to be able to detain and question a person, the Director-General of Security must obtain prior consent from the Attorney-General before a warrant is sought from a prescribed authority. In the instances of this bill, a ‘prescribed authority’ is either a federal magistrate or a senior member of the Administrative Appeals Tribunal who has the appropriate legal qualifications.

It is important to recognise that, prior to doing this, the Attorney-General must be satisfied that there are reasonable grounds that exist in order to allow the warrant to be issued. The warrant, in essence, must substantially assist the collection of intelligence by ASIO. Further, the Attorney-General must be satisfied that reliance by ASIO on other methods of gathering intelligence would be ineffective, and this goes to highlight the importance of the fact that the warrant is a measure of last resort. We already have a large number of agencies that exist and work in the public domain seeking intelligence and seeking the information required to try to prevent this type of activity. Where the trail of evidence leads to a person who has information or knowledge and that person needs to be detained, taken into custody and questioned in order perhaps—and hopefully—to prevent a terrorist attack, then this bill takes that into account and provides ASIO with that flexibility and the power to do just that.

If the warrant being sought requires a person to be taken into custody immediately and detained, the Attorney-General must also be satisfied of additional considerations. The Attorney-General must be satisfied that the person may alert another person involved in a terrorism offence of the investigation that is taking place; alternatively, that the person may fail to appear before the prescribed authority, or that the person may alter or destroy any record or thing that may be requested of that person to produce for the benefit of ASIO. Without this provision the simple fact is that terrorists using a subvert network could be warned before they are caught. Planned acts of terrorism that are known to ASIO could be rescheduled, all because we have a requirement that an individual be given the flexibility and the freedom—for all the right reasons, initially—to alert other people involved in that organised gang that may exist with respect to terrorism activity.

In addition to that, if the warrant is to immediately detain and take into custody a person, then the warrant must specify all the persons that the person is permitted to contact whilst they are in custody. These people may include legal advisers. Depending on the circumstances, the warrant that is being sought may provide for custody and detention incommunicado, and this has been the main sticking point that the opposition has been driving home today. I will make further comments on that shortly. That notwithstanding, the person in detention is required
to be permitted to have contact with the Inspector-General of Intelligence and Security and also with the Ombudsman. It is worth highlighting—because the member for Banks went to great lengths to talk about the additional powers that we are giving to ASIO—that the actual function of taking into custody and detaining a person is performed by the Federal Police.

Also incorporated into this bill, highlighting the appropriate balance within the bill, are a number of safeguards that ensure a person is treated fairly, humanely and equitably while they are taken into custody or detained. The questioning of a person under a warrant must occur before a prescribed authority. When the person is initially detained and taken into custody, they must have explained to them what the warrant authorises ASIO to do, the period for which the warrant is in force and the possibility of criminal sanctions if the person does not cooperate. If a person does not speak English, arrangements will be made to ensure that an interpreter is present—a basic safeguard but, again, an important one and another example of the balance achieved in this bill. A further requirement is that the prescribed authority must explain to the person that they have a right to complain to the Inspector-General of Intelligence and Security in relation to the conduct of ASIO and also that they may complain to the Commonwealth Ombudsman, if they feel that would be appropriate, in relation to the conduct of the Australian Federal Police. In addition, facilities must be made available to the detained person for making these complaints.

When any person is taken into custody and detained, a video recording must be made of the event. The recordings must be provided to the Inspector-General of Intelligence and Security, along with a copy of the warrant and the statement that contains any details of the detention that has taken place. In all instances, ASIO is required to report to the Attorney-General on warrants that have been issued in accordance with the provisions of this bill. There may be times where a person with highly relevant information refuses to cooperate and refuses to volunteer the information they have, the very information that could save many people if a terrorist act were to occur—where, for example, there may be a terrorist who knows of a potential bombing, a sympathy bombing. In that instance, in order for these powers to be effective, there is a requirement that that person be detained, taken into custody and this information be sought. If they refuse to provide the information, we are absolutely required to hold out the threat of legal action against them. Under this bill, there is a maximum penalty of five years imprisonment if a person refuses to provide information.

I have listened this morning to quite a number of arguments that the members for Banks and Barton put before this chamber in relation to why they felt this bill was manifestly unjust and why they felt this bill ran completely against the basic premises that a society is predicated upon. Two key areas struck me about the Labor Party’s response to the bill. The first was the comment that there is no access to lawyers. It should be highlighted to anyone listening and to those who may read the Hansard that there is access to a panel of lawyers. The only time that there is not is with respect to the first 48 hours that a person is taken into custody. But it must be noted that a person cannot be taken into custody incommunicado unless reasonable grounds exist and the Attorney-General is convinced that it is required. There are certainly safeguards that exist; it is not a carte blanche bill that allows ASIO unfettered access to march through anyone’s door, grab the person, drag them away and put them into custody. There are safeguards that exist, and it is highly misleading for the Labor Party to stand up in this chamber and try to make out that this bill is draconian in nature, when it is anything but.

After a person has been detained for 48 hours, if the decision is made that that detention should be incommunicado, then that person has the absolute right to have access to a lawyer. Let us think about what we are discussing here. We are talking about potential terrorist activity against Australians. In this particular instance, we cannot run the risk of having people who may operate in a network of terrorists being able to pick up
the telephone, contact some sleazy two-bit solicitor who happens to exist in some suburb somewhere and who may very well be part of the terrorist organisation, and say to this solicitor, ‘Look, I am being investigated for the following reasons. You should alert someone,’ and that person then gets away with it because the person happens to be a solicitor who, coincidentally, has the right to represent that particular person. It is absolutely absurd. We need to have the ability in matters such as these, which are crucial and fundamentally important to the safety and security of the community, to detain this person and get the information, and have the requirement that after 48 hours they are then allowed to consult a solicitor if they so desire. I think it is only prudent, in addition, given that these are matters of national security, that the solicitor they are allowed to consult is a security-cleared solicitor, not just any two-bit solicitor from off the street. After discussing it with a large number of members and members of the community, I am certain that they are very confident and comfortable that this is an appropriate safeguard.

Another important point that is worth noting is that, as a result of the recommendations from one of the two committees that have analysed this bill, there is a requirement that there be penalty clauses incorporated for any officials who do not comply with the provisions of the bill—in particular, those provisions that require a detained person to be treated with humanity. In these cases, if an official breaches this obligation, they can be imprisoned for a maximum of two years. This again demonstrates the Howard government’s willingness—and decisive leadership on this issue—to say, ‘Yes, we recognise that this does require some very strong legislation in order to have a workable framework for our agencies that are expected and required to enforce the law and prevent attacks, but we do that recognising it must also balance individual rights.’ The incorporation of a two-year penalty for any officials who may breach the requirements placed upon them under this bill should most certainly be there.

The second aspect of the bill I heard discussed by the member for Banks at great length was the detention of children. He claimed this detention, on the face of it, was offensive. I find it extraordinary that the Labor Party would stand in this chamber and say that children aged 14 should not be allowed to be taken in for questioning. This age is the same as the threshold age we have for criminal responsibility. A child of 14 can be tried for murder and found guilty and yet, with regard to terrorist activities, they are all God’s angels who can do no wrong and who should not be questioned. The position is wholly incomprehensible and is a clear demonstration of Labor hypocrisy.

We recognise that there are certain requirements that, rightfully, should be taken into account when dealing with children in these matters. We recognise that, and we have put appropriate safeguards into the legislation to incorporate these principles. Children aged 14 to 18 must have access to a security-cleared lawyer. They also have the right to have access to a parent or guardian during the questioning. In addition, there is the requirement—given that a parent or guardian may be in the room—that the prescribed authority have the power to request and demand that the parent or guardian accompanying the child not disclose information. Further, children aged 14 to 18 cannot be questioned for a period longer than two hours without a break. We have, on a very practical level, demonstrated our willingness to provide an appropriate balance between ensuring ASIO has the ability to seek and gather further intelligence and recognising the importance that appropriate safeguards are incorporated in the bill.

I listened to the comments made by the member for Banks and, in particular, the member for Barton, who spoke at great length about the history of the Magna Carta and how it evolved to present day Western democracy. We heard how a person can shut their door against the full force of the Crown unless that person forfeits the right to do that because they have transgressed the law. News for the member for Barton: we already allow the Crown to intrude on a person’s private fiefdom, so to speak, if there are reasonable grounds and there is reasonable suspicion. The police have the right, if they be-
lieve it reasonable, to search your car for
drugs. They also have the right to enter pri-
ivate property if, again, reasonable grounds
exist. The important point is that we also
require reasonable grounds in this legisla-
tion. This legislation most certainly does not
cross any boundary that has not existed be-
fore.

I highlight one final point. Senator Robert
Ray, a Labor senator, asked during a com-
mittee hearing whether it would have been
possible if this legislation had existed to pre-
vent attacks such as those that occurred on
September 11. The response was that, no, it
would not have been. Senator Ray said:

I think we could contest that. It is possible. I
think we would agree on the assumption that if
any one of the 24 were pulled in—

(Time expired)

Mr GEORGIOU (Kooyong) (12.02
p.m.)—The Australian Security Intelligence
Organisation Legislation Amendment (Ter-
rorism) Bill 2002 is a fundamental and con-
troversial piece of legislation. It does require
the most serious consideration of its impact
on Australia’s security and on the fabric of
Australia’s democratic system.

There is drama and there is resonance in
saying that the world changed on September
11. But terrorism’s potential to inflict mass
casualties has long been apparent, and demo-
cratic leaders have consistently emphasised
the potential for major casualties from ter-
rorist action. What the tragic events of Sep-
tember 11 have done is to crystallise these
threats, to bring home our vulnerability and
to galvanise our response.

Over the last decade, the world has wit-
nessed a significant escalation of the scale of
terrorist attacks, not just at the periphery of
Western power but also at the centre. The
heightened availability of nuclear, biological
and chemical weapons and the emergence of
fundamental religious terrorist organisations
manifest the real and present danger which
terrorism presents. Indeed, the transforma-
tion of ‘conventional’ airplane hijackings
into manned cruise missiles was presaged in
1994 by the Armed Islamic Group’s hijack of
an Air France jet, apparently with the inten-
tion of crashing it into Paris.

Australia’s distance from the terrorist fo-
cus is no guarantee of safety. Throughout
South-East Asia, northern Asia and the In-
dian subcontinent, Al-Qaeda retains a very
real operational capacity and continues to
pose a real threat to Western and Australian
interests in the region. We do share with our
allies the responsibility of responding to the
terrorist threat. We do stand for the democ-
tratic freedoms and liberties which are part
of what Al-Qaeda struck against on Septem-
ber 11. We are committed to defending these
values and, because they are an irreducible
part of what we seek to protect, we must be
careful not to forsake them in the battle
against terrorism.

Some years ago I warned against the dan-
ger of emerging terror movements. Writing
for the 1999 Menzies Lectures, I said:

The progeny of the terrorist philosophy of the 70s
is ... a new generation committed to the destabili-
sation of democratic society ... Terrorist leader
Osama Bin Laden has decreed that the attainment
of weapons of mass destruction to deploy against
the West is a religious duty.

We have now witnessed how far Osama bin
Laden has come in his attack on democracies
and on the West. But in that same essay I
argued that now, as in the 1970s when we
did face great and serious challenges from
terrorist movements, the measures we em-
ploy to combat the new terrorism must not
undermine our core values: the rule of law,
due process, civil liberties and freedom of
speech. Ultimately, the responsibility of de-
mocracies is to defend both the security of
their citizens and their freedom. We need to
ensure that our tools to prevent attacks and to
find and punish perpetrators are effective.
We have to recognise the terrorist dangers
and we have to respond in a measured, ef-
fective and proportionate way.

These longstanding commitments to both
security and democratic values underpinned
my response to the government’s initial pro-
posed measures on ASIO and security. They
did, I have to say, lead me to have grave
concerns about the measures that were ini-
tially proposed. I believe they would have
fundamentally and unjustifiably eroded the
protection given to Australians by the law.
The thrust of these measures was outlined hard on the heels of September 11. The Attorney-General announced that terrorist threats to Australia were unchanged and that our security organisations were in good shape but that their antiterrorist powers needed strengthening. The intention was to introduce a single bill, the Security Legislation Amendment (Terrorism) Bill 2002. Following discussion amongst the government parties, it was decided to split this into the Security Legislation Amendment (Terrorism) Bill 2002 and the ASIO Legislation Amendment (Terrorism) Bill 2002 and refer them immediately to the relevant parliamentary committees.

The legislation, as originally proposed, comprised a three-dimensional package that loosely defined and severely punished terrorist acts and terrorist crimes, overturned the presumption that people accused of a crime are innocent until proven guilty, and gave the executive unprecedented detention and interrogation powers. Under the package as originally constituted, the Attorney-General was granted the power to unilaterally proscribe an organisation that he was satisfied on reasonable grounds had committed terrorist acts, even if there had been no conviction or no charge of any involvement with terrorist acts. Indeed, the Attorney-General could proscribe an organisation that was not involved in terrorism at all if he was satisfied that the organisation was likely to endanger the security of Australia or another country. This, of course, was the rationale for the unsuccessful attempt to ban the Communist Party of Australia 50 years ago.

The legislation also proposed that people associated with or assisting a proscribed organisation be liable to a maximum of 25 years in jail, even if they did not know of its proscription and had no intention of assisting any terrorist acts. The prosecution did not have to prove that a person accused of a connection with a terrorist act or association with a terrorist organisation knew, intended or was reckless about the connection or association. It was the accused who, to avoid conviction, had to prove that they knew nothing about the terrorist act, did not intend to facilitate it and were not reckless with respect to it. In other words, in antithesis to our common law principles, the burden of proof was reversed and it now lay with the accused to disprove allegations against him or her.

It is probably inevitable that, as debates about national security unfold, concerns about the impact of security measures on democratic values and institutions tend to be marginalised and their proponents characterised as naive, lacking in life’s experiences and underestimating the terrorist danger and the imperative for sweeping security measures. Having been an adviser to Prime Minister Fraser at the Commonwealth Heads of Government Meeting at the Sydney Hilton Hotel in February 1978, when Australia’s most dramatic terrorist outrage occurred and when the decision was taken for the first time in Australia’s history to call out the Australian Defence Force in support of the civil power, I have some experience in dealing with the consequences of terrorism on our shores. And I believe that it is to the credit of our society and our parliamentary system that fundamental objections to the proposals initially made were given a serious airing, and very substantial amendments were made to the legislation.

Under the amended legislation, the prosecution carries the responsibility that has always rested with it in serious criminal cases of proving its allegations beyond reasonable doubt. Terrorist acts are now limited to those intended to cause or threaten serious harm to coerce or intimidate the government or the public in the pursuit of political, religious or ideological goals. To be convicted of a terrorist offence, individuals now have to intend, know or be reckless about their connection with a terrorist act. The executive may now only specify that an organisation is a terrorist organisation pursuant to United Nations Security Council decisions and subject to parliamentary disallowance. People will now be liable for jail only if they are intentionally members of an organisation they know to be specified or if they assist the organisation intentionally or recklessly. These are very important amendments, and their adoption by the government enabled the Security Legislation Amendment (Terrorism)
Thursday, 19 September 2002

Bill 2002 to pass through the parliament in the last sitting without division in this House.

The ASIO Legislation Amendment (Terrorism) Bill 2002, which we are considering today, contains that part of the antiterrorism package which bestows on the executive unprecedented powers of detention and interrogation. The initial bill allowed for the issue of warrants to interrogate and indefinitely detain people, including children, without charge. It could have applied to people who were not even suspected of committing a crime and, indeed, people who were known to be totally innocent of any involvement with terrorism.

Warrants were to have authorised detention for up to 48 hours. To justify this form of detention, the requirement was for the Attorney-General and a federal magistrate or prescribed member of the AAT to be satisfied that detention would substantially assist with the collection of intelligence relating to terrorist offences. The Attorney-General also had to be satisfied that other intelligence-collecting methods would be ineffective and that the person may fail to appear for questioning, alert others to the investigation or interfere with evidence. Because successive warrants could have been issued, indefinite detention would have been possible. Anyone detained—including children and people not accused of terrorism or not suspected of a terrorism offence—could have been held incommunicado and prevented from contacting anyone except the Inspector-General of Intelligence and Security or the Ombudsman.

The bill negated the right to silence, the privilege against self-incrimination and the right to legal representation. Failure to answer any question under the warrant was to have carried a penalty of five years imprisonment. Any information given under this coercive questioning could have been used against the person in a prosecution for a terrorist offence. The bill now has been extensively examined, and the Parliamentary Joint Committee on ASIO, ASIS and the DSD recommended a number of changes, many of which are included in the bill that is before the House today.

The unprecedented detention and interrogation powers essentially remain but with significant modifications and protections. There is a maximum detention period of seven consecutive days, after which a person must be either charged or released. Warrants allowing the total detention period to exceed 96 hours may only be issued by a federal judge. Statements made by people under interrogation may not be used directly against them in criminal proceedings, although there is no bar on using their statements to derive other evidence which may be used against the detainee.

Detained persons will have the right to contact a security-cleared lawyer except where the Attorney-General believes that a terrorist offence is being or is about to be committed which will have serious consequences. If it is appropriate in all the circumstances, the Attorney-General may deny access to a lawyer for up to 48 hours in detention.

Children under 14 years of age cannot be questioned or detained, but children between 14 and 18 years of age may be detained and questioned in the presence of a parent or suitable representative and a security-cleared lawyer if they are suspected of being involved in a terrorist offence. There are penalties of up to two years imprisonment for officials who do not comply with the legislation.

The progress of the antiterrorist legislation illustrates, in my view, some of the underestimated strengths of our parliamentary system. These are: the capacity of the backbench, its committees and the party room to improve legislative outcomes; the opportunity for outside groups and experts to bring their knowledge and experience to bear to supplement or countervail bureaucratic advice; the capacity for governments and ministers to initiate and accept amendments; and the ability of the House and the Senate committee system to enhance the quality of public policy, particularly when its members eschew partisanship. And I do believe that a particular tribute is due to the Parliamentary Joint Committee on ASIO, ASIS and DSD and the Senate Legal and Constitutional Legislation Committee.
The government’s acceptance of a range of amendments has significantly improved the terrorism legislation, but we are now at something of an impasse. The opposition has indicated that it will support only the amendments to the bill in the House and will then refer the bill to a Senate committee for additional review.

The Labor Party has said that the government’s response to the ASIO committee’s report is inadequate, despite the fact that the government has accepted most of the committee’s recommendations. The opposition has also raised a further concern about the acceptability of detaining people who are not suspected of involvement in terrorist crimes. This, it has to be said, is not something that the ASIO committee sought to amend.

Nonetheless, of all the derogations from established legal protections that this legislation has proposed, the power to detain and interrogate without charge is the most fundamental. Taken to its ultimate boundary, this comprises the interrogation and incommunicado detention without legal representation of people who are not suspected of any participation in terrorist actions.

In my view, if a murderous attack such as the one on September 11 can be prevented only by detaining a person for a short period of time in order to obtain vital information or prevent the alert of terrorists who are mounting an attack, the parliament does have the responsibility to legislate to give authorities the power to do so, with appropriate protections.

The Attorney-General has made it clear that warrants allowing detention would only be used as a last resort to prevent a terrorist attack. Indeed, the Attorney-General has publicly undertaken a commitment that, as he said:

They would be used only if there was a reasonable suspicion that a person has information that could prevent a terrorist attack, is refusing to cooperate with authorities trying to prevent it, and that there was no other way of obtaining this information.

Given the wide-ranging executive powers being proposed, it is important that the legislation reflect precisely the intentions that gave rise to it. In this context I note that the bill does not specify clearly that detention requires the anticipation of a terrorist attack or a refusal to cooperate with authorities. The bill allows the powers to be used to gain intelligence about broadly defined terrorist offences that may not necessarily be related to terrorist attacks.

It is important, given some of the things that have been said in this debate, that the Attorney-General has said that he wishes to deal with the outstanding issues expeditiously and appropriately with the opposition. I understand that this offer has not been activated by the opposition, and I think that is unfortunate. I believe that both major parties need to agree on the issues that are outstanding.

In conclusion, I want to affirm the protections that exist in our legal system. I think it is important to appreciate that these protections did not spring full blown from the mind of some chardonnay-sipping civil libertarian in an ivory tower. They evolved out of the experience of people who lived through turbulent and violent times: through rebellion, revolution, civil war and religious insurrection. The protections of individual rights were a rejection of the arbitrary use of executive power which had been justified by government as essential to the security of the kingdom and its citizens. This power was curbed because it was realised that its exercise was corrosive to the very order that it purported to serve.

The strength of democratic societies has been our evolution beyond the arbitrary exercise of repressive powers. As legislators, we must not shirk our responsibility to do all that is possible to combat threats to the safety and security of our country. Equally, we must not shirk our responsibility to protect the very core values of our society that the terrorist threat we face seeks to destroy.

Ms HOARE (Charlton) (12.21 p.m.)—The Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 proposes to enhance the Commonwealth’s ability to combat terrorism by amending the definition of ‘politically motivated violence’ in the Australian Security Intelligence Organisation Act 1979 to include terrorism offences. It gives ASIO special powers relating to the
cial powers relating to the investigation of terrorism offences, including warrants requiring persons to attend for questioning before a prescribed authority without a lawyer and, in certain circumstances, to be detained for 48 hours and potentially indefinitely. I am pleased that the Labor Party has decided to oppose this legislation in this place. I received many letters on this particular bill and many requests to oppose it, as it has been publicly debated. I also received many letters concerning the Labor Party’s position on the government’s ASIO bill.

My constituents who contacted me and the ALP branches which I have had discussions with know that I have always shared their concerns that the provisions within the legislation give significantly increased powers for the Australian Security Intelligence Organisation which will greatly impinge on human rights. We in the Labor Party are vigorously opposing the bill now that it has finally come up for debate in this parliament. If the bill were to pass in its current form, Australians not suspected of any offence could be detained by ASIO for questioning. ASIO has never had any powers of detention before. Those detained by ASIO would not have the right to legal advice. ASIO would be given the powers to detain children for questioning, and the government’s proposal will significantly change the role of ASIO by giving it powers of coercion and detention. Over the August sitting fortnight, I held lengthy discussions with my caucus colleagues, arguing for the decision to oppose the bill. I am pleased that caucus voted to oppose this dreadful legislation. I thank my ALP branches and my constituents for their strong support of my position.

Groups such as the Law Council of Australia and the New South Wales Council for Civil Liberties have expressed concern that the proposed legislation would seriously infringe civil liberties. The Federal Privacy Commissioner, Malcolm Crompton, warned that, while security measures inevitably involve intrusions on privacy, we must not legislate away our civil rights. It has even been suggested that the security debate is reminiscent of the one which took place half a century ago, when it was argued that extraordinary powers were needed to combat the communist threat.

In the aftermath of the attacks on Washington and New York in September last year, it seems that the threat posed by terrorism justifies the possible denial of human rights. If passed by this parliament, this bill will change the rights of every Australian by allowing for people to be detained without evidence that they have done anything wrong. Under the legislation, ASIO would be allowed to obtain a warrant to detain someone with the consent of the Attorney-General if there were substantial grounds for believing that the warrant would substantially assist in the collection of intelligence that is important in relation to a terrorist offence.

As I and many of my colleagues heard in discussions regarding the ASIO bill, the most fundamental human right that will be destroyed by this legislation is freedom. This legislation allows for the detention, the locking away, of an Australian citizen who is not suspected of any criminal or terrorist activity but who may know, even unwittingly, somebody who may know of terrorist activity or a terrorist organisation. The shadow attorney-general referred to his own family position. I am in a very similar position to him in that I also have a 14-year-old daughter. I cannot foresee any but there could be situations in which, due to my political activities, my daughter might be able to be detained by a secret government organisation—that is, ASIO—under this legislation. Under no circumstances could I imagine any acceptance on my part of a situation like that being allowed to occur. I urge government members supporting this legislation to look at the ramifications of this bill and to consider their own children or grandchildren. We might have a civilised democracy under our current arrangements; however, it is not absolutely certain that, in future, governments may be so civilised, and they may be able to use this legislation for means for which it was not intended.

There has been discussion in this debate regarding the 15 recommendations which were made in the majority report of the Parliamentary Joint Committee on ASIO, ASIS
and DSD. During the inquiry, the PJC received a large number of submissions. As I said, it recommended a range of amendments—15 in all—which included a seven-day limit on detention, the requirement for representation by security cleared lawyers, protocols governing detention and interview which are subject to parliamentary scrutiny, protection against self-incrimination, the exclusion of anyone under the age of 18 from interrogation and detention, accountability and reporting measures in relation to warrants and a three-year sunset clause. There has been great discussion from government members in this debate about how the government is supporting the majority of the recommendations—yes, 10 out of 15 are the majority—but the remaining recommendations of the PJC report which the government is not supporting really go to the crux of the matter of why we in the Labor opposition are opposing this legislation.

When we talk about the locking up of Australian citizens who are not suspected of any criminal activity, we are also talking about locking them up with no access to legal representation, no access to a lawyer, for 48 hours. We say that that is unacceptable. There was a recommendation to develop protocols to govern custody, detention and the interview process and that the act not commence until the protocols were developed and in place. The government proposed that the exercise of any powers under the act be delayed until the protocols are in place but that the commencement of the bill not be delayed. I fail to understand why the government would not be introducing the protocols at the same time as the introduction of the bill. There was also the recommendation that no-one under the age of 18 be detained. I have already referred to the ability of ASIO to detain 14-year-old children.

There was a recommendation for a sunset clause, which has been rejected by the government. There was also a recommendation that the Inspector-General of Intelligence and Security be given the power to suspend interviews because of non-compliance or impropriety. That recommendation was rejected by the government. Quite extraordinarily, the government has said that, if there are any concerns, they should be raised with the prescribed authority and the Director-General of ASIO. So, if you have a concern with the way that ASIO is interviewing or detaining, you need to raise those concerns with the particular organisation that you had the concerns with.

My personal response to the recommendations from the Joint Parliamentary Committee on ASIO, ASIS and DSD is that, even if they had all been accepted by the government, I would still find it very difficult to support legislation which is aimed at detaining Australian citizens as young as 14 who are clearly not suspected of any criminal activity, who are not suspected of any terrorist activity or who may be suspected of perhaps knowing somebody who may know of a terrorist activity. To my mind, that is just completely unacceptable. Reference has been made to Professor George Williams. I will also refer to his comments. I do not think anybody could better phrase his comment that:

The ASIO bill is rotten at its core.

Professor Williams goes on in his expose of this legislation to say:

The ASIO bill should be rejected for five main reasons. First, we should not legislate for the detention in secret of Australian citizens who are not suspected of any crime. The ASIO bill is inconsistent with basic democratic and judicial principles.

Second, ASIO is not a suitable body to be given police powers. ASIO is a covert intelligence gathering agency, not a law enforcement body.

Third, the bill is constitutionally suspect. It breaches the separation of powers in conferring a power on the government to detain Australian citizens who have not committed an offence (or even are suspected of having committed an offence).

Fourth, despite the fact that Australia has not been the subject of recent terrorist activity, and that no direct threat to Australian security has been established, the ASIO bill goes further than equivalent legislation in the US, Canada and Britain. Only Australia has sought to legislate to authorise the detention in secret of non-suspects.
Fifth, the bill may not be aimed at the problem. No policy justification for the ASIO bill has been offered, nor has the government set out the nature and extent of the danger posed to Australians by terrorism.

I agree with him that ‘the ASIO bill is rotten at its core’. I said earlier that I have received many phone calls, emails and letters—much correspondence—from my constituents. I have brought a couple with me to read out in this debate. A female constituent from Wangi Wangi, in my electorate of Charlton, details her concerns about the legislation and concludes by saying:

Australia does not need this draconian legislation in order to defend itself against terrorism. I find it truly frightening that most people I speak to have no idea that this legislation is being considered. There has been insufficient publicity and very little public discussion about the bills.

A gentleman constituent of mine from Wyee talks about a couple of other issues and then says:

... most importantly please urge your colleagues and leaders to be more outspoken about Mr Williams proposed Anti Terrorist legislation. If implemented, it will be the first step towards a police state. Even some lib's are expressing concern.

Another letter that I want to refer to is from Sharan Burrow, President of the ACTU, talking about the new powers for ASIO and detailing a resolution of the ACTU Executive in July. She states:

The Bill, even if amended as recommended, would remove the right to silence. The proposed protection against self-incrimination does not protect a person who is under questioning because of their knowledge of others activities, including lawyers, priests and journalists who may not wish to disclose information.

This is a particular concern for the ACTU. Increasingly we operate as global unions. The ICFTU’s 2002 Annual Survey on trade union rights violations, which covers 132 countries and territories across the world, notes 223 cases of murdered or ‘disappeared’ trade unionists in 2001. There were 201 assassinations or disappearances in Colombia alone. Over 4,000 trade unionists were arrested, 1,000 injured and 10,000 sacked because of their union activity.

Union officials in Australia will not expose their international colleagues to intolerant regimes under threat of five years jail. Yet that is the potential position under this Bill, even if amended.

We talk about the potential positions under this bill. As I said before, this bill has been introduced in view of the roles of a civilised government and of democracy in our country. I use the example of the possibility of my 14-year-old daughter being able to be detained by ASIO under this legislation. That may be a far-fetched situation but as this legislation currently stands my 14-year-old daughter could be locked up.

Mr Slipper—Why would ASIO want to detain your 14-year-old daughter?

Ms HOARE—Because they suspect that she might know about somebody’s activities or movements. Notwithstanding the fact that she may not be suspected of any criminal activity or her immediate family may not be suspected of any criminal activity, this bill would give ASIO the right to lock up my 14-year-old daughter. As I said, my fundamental opposition to this legislation is that it gives a secret government organisation, ASIO, the ability to detain and lock up Australian citizens who are not suspected of any criminal activity. They are not going to be charged with criminal activity. They are not suspected of being involved in criminal activity. Once they are locked up by ASIO, they do not have the right to silence. They do not have the right to legal representation. They are not going to be charged. It means that Australian citizens who are not suspected of any criminal activity can be detained.

This is unprecedented in this country. I call on those members of the government who support this legislation to revisit this issue. Have a look at how it could actually impinge on people you know or maybe members of your family. Have a look at the basic human rights that Australians enjoy, even if we are suspected of criminal activity, which are not going to be applied in the same way to those people who are not suspected of criminal activity. If you are suspected of criminal activity you can be charged and you have the right to silence and the right to legal representation. However, if you are not suspected of criminal activity, you can be detained and locked up without the right to silence and without the right to legal representation.
Mr KERR (Denison) (12.41 p.m.)—I thank the House for permitting me to speak out of turn in this debate on the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002. The previous speakers have discussed what I think is a uniform concern of both sides of this House: that the balance be struck correctly between our national interest, in securing an environment where our country will not be subject to the kind of terrorist attack that occurred in the United States and has occurred in other countries—indeed, it has tragically occurred to a lesser extent in our own country as we have had bombings, such as the Hilton affair and various other smaller incidents in our history—and the traditions that we have for the protection of civil liberties and the rights of citizens in a democratic society.

How do you characterise this legislation? Where does it fit within those parameters? The previous contributor referred to the paper presented to many members of this parliament by Professor Williams, where he said that the bill ‘was rotten to the core’. He also used a phrase which caught my imagination. He said:

It is unfortunate that it has come to this, but the ASIO bill would establish part of the apparatus of a police state. It is a law that would not be out of place in former dictatorships such as General Pinochet’s Chile.

If the case were to be established that this is necessary and the only way in which Australian’s security can be protected against the kind of threat that we know exists from time to time—because we cannot be immune from terrorist threat in this country; although we understand from advice from ASIO itself that no quantifiable risk can be discerned at present, one cannot take too much comfort from that, as one knows that this country is no more immune than any other to the possibility of such attacks—and if this were the only possible way of dealing with such contingencies, then there might be a case for this parliament to consider and indeed pass such legislation. But truly that is not the case.

The member for Kooyong previously set out that much of the debate preceding the introduction of this legislation showed this parliament at its best. I believe that that is largely true, but this opportunity in the House affords us an occasion to look at what emerged from those hearings and to reflect upon whether or not this particular measure is justifiable. It is my submission that it is not justifiable. I put that not only on the grounds Professor Williams has advanced but on practical grounds relating to law enforcement.

I come to this debate not, as some would characterise me, as a chardonnay-sipping civil libertarian but as a person who was the justice minister in the Keating government, under different administrative arrangements than currently exist. Under the administrative arrangements that existed at that time, I was the person at the end of the phone had there been an instance requiring an antiterrorist response. From the coordinating centre, secure lines ran to my national office and to my electorate office. On a number of occasions I was involved in coordinating training exercises on antiterrorist measures, so I am well aware that, ultimately, we would have used not only civil forces but also the reserve capacity to call on military support as a last resort contingency. We had to have in place secure measures to deal with threats that we hoped we would never face in practical terms but for which we always had to be ready. So I come to this debate not as somebody with an innocence of life experience in these areas.

I say to the House that, in my view, the fundamental framework of this legislation is deeply flawed on the grounds that have been asserted previously—that is, for the first time, legislation authorises the detention of persons against whom no charges have been laid and for whom the recourse is to seek information. I accept the arguments, but I make a practical attack on this legislation: firstly, no proper capacity exists within the Australian Security Intelligence Organisation to operate as a police force; secondly, it has none of the internal constraints, regulatory arrangements and oversight arrangements that go with law enforcement; and, thirdly, if any significant work is required by way of investigation of a genuine terrorist threat against Australia, that work will have to be
done by both state and Commonwealth law enforcement agencies, in particular the Australian Federal Police.

Let me develop this argument further. If we are to give to ASIO the prime responsibility for a law enforcement function, we have to establish a secret police force. ASIO has, hitherto, not been a secret police force. It has had no power of arrest, other than the power that is incidental to every citizen of this country—the capacity, in some circumstances, to make an arrest without warrant. But ASIO officers carry with them no extraordinary policing powers. ASIO’s remit has been to operate as an intelligence gathering agency and to feed the product of that intelligence into agencies which are charged with the responsibility for investigating potential crimes or for responding to them. Those agencies are in prime areas—the agencies of the Australian Federal Police.

If we are to create ASIO as a secret police force, we have to start training it to exercise those powers. Presently it has nobody with forensic skills in the investigation of law enforcement related matters. It has no persons trained in the interrogation of suspects. It has no capacity to undertake the tasks that we are seeking to confer upon it in this legislation. So what do we do? Once we start a process whereby we create in ASIO what would have thought to have been an occasional, exceptional circumstance where those powers would be exercised, we will have to train within that organisation a whole group of people able to exercise those powers. This will change the nature and characteristic of the organisation.

From international and domestic experience, we have good reason to be suspicious about a secret police force. There have been a number of royal commissions in Australia which have examined those special service divisions within police forces that had a political intelligence role at a state level. The role was abused, and the officers were corrupted by the role they played—they became partisan in the way in which they operated.

Overseas the same experience has been seen time and time again—when a secret police force is established, consequences flow from it. In this country, we have set our face against that. We have said we will not establish secret police forces—we will separate distinctly and clearly from law enforcement the role of gathering background materials, covert surveillance and all of those issues that can be done by ASIO. We will make a clear line of delineation. Breach that clear line of delineation—that is, create a secret police agency, train its personnel to have the capacity to undertake those tasks, and remember that you would have to create a significant capacity if ASIO were to undertake those tasks with any seriousness—and then you breach, fundamentally, one of the safeguards that we have built up through our own Australian experience.

The next point is that we have to beware of what has been called legislation creep. Once you start a process that enables things that are intended to be exceptional and extraordinary, two or three years hence they will be treated as part of the ordinary way we do our business in the law enforcement area. Example after example can be given of this. Take as an example the establishment of the National Crime Authority. The National Crime Authority was established some 25 years ago. It was established as a standing royal commission with extraordinary powers to be exercised only in the most limited of circumstances. Over time, for quite proper reasons, we expanded the menu of areas into which those particular investigative skills and the extraordinary powers that we granted to the National Crime Authority could be exercised—this parliament did that—and then we broadened those powers. We made certain that they extended far more widely than had been initially conferred—withstanding that when they were first introduced it was said that they would never be extended. We extended them deliberately, consciously and for proper reason.

We are now examining whether we establish an Australian crime commission. If we do so, for the first time we will take powers which were extraordinary, given in a sense to a standing royal commission, and make them available for routine police work. I want to draw a line in that debate at that point also, because I think that is a wrong path to take. There will be a parliamentary examination of
that legislation, but the point I make is that, once that door is opened to these kinds of powers being used in the law enforcement area, this parliament does not then rest on its laurels and say, 'We've created a precedent.' Often it adds to that precedent. We have to be very wary when we start this process.

Is it appropriate to start a process where we will allow the detention for up to seven days of persons not suspected of criminal offences? I believe it not to be. You only have to reflect on our own personal circumstances. What would it mean to anyone in our community, any member of this House, if their partner or brother or someone else went missing? I saw tragedies, when I was justice minister and we established the missing persons link program, where people were absolutely traumatised by the fact that someone did not come home, a child did not come home, a parent went missing or a sister or a brother could not be located, with fears of accident, death and the like.

There will be no contact with lawyers for up to 48 hours, and then, when a lawyer is provided, communications with lawyers will only be in the presence of ASIO staff. Are these entry points that we need to make in order to combat this particular threat? The point I make is no, they are not. This would not be done in an agency—unless we enhanced it massively—that was undertaking genuine investigations into threats. This would be done by the agencies that had the skills, the capacity and the forensic capacity to do it. It would be done by the Australian Federal Police and state police forces. So we are creating a new institutional arrangement, opening a door to the establishment of a secret police agency but not putting in place the institutional safeguards that are appropriate for that kind of function and not reflecting upon the long-term consequences for better and more effective law enforcement.

It might be said that someone who has some awareness of the likelihood of an imminent attack on Australia should be capable of being interviewed. I accept that. In fact, in a number of jurisdictions for serious criminal offences there already exists an offence which in common law is called misprision of a felony and in various other jurisdictions has different names. It requires somebody who knows of the fact that a major crime is likely to be committed to report that, with the failure to do so being an offence. There is no reason consistent with the propositions I am putting forward that we could not create an offence of failing to disclose knowledge of a terrorist attack. Then somebody who had that information and failed to disclose it, or for whom a reasonable suspicion of that could be formed, could be investigated by the Australian Federal Police properly under existing law. If it was true that they had knowledge of that imminent attack of the kind that has been described as warranting the possibility of compulsory examination, failure to disclose that fact would itself be an offence.

I have no problem with that; it is part of our ordinary criminal law traditions. But we should use it cautiously because we are not a society of dobbers. When it comes to knowledge of the kind of terrorist attack that happened on the twin towers or a bombing attack that is likely on Australia, I accept that it is entirely within the remit of this parliament, within its traditions and within the effectiveness of law enforcement to establish such a law. But I do not accept that it is within the remit of those traditions or within the effectiveness of law enforcement to create the institution of a secret police force of the kind that this will establish without proper justification; without any analysis of how it will be resourced; and without any indication as to who would be exercising these powers and under what circumstances, and with only the vaguest of assertions that they would be limited in the manner in which they did exercise them. I do not accept that this is an appropriate course to take.

I also make the same point that Professor Williams makes in his analysis: there must be very real constitutional doubts about the validity of such legislation. In a previous High Court case by the name of Lim, various High Court justices indicated that it is a fundamental principle of Australian law that no person can be deprived of their liberty without proper cause. Of course there are exceptions to that; we all know those. We know there are exceptions, for example under the
mental health arrangements, where somebody who is infirm of mind and might risk their own wellbeing and that of others can be held without criminal charge. But I would think this legislation is at least very close to the line which Lim would prohibit this parliament from passing. We do have a High Court which, in circumstances where parliaments do act overzealously, as they did in the Communist Party dissolution case, does have the capacity to supervise those constitutional jurisdictional limits.

So why would we go down a path that is tainted by the possibility that the legislation itself would be unconstitutional, a possibility that I am certain the government’s own advisers must concede, when we should have arrangements in place that deal directly and more effectively through a law enforcement regime with the very issues that we are speaking of? We have already improved the law overall in relation to those who might threaten the security of this country. We did pass this through this parliament in a very effective act of bipartisanship with a lot of consultation and a lot of negotiation. We did pass a substantial strengthening of the substantive law.

We should be able to find a better avenue of dealing with the issue of those who might have information that would be material to a threat on Australia than this measure, which is going to be ineffective in terms of its law enforcement capacity and is going to corrupt a system which has been in place for the last 100 years separating out the political enforcement of investigative and security matters from law enforcement and keeping those two streams absolutely pure in the Commonwealth area. I have indicated the experience of the states where those two streams did from time to time come together. We have bitter experience from royal commissions which shows how that was abused in the past. So why should we pursue a course that is not necessary and that is going to be ineffective; that does not address effectively the way in which we would actually have to address an emerged real threat to this nation’s territorial integrity by passing this legislation?

Finally, might I say I have immense respect for those who work in law enforcement at the Commonwealth level—the Australian Federal Police. I have much respect for those who work in ASIO. The reason we can have much respect for those who work in ASIO is that it does not have and never has had—since the inception of the Hawke government and the Keating government, and indeed through the period of the current government—the characteristics of an organisation which has had these kinds of powers. We have accepted that it can work and do its job effectively. Why have we accepted that? Because we have not given it the capacity to become a secret police force. This would do that and it would destroy the bipartisan basis of the support that it has hitherto held.

Mr King (Wentworth) (1.01 p.m.)—It was less than a month ago that the opposition announced its commitment to community safety and reshuffled its frontbench to ensure that it sent a message, so it was said, to the Australian people to that effect. But I want to suggest today that the argument on the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 has suggested that the opposition has chosen to duck and weave instead of working with the government to protect the community and make good that commitment to community safety which was at the forefront of the recent reshuffle to which I have referred.

I want to refer to three public discussions in which I have been involved over the last couple of months regarding this important legislation. We must examine it in the context of the government’s responsibility—which it takes very seriously—to ensure the safety and security of Australians and Australian interests. There is no need to recap on what happened on September 11 last year, and it is important to not fall into the trap of thinking that the threat of terrorism has diminished over time. It has not.

The first discussion that I wish to mention took place on the Insight program on SBS. On that program was Dr Angus Muir, who had just been involved in a terrorism conference in Tasmania with a number of the world leading experts on the topic. Also on the
program were George Williams, who has been extensively quoted by the opposition today, and me. The important thing about the debate on that occasion—and I am speaking of only some two months ago—was that, following Dr Muir’s explanation of the threat facing not just the world but Australia and ordinary Australians from terrorism and those who ply its atrocious trade, it was acknowledged by all three of us on that program that the threat was real, it did involve Australia and it did call for an extraordinary response.

While the transcript will speak for itself, it is my recollection that, upon an examination of the details of the proposed legislation for ASIO at that time, Dr Williams accepted the bulk of the proposals which were to ensure that not only were terrorists brought to heel but also that the rights and privileges and liberties of ordinary Australians and those involved in the process were protected.

I am reinforced in that conclusion by some observations that were made recently by the same good commentator before the Parliamentary Joint Committee on ASIO, ASIS and DSD. In that discussion, Senator Robert Ray said in relation to whether this legislation is an acceptable version or not:

"Let us put this proposition to you: what if we were to say that the first detention order could only be issued by a federal magistrate and the 96-hour point only by a Federal Court judge? What if we put that in the legislation and also put in the legislation that the Attorney-General may, by way of regulation, appoint another prescribed organisation—a disallowable instrument, in other words—which would mean they would have the fall-back to go to the AAT?"

He then made an irrelevant comment about the High Court. The response of Professor Williams was as follows:

"That would make sense. Certainly in terms of trying to save what you might have, yes, I could see that that would be a sensible approach."

Senator Ray said:

"That is terrific! You have made our jobs so much easier!"

It is of course important in a debate as significant as this one to be completely fair in relation to the points at issue. But it seems to me, having regard to the passage of time over the last couple of months, that the points at issue have not changed and that at the heart of the debate the balance between protecting the security of ordinary Australians and of this country while at the same time ensuring that the rights and liberties of those persons who are our citizens are properly secured has been established.

The second debate concerned a program on ABC Radio National just a few weeks ago between the opposition spokesperson, the member for Banks, and me. The member for Banks spoke earlier in this debate today and repeated a number of the points that he made on that occasion. On that occasion, a mantra was repeated by the member for Banks in response to the various detailed points that were made regarding the protections contained in the bill of people’s rights and liberties in relation to legal representation and the process of investigation and questioning. He said, in extenso, that the Australian legislation was in some way unique, that it was an invasion of liberties and rights that was not found in any overseas legislation. I think it is worth while addressing that point because, with respect, it does not hold up.

The relevant legislation from the United Kingdom, Canada and the United States was, we are informed by the Attorney-General, consulted when drafting the ASIO amendment bill. Indeed, it now appears that the Commonwealth Secretariat in London has issued what it describes as draft model legislation on measures to combat terrorism in the Commonwealth. The legislation currently before the House conforms generally with that model for counterterrorism laws within the Commonwealth. So the first test, the suggestion that this legislation is somehow or other unique or unusual, does not bear scrutiny. But let us look a little closer at the precise allegations.

The UK Terrorism Act 2000, the Canadian Antiterrorism Act 2001 and the ASIO amendment bill all provide that a person may be detained and questioned for up to 48 hours. There are differences between the different pieces of legislation. What is important is that the bill before the House, as distinct from some of the others, does contain a
detailed warrant procedure that must be followed before a person can be detained and questioned. Furthermore, the Attorney-General must consent to the issuing of a warrant before the process can begin, and a person cannot be detained before a warrant is granted by an issuing authority.

That can be contrasted to the position in Canada, where a person may be detained for 24 hours before a warrant is even sought. So in Canada, a representative democracy not dissimilar to ours and with similar traditions, it is possible without even a warrant to obtain the arrest of a person in relation to the matters that are currently under discussion here. They do not even afford the protection that is afforded to ordinary citizens in this country by the warrant procedure—and what a detailed warrant procedure it is. It requires the approval of the Attorney-General himself for the issue of the warrant. It is true that under the act the Attorney may confer powers on other authorities for that purpose—but only a judge of the Federal Court or a federal magistrate. Those protections in themselves are very serious and carry with them grave responsibilities. The Attorney-General does not issue a warrant to the Director-General simply because he asks for one; he wants to know what is going to be the subject of the investigation. These are the sorts of protections that are built in by convention and by accepted practice in our form of government in a way that, I put to the House, guarantees the safety, privileges, liberties and rights that we have enjoyed for so long and that we work so hard to protect.

Contrast that position with the position of the United States. The USA Patriot Act 2001 provides that a person may be detained for up to seven days if the Attorney-General certifies that the person endangers national security. They have no comeback if that certification holds no water. So the mere certificate of the Attorney-General of the United States warrants the authorities in that country to detain any person in relation to a matter of this type. Contrast that provision with our own, where the Attorney-General must consider a formal application for the issue of a warrant and the arrest must conform with the terms of the warrant. There is also a provision in our legislation to take the matter before a Federal Court judge if within 24 hours there is any defect in procedure or other aspect of the warrant which would call for its questioning.

That short discourse illustrates that the allegations and suggestions of the opposition about the lack of protection of ordinary people in this country are false. It is worth while considering a couple of other aspects of the legislation in the context of overseas legislation of a similar kind. It has been suggested that our legislation is flawed because it does not permit a detained person to contact a lawyer. That is clearly wrong. Only last week, in the third public event in which I have been involved in this discussion, I debated Mr McClelland at a conference of the International Law Association at Glover Cottages in Sydney.

Mr Slipper—Did you win?
Mr KING—Yes. There were some 80 persons present. I delivered a formal paper and there were questions afterwards. Professor Maling made some comments. It was suggested by the opposition spokesperson on this issue on that occasion that the legislation made no provision for legal representation. That is entirely false. The warrant procedure itself permits the Attorney-General—and on one view probably requires him—to authorise the making available of legal representation to a person who is the subject of an application for a warrant. The Attorney does have the power, under the procedures contemplated by the bill, to waive that position in a particular case, but there are some procedures set down for doing that. However, within 48 hours that person must be accorded legal representation from a security-cleared lawyer. There are proper reasons for that in the circumstances of an extreme case, such as is contemplated by this legislation.

Too often, I regret to say, some people in my profession have shown that they have acted unethically in relation to investigations of this type. The public must be reassured. Where there is an investigation into a terrorist offence and there is the questioning of a suspect in relation to information in an intelligence-gathering exercise of the type contemplated by the legislation, it would be dis-
astrous for the security purposes of the legislation if, during that investigation, the lawyer concerned were to repeat outside the investigatory process the fact that the investigation was occurring or what had happened in the investigation and expose the very leads that ASIO and the authorities might have to ensure the thwarting of that terrorist threat.

So the legislation does, in the way I have just described, carefully balance the interests of legal representation with the security objective for which it has been brought forward. In the United States, there is no such provision in the Patriot Act—although it must be said that it does not deny access to a lawyer. In the United Kingdom, contact with a lawyer may be deferred for some 48 hours after the initial arrest. Also, there are special rules relating to contacts with a lawyer in both Australia and the UK. So, in contrast to the overseas legislation which I have mentioned, our legislation adopts a not unreasonable approach, having regard to the national imperative of protecting the security of ordinary Australians.

Another charge has been levelled by those in the opposition on the occasions I have mentioned: that, because young people under the age of 18 may be questioned, in some way this legislation is heinous. But the protections built into the legislation are very significant in this regard. It is not unknown for persons between the ages of 14 and 18 to assist others to carry out criminal or terrorist activities, particularly in some parts of world where, unfortunately and regrettably, this sort of criminal conduct occurs more frequently than it does in Australia. But the protections built into the legislation are very significant in relation to persons under the age of 18. Under the age of 14, no person may be arrested at all. So, if a warrant is issued, the investigating court must immediately release that person. Between the ages of 14 and 18, the Attorney can only issue a warrant if the person suspected and the subject of the warrant—who is the subject of the warrant—so long as, of course, they have the necessary assessment for security clearance. So, in this way again, the suggestion that our legislation does not bear comparison with overseas legislation is flawed.

It is interesting to note that on this legislation the opposition do not speak with one voice. I have already mentioned the interchange in the transcript of the Parliamentary Joint Committee on ASIO, ASIS and DSD, but there are other examples. Mr Beazley, the member for Brand, and Senator Ray on more than one occasion have made comments on the record which support the view that legislation of this type is both appropriate and necessary. Recently, in relation to the role of the legislation, the member for Brand said:

...what we are engaged in here is essentially an intelligence gathering operation, not a preliminary to a criminal conviction of some person. If that is the fundamental purpose of the bill, how do you think the capacity to gather information on threats to the community does not stand within the powers of the Commonwealth generally for the good government of the place?

That is not a bad endorsement. In addition, Senator Ray is recorded as having said:

With due respect, if you look at the three criteria that the Attorney-General will need to take into account—and I have mentioned those briefly—one is that he has to satisfy himself that there are no other alternative means of collection.

Then a little further on he said:

The Attorney-General is politically responsible to the parliament, and I would prefer to find him responsible than some DPP that I cannot control. Anyway, that is just a point I wanted to make.

He also made several other points about ASIO accountability, and about the so-called ASIO litany of abuse, which he rejected when he said:

...I have not found ASIO guilty of a litany of abuse.

I commend the bill to the House. (Time expired)

Ms PLIBERSEK (Sydney) (1.21 p.m.)—I believe that the Australian Security Intelli-
gence Organisation Legislation Amendment (Terrorism) Bill 2002 is an overreaction to the threat of terrorism in Australia. I think that we all agree with the Attorney-General when he says that he cannot find evidence of a current threat of terrorism in Australia. Indeed, the head of ASIO says that there is no current threat to Australia; yet this legislation will go on forever into the future. In 50 years or 100 years time, what sort of government would we have here—the sort of government that has the potential to misuse legislation like this? We cannot tell. I do not believe that, in protecting the nation, we should destroy the values that we seek to uphold. The government has agreed to a number of the amendments that were proposed by the Parliamentary Joint Committee on ASIO, ASIS and DSD. The amendments that have been agreed to are very important amendments, but there were a number of additional amendments that have not been agreed to by the government. Without agreement to those amendments, it is impossible for the opposition to support this legislation.

The bill proposes to enhance the Commonwealth’s ability to combat terrorism by, firstly, amending the definition of ‘politically motivated violence’ in Australia in the Australian Security Intelligence Organisation Act 1979 to include terrorism offences; and, secondly—and this is what I will be addressing most of my comments to—giving ASIO special powers relating to the investigation of terrorism offences, including warrants requiring people to attend questioning before a prescribed authority without a lawyer. The member for Wentworth continues to say that it is with a lawyer, but I think you can quite safely say that, if you do not have a lawyer for the first 48 hours—and, hopefully, most people will be released after 48 hours—this legislation allows questioning without a lawyer.

Another matter of substantial concern is that the initial legislation suggested that detention could be indefinite. That has been cleared up to some extent now—detention being initially for 48 hours—but I am still very uncomfortable with the proposals in the existing legislation. The ability to detain people incommunicado for 48 hours is of grave concern, particularly because these people need not necessarily be suspected of any criminal activity. The idea is that they might have information about terrorist attacks. That means that the landlord or landlady of the boarding house where a suspected terrorist lives, who might have information about that person’s visitors and who has been coming and going from the boarding house could be held for questioning. The grandparents of some young person who is suspected of involvement in the support of a terrorist organisation can be hauled in. The range of people who could conceivably be affected is of great concern.

The idea that people who have committed no offence can be snatched off the streets and disappear for 48 hours is unprecedented in this country. It is the sort of thing that happens in the dictatorships that we have criticised in this place on many occasions. Try to imagine someone in your family or in your circle of friends going missing for 48 hours and the sort of worry that that would occasion and the sort of concern that the person being questioned would experience knowing that their family did not know where they were. If you spend a little time imagining the effects on people, you realise that it could be quite disastrous. Imagine going missing from work for 48 hours, with your employer receiving no information about where you were except that you have not turned up for a couple of days. In the current environment, where people’s jobs are not secure, that is the sort of thing that could cost a completely innocent person their job. I think that is a very serious unintended consequence.

As I said earlier, the member for Wentworth is very pleased to keep telling us that detention is not without legal representation. Again I make the point that if the first 48 hours of detention is without legal representation—and presumably the bulk of cases will be dealt with in the first 48 hours—it is fair to say that the majority of people who would be dealt with under this legislation
would not have legal representation. We also have to think about the type of legal representation. This is not the lawyer of choice of the person who is being questioned; it is someone who has received a security clearance. Essentially, it is a handpicked legal representative for the person being questioned. The presence of an ASIO officer during any questioning also challenges the relationship that we expect people to be able to have with their legal representatives. When someone is charged with a serious crime, such as murder, they are allowed to consult their legal representatives without an officer sitting in. Yet here we have someone who is not accused of any particular crime—not being allowed to consult their legal representative—their handpicked legal representative—without an ASIO officer listening in.

The other concerns that were raised about the original legislation included the fact that people could not refuse to answer questions—indeed, there was a five-year potential penalty for people who refused to answer questions—and the information gathered from that questioning process could perhaps be used later in criminal prosecutions. So people had no right to not incriminate themselves. This is a principle of Australian legislation. It is a legal principle established in most developed countries that people are not required to incriminate themselves. The issue relating to children was also of grave concern in the original legislation. The Parliamentary Joint Committee on ASIO, ASIS and DSD agreed that it was an issue of grave concern. The government has fiddled around the edges with the issue of the detention of children but, substantially, it has not addressed the concerns that were raised in the first place, and its fiddling around the edges is simply not good enough and not convincing enough for Labor to change its position and to support this legislation.

The changes made so far have been made because members of the government’s backbench and members of the parliamentary joint committee were very critical of the legislation. I applaud the actions of people from the government who have spoken to their leaders and pointed out the failings of this legislation. I give credit to people on the government side who recognised the faults of this legislation and attempted, through the committee process and through informal negotiations on their side, to improve the legislation. I know that people on the government side and on the opposition side are interested in genuinely ensuring that Australia has a high level of security for its citizens, but I recognise the very hard work of the people who said, ‘While we accept that we need a level of security legislation to deal with the terrorist threat, we do not accept that that must be at the expense of the established rights of individuals in this country.’

Labor has suggested amendments today in the House of Representatives. We will be suggesting that the Senate Legal and Constitutional Legislation Committee re-examine the legislation, as it said it would if the recommendations of the joint parliamentary committee were not supported. We have suggested that the Senate committee look at developing an alternative regime of questioning, that we examine the relationship between ASIO and the Australian Federal Police, and that we review the adequacy of our current information and intelligence gathering methods. It is worth remembering that, in the aftermath of September 11, a lot of the criticism of intelligence services in the United States was not that they did not have the power to investigate terrorist organisations and the terrorist threat in the United States. The criticism was that most of the information that may have prevented the disastrous attacks of September 11 was actually in the hands of security organisations, but was not put together by the FBI, the CIA and other sources that held information. That is something we certainly should not fall victim to here.

We also suggest that the Senate committee look at recent overseas legislation and at alternative ways of enhancing the capacity of our law enforcement agencies to counter terrorism without compromising civil liberties. The problem is that this legislation was drafted in haste. ‘Draft in haste, repent at leisure’ is an apt expression for this legislation. We have had some time since the disasters of September 11 to consider whether
our initial response was an overreaction. Now, with cool heads, the information of ASIO, and the Attorney-General saying that there is no direct threat to Australia, I think we need to ask ourselves why we would support legislation that so undermines the values we have held dear until now.

The Parliamentary Joint Committee on ASIO, ASIS and DSD report, An advisory report on the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002, was the result of an inquiry that looked at the original legislation and found that the ASIO bill would ‘undermine key legal rights and erode the civil liberties that make Australia a leading democracy’. The committee tabled a bipartisan advisory report on the bill in June 2002 after receiving a large number of submissions that were highly critical of the bill. The report recommended a number of amendments, including a seven-day limit on detention, a requirement for representation by security cleared lawyers, protocols governing detention and interview that are subject to parliamentary scrutiny, protection against self-incrimination, the exclusion of anyone under 18 years of age from interrogation and detention, accountability and reporting measures in relation to warrants, and a three-year sunset clause.

The Senate Legal and Constitutional Legislation Committee, to which the legislation was also referred, said that, if all the recommendations were accepted, the bill could proceed without further examination by the Senate committee. But, if the recommendations were not accepted, the Senate committee reserved the right to re-examine the legislation. We believe that the legislation should be re-examined by the Senate Legal and Constitutional Legislation Committee because the concessions the government has made in relation to the legislation do not address the concerns brought up by the parliamentary joint committee. Indeed, another principle is stated by Professor George Williams, who said:

… the committee did not address the main issue. A government should not have the power to detain Australian citizens where there is no suspicion that they have committed an offence.

It has never been accepted in the past that Australians should be detained in secret for an indefinite period to help ASIO with its inquiries. Some fundamental issues have been ignored in the tinkering at the edges of this legislation. Of the 15 recommendations made by the parliamentary joint committee, only 10 have been accepted. They mainly focus on the operational aspects of the legislation. I think it is worth noting that, while the parliamentary joint committee recommended that the ASIO bill be amended to provide for legal representation, there are a number of problems with the government’s response, including that that representation cannot be provided for the first 48 hours. I have already discussed some of the additional problems. Professor Williams believes that it is very unlikely that law societies and bar associations would cooperate with the restrictive regime the government has associated with potential legal representation.

Another recommendation related to protocols. The parliamentary joint committee proposed that protocols be developed to govern custody, detention and the interview process and that the act not commence until the protocols were developed and in place. The government’s response is that any powers under the act be delayed until the protocols are in place but that the commencement of the bill not be delayed. That is not really good enough, either.

The government’s response has also not been adequate in relation to the recommendation on children. The parliamentary joint committee recommended the bill be amended to ensure that no person under the age of 18 be detained or questioned. The government’s compromised response is that children under the age of 14 cannot be detained or questioned—but, that is terrific; we will not have any 11-year-olds picked up by ASIO and whisked off incommunicado!—but that children aged between 14 and 18 can be detained if there is a level of suspicion and they have a lawyer and a parent or guardian present. I was very curious to hear that the member for Wentworth said, ‘Of course, as long as they have a security clearance.’ It is not clear to me whether they expect the parents of the average 15-year-old
to have an ASIO security clearance in order to be allowed to sit in on the questioning—he may need to read the legislation a little more carefully in that respect—but, if he is right and I am wrong, that would be a whole other question. Professor Williams said:

It is inappropriate that the Government proposes the same time periods for detaining children. Borrowing some of the criminal justice process protections for juveniles and placing them into a totally foreign system (i.e. compulsory questioning by intelligence agencies) may be superficially attractive, but it ignores underlying issues of principle and context which are part of the criminal justice system such as a general right to silence, restrictions on the use of detention purely for investigative processes or the wider protective context of juvenile justice.

As I said earlier, this legislation may not be used in the next year, the next three years or the next 10 years but, without a sunset clause, we do not know how it will be used in 50 years time or 100 years time. To allow such legislation just to sit on the books, without any restrictions, not understanding how our domestic political context will change over the years, I think is very dangerous indeed. There are additional problems that Labor has identified. The detaining of nonsuspects is unprecedented in Australia, and it goes further than most of the overseas legislation that we are supposed to be basing our legislation on.

I want to conclude by speaking about the fact that the United Nations has a strong interest in ensuring that countries have good antiterrorism laws at home. UN Security Council resolution 1373 says that countries should:

2. (e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are brought to justice and such individual is brought to justice and such individual is brought to justice and charges them and that the punishment duly reflects the seriousness of such terrorist acts;

That is all very well—I do not think anyone disagrees with that—but the UN High Commissioner for Human Rights made a very strong point in saying that ensuring innocent people do not become victims of counterterrorist strategies in response to resolution 1373 is extremely important and that there needs to be a balance between the ‘enjoyment of freedoms and legitimate concerns for national security’. I do not see how we can hold ourselves up in our region or to the world as a protector of human rights when we are prepared to introduce the sort of legislation that we, in the past, have been shocked by overseas—people being held incommunicado, without charge, without suspicion of committing a crime but only on suspicion of knowing something about someone who has something to do with a terrorist organisation. This legislation is ill-conceived and we will not be supporting it.

Mr RIPOLL (Oxley) (1.41 p.m.)—What is the real essence of the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002? On the surface, it is a direct response to the events of 11 September. But, if we look deeper, it is about insecurity and fear in many people—or, at least, one that can be exploited. This insecurity and fear can never be fixed by legislation. We live in uncertain times and, since September 11, we feel a wound that went right to our very soul. But this legislation will not fix that.

It has been said that the 21st century will be marked by violence and by war, but the conditions that led to the organisation and attack on the World Trade Centre and Washington are very specific. It was a cold-hearted and deliberate attack at the heart of the American people. It was a callous act designed to terrify and create fear. That it has done. But, looking more closely, I believe in the end the act was also about creating an environment in which terror and fear win over democracy and liberty. The great strength of the United States is its central democratic core, its belief in values and its determination as a free people. The same can be said of Australia. We believe in a free world—free of fear, free of terror—we believe in democracy and we also believe in a fair go. These are the things that make the US and Australia great and strong and able to withstand an attack as its very core.

When rebuilding from a great tragedy, there are two courses: one can rebuild and
move forward, remember the past, seek justice and go back to the core values that make us strong in the first place; or one can rebuild the infrastructure, anguish over the past, seek retribution, revenge and punishment and descend into the very acts of those who offended us in the first place. These are the clear choices. We know the right thing to do, but often the right thing to do is very hard and is clouded by the pain—more often than not the fear—that has been created.

That is what this bill is all about. It is a reaction to the pain, fear and terror created out of September 11. No-one necessarily questions that—this bill was always put forward by the government in terms of the reaction to the events that took place on 11 September—but the question is: is it appropriate or is it the right thing to do for us here? Will it prevent another September 11 attack, perhaps here in Australia? Will it truly liberate us from fear and terror or will it imprison us even further? These are the serious questions that I believe are at the heart of the bill before us.

Before I go into the substantive matter of the bill and its failings, I want to reflect on whether a bill such as this, had it been put in place in the US, would actually have prevented a September 11 attack—because I think that, really, is what any legislative change should be about. Had this bill existed in the US, would it have made any difference? If we go to the information and evidence that is now readily available, we know and we understand that in the US the FBI, the CIA, internal security forces, police forces, intelligence organisations, its operatives in different countries and its monitoring organisations tasked specifically with dealing with these matters have ample power to detect and prevent attacks. In fact, knowingly, the US is always on the lookout because it knows that it is an end goal for many terrorist attacks. So with all this power, with all this technology, with all this intelligence and with all this foreknowledge, how could the attacks be allowed to happen?

All these organisations that failed in their task did not fail because they were limited by legislation—that to me is important. They failed not because there was a legislative framework in place that prevented them from doing their job and preventing the attack but because they simply could not identify the attack before it happened. It is as simple as that. As cold as that may be, it is as simple as that. No matter how wealthy a state such as the US may be, with all of their technology, all of their people, everything at their disposal, they missed it. It is as simple as that—it had nothing to do with legislation.

So the question comes back to whether, if this legislation were introduced here in Australia, our intelligence organisations could prevent an attack such as that of September 11. I will not specifically answer that question, because it is hypothetical, but I want to make the point that this legislation in itself is not the answer. We already have all the powers we need. We already have all the mechanisms, all the agencies and all the intelligence that we need. This legislation will not add anything to what is currently out there now in Australia.

Interestingly, in the news this morning it was reported that a journalist overseas got a job with an airline and, posing as an airline cleaner, she managed to fill her mobile phone with a plasticine material, about 50 grams of it, and go completely without detection straight onto a plane. She planted that phone on the plane and organised for a friend of hers to arrange for that phone to be detonated. This was not an organisation; this was an ordinary journalist who just went out to prove a point. What struck me about that this morning is that this legislation would not prevent that. In fact, this legislation would not do anything at all to prevent a whole raft of attacks that are possible. All this legislation does is create fear in this country. So it made me ponder our own security and where we are. What are we afraid of?

As members of parliament, part of our job is to fly from one place to the other, including coming here to Canberra. It always strikes me that if someone had intent and reason they could quite easily do anything. There are a thousand things; we cannot list all the things that somebody could come up with. Would this legislation prevent that? Maybe; maybe not—I think probably not,
because there is a difference between what may prevent an attack and what this legislation definitively will not prevent. What may prevent an attack is spending billions of dollars on security: arming ourselves, covering and protecting ourselves, and having incredible security at airports, perhaps like the security that is found in Israel. That may give us some sense of security and actually protect us, but the words in this legislation will do nothing at all. So police are going to have more powers and organisations are going to have more powers. They will not be able to prevent anything more than they are currently able to prevent. The big difference is that increasing security costs billions of dollars; passing some piece of legislation like this costs nothing.

I believe that nothing will really come out of this while there are people in this world who remain prepared to sacrifice their lives in the name of a cause. They will find a way. Knowing that things are tougher, they will find another way—but they will find a way. Personally, I am certain of that because I know, living in the real world, that suicide bombings ain’t going to stop tomorrow. I know that, and I think most of us do understand that. No matter what legislation you put in place, these things are still going to happen. Do we need this legislation to prevent them? No, we do not, because we already have all the legislation we need.

If this bill is allowed to pass in this House, we allow the terrorists to win. They will have created enough terror and fear for us to change our lifestyles. It would change the way we live; it would change our way of peace. They will have won because they know that they can strike fear and terror into our society and that we will react by taking away from ordinary citizens and from ourselves our rights and our freedoms. We will take that away and they will have won. That is their aim: ‘Let us make these countries less democratic, less free.’ That is what they will do, and that is what they are doing. The evidence of it is in this legislation.

The amendments to the ASIO Act 1979 propose to enhance the Commonwealth’s ability to combat terrorism by two mechanisms. One is to amend the definition of politically motivated violence. The other is to give ASIO special powers relating to the investigation of terrorism offences, including warrants requiring people to attend questioning before a prescribed authority without a lawyer, without rights, without anything, and the power to hold people for a time without any ability to communicate with the outside world—they will be held incommunicado. The underlying argument for these proposed new powers relates to the required extension of ASIO’s capacity to obtain intelligence in relation to terrorist organisations that plan to carry out some sort of terrorist act.

Let me just remind people here listening of Labor’s commitment. Labor are 100 per cent committed to fighting terrorism and protecting national security. We are 100 per cent committed to protecting the freedoms of our society. But protecting our freedoms does not mean taking them away; if we do that, we have nothing left to protect. Who needs to be protected when there are no freedoms left to be protected? For me those two things, the protection and the fear, must coexist; otherwise, the terrorists do win, the freedoms that we treasure in this country go out the window and we live in a state where fear and insecurity are the mainstay, are at the core.

While the intent of this legislation from the government perspective may be to protect us, it simply does not do so. The legislation provides extraordinary powers to law enforcement agencies, and particularly to intelligence organisations. Australians not suspected of any offence—somebody here in the gallery right now suspected of no offence whatsoever—could be picked up by ASIO and just taken away. Right now an ASIO agent could decide that somebody here had done something, could just take them away and say, ‘You are now a criminal. You will be detained by ASIO. You have no legal rights—no right to anything at all.’ Let us contemplate that. Let us think about what that means. What countries currently do this? Let us think about what those countries do and how their people live, and the sorts of freedoms that a country like ours espouses. A country like the US would say about that
sort of country. ‘That is an oppressive regime that does not allow the freedom of its people.’ What sort of country would do that to its own people?

You might think that is a bit over the top because we are in Australia; you might not think that it is possible here. But if we allow the creep of legislation—powers growing on powers—so that ASIO has not quite unlimited but close to unlimited powers, where do we leave ourselves? Do we create a new fear? Do we all fear that if we say something to a friend on the phone it could be intercepted? ASIO already has those powers. Are we going to live in an oppressive environment in this country where we have to start monitoring what we say? Do we have to be careful about what we think? Do we have to be cautious about whom we talk to? I do not want to live in a country like that, and I do not think many people do.

ASIO already has extensive powers to investigate terrorist activities, including the use of telecommunications interception, listening devices, tracking devices, covert searches and inspection of postal items. The operational scope of the Australian Federal Police and the authority to investigate terrorist activity were broadened this year, with the enhancement of new offences relating to terrorist organisations. So we are not sitting back doing nothing—we are doing something. But let us not go too far. Let us remember what this country was built on. Let us remember what makes us strong.

This bill merits a cautious examination of where we should draw the line regarding what we consider to be the right thing to do. What is appropriate? What do people in the street expect from us as members of parliament? What do they expect from our government? What do people expect us to protect them from? Do we protect them from fear from outside, or do people start asking for protection from the people inside? That is a question people should think about. The Parliamentary Joint Standing Committee on ASIO, ASIS and DSD, established by the Howard government, tabled its report on 5 June 2002. I remind you before reading out what the committee found that this is a government committee, chaired by the government committee found that the provisions:

... would undermine legal rights and erode the civil liberties that make Australia the leading democracy.

That is what the government said; that is what its own committee said. The government only supported part of the committee’s 15 recommendations, rejecting certain recommendations that could remedy potential international human rights violations under this bill. That is what this bill has in it—violations of human rights, for everybody here.

This bill also has a massive constitutional flaw. This bill is going to be so strong and so powerful that the very first execution of any act under this bill will be challenged in the High Court because it is not constitutional. It is as simple as that. The government does not have that power; people have that power. Before this sort of legislation can be brought into this place the government should carefully consider its options and the Constitution. There is the power to detain children without rights. How many people would accept that? I find this bill completely offensive. I reject this bill because of what it purports to do. The rejection by the government of these key recommendations of the government committee, the PJC, is a serious lapse in the government’s thinking and indicative of its increasingly arrogant attitude and approach towards these matters—matters of international importance and national security. The Sun Herald on 25 August reported that American judges had found that the FBI and the United States Justice Department supplied false information in relation to more than 75 applications for search warrants and wire tapping of terrorist suspects. Our law enforcement agencies should do everything they can to apprehend terrorists, but when we descend to their level, when we start doing what they do, then who are we protecting ourselves from? We need to draw a careful line in legislation about whom we protect ourselves from.

The author confirms that this bill is a legal and constitutional minefield and deems ASIO an unsuitable body to be given police powers that allow the organisation to secretly
detain people. Do we want a secret police in this country with secret powers? Is this what we are about? I do not think so. I do not think it is at the heart of what we do. Two hundred years of democracy, the great principles and pillars that this country was founded on, do not form the basis of what is contained in this bill. This bill is about taking away, not about adding. It is about removing rights from the ordinary person—like their ability to talk to their neighbours. It is reminiscent of Cold War activities, of stories we read in the newspapers about oppressive regimes where people are paid to listen to their neighbours' conversations and where families turn against themselves. These are the sorts of things that we turn to in history and say, 'How could they have done these things? Weren't they intelligent enough? Couldn't they see what they were doing?'

With hindsight, surely in this place we can make those decisions and learn from history. Surely we have the ability to go beyond mere words in legislation that give more power to organisations that already have enough power, taking it to that next level.

In the short time I have left I might sum up some key things which, in the end, are extremely important. Throughout history, intelligence organisations and police always want more power. They never come to you and say, 'Could you decrease our power, please?' They always say, 'Can you give us more power?' If you take that to its very limit and say, 'Let us give them ultimate power, let us give them all they want, let us detain suspected terrorists; let us go all the way with that', are we still safe? Do we still feel safe? I think not. (Time expired)

The SPEAKER—Order! It being 2 p.m., the debate is interrupted in accordance with standing order 101A. The debate may be resumed at a later hour and the member will have leave to continue speaking when the debate is resumed.

QUESTIONS WITHOUT NOTICE

Taxation: Family Payments

Mr SWAN (2.00 p.m.)—My question is directed to the Prime Minister and relates to the government’s advice to families to avoid family tax benefit debts. Prime Minister, are you aware of an article in today’s Daily Telegraph which quotes a spokesman for the Minister for Family and Community Services admitting that families could lose health care cards and have child-care benefits cut if they follow the government’s advice to overestimate their income? Prime Minister, in light of your comments yesterday, pouring scorn on Labor for suggesting such a negative impact on families, would you now care to correct the record?

Mr HOWARD—The answer to the first part of the question is that I am not aware of that article. I am a fairly regular reader of the Daily Telegraph, and indeed other newspapers.

An opposition member—It is a good newspaper.

Mr HOWARD—It is a good newspaper, yes. I am not disputing that there was such an article but I am not personally aware of it. The advice that I have indicates that families will not lose entitlements to any ancillary benefits, but if they choose to forgo their whole FTBA entitlement until the end of the year, they will not receive rent assistance during the year, as this is paid as part of the total FTBA. They can, however, choose to continue to receive the amount equivalent to their rent assistance while deferring the rest of the FTBA entitlement. They will not lose access to an HCC, as this is linked to their entitlement to FTBA rather than to fortnightly receipt. Centrelink will, however, need to make system changes to ensure that an HCC is issued.

Mr Swan—Ah!

Mr HOWARD—I am just telling the truth. They will not receive automatic access to an HCC, although they could claim an HCC separately, as a low-income household. So the claim I made yesterday is right.

Mr Swan—Mr Speaker, I raise a point of order. I seek leave to table the comments from the spokesman for Senator Vanstone that the Prime Minister said he was unaware of and also to table advice from Centrelink, on its web site, advising people to overestimate their income.

Leave granted.
Foreign Affairs: Iraq

Mrs BRONWYN BISHOP (2.03 p.m.)—My question is addressed to the Minister for Foreign Affairs. Would the minister inform the House as to the progress being made by the United Nations to prepare for the possible deployment of weapons inspectors into Iraq? If the deployment takes place, does the minister expect Australians to be involved?

Mr DOWNER—I thank the honourable member for her question. I recognise the genuine interest she has shown in this issue over quite some period of time and her participation in debates, both here in the parliament and elsewhere, on this very important question. As both the Prime Minister and I said yesterday, in the House and elsewhere, Iraq has said it will admit inspectors unconditionally, but we do remain sceptical, given Iraq’s history of dissembling and avoidance of its obligations. The government’s policy is very clear: inspections should be unhindered, unfettered and under the terms of the existing United Nations Security Council resolutions. The UN must be allowed to fulfil its mandate for the elimination of Iraq’s weapons of mass destruction threat. But since the receipt by the Secretary-General of the United Nations of the letter from the Iraqi Foreign Minister, we have been following very closely the progress on preparations for inspection teams, should these inspections end up going ahead.

The United Nations Monitoring, Verification and Inspection Commission, which is known as UNMOVIC, and the International Atomic Energy Agency, the IAEA, are the two organisations which, in the event of inspections proceeding, will go into Iraq. Our Ambassador to the United Nations in New York, John Dauth, met on Tuesday with Hans Blix, the Executive Chairman of UNMOVIC. Dr Blix advised that his inspection team was ready to respond very quickly. They could get a preliminary logistics team into Iraq within a week and formal inspection teams could soon follow in the weeks after that, depending on how easy it is to organise the logistics. UNMOVIC has trained 320 inspectors and has worked through the documentary evidence it inherited from UNSCOM, as well as new material and assessments, to prepare for inspections on Iraq’s biological and chemical weapons and missile capabilities. The IAEA’s Iraq Action Team will focus on Iraq’s nuclear activities and has prepared a plan for the resumption of inspections. Mr Blix held preliminary discussions on Tuesday with Iraqi officials on the practicalities for inspections, and more discussions are to take place with the Iraqis next week, in Vienna.

I think members will know that Australia has a proud history of contributing to international disarmament and nonproliferation efforts. Honourable members may be interested to know that 110 Australians served with UNMOVIC’s predecessor, UNSCOM, and we were the fourth-largest national contributor. Of course, we provided for some time the chair of UNSCOM, Richard Butler. Eighteen Australians have been trained as inspectors by UNMOVIC, and Australia is ready to participate in the resumption of IAEA weapons inspections as well. We have been in discussions recently with the IAEA on this. I do not think there is any doubt that Australians will play a significant role again in inspections, if those inspections take place. We are of course happy for our nationals to participate, given the great expertise they have in some of these technical areas.

In conclusion, the question that is left hanging is the question of whether these inspections will go ahead at all. I thought I might conclude by reminding the House of some comments that Richard Butler—who is well known to members on the other side—the former chairman of UNSCOM, made on the 7.30 Report two nights ago. He said:

... my worst fear is that Iraq will actually play the pea-and-thimble game, the pea-and-shell game again and that it will break down and there will be a war.

We hope that that is not a prediction that turns out to be accurate, but it does remind us that people like Richard Butler have real concerns. He went on to say in relation to the letter from the Iraqi foreign minister:

This letter from Iraq is good. It should be gone with but it’s not complete. We don’t know whether full access will be given on the ground.
We urgently await quick responses from the Iraqis on the further questions that have been raised with them by the United Nations. We hope those answers can be provided, and provided consistent with Iraq’s obligations under United Nations Security Council resolutions.

**Fuel: Ethanol Content**

Mr **SIDEBOTTOM** (2.08 p.m.)—My question is to the Treasurer. Treasurer, are you aware of reports of fuel retailers selling fuel containing more than 10 per cent ethanol? Can you confirm that the use of such a blend in motors such as the Honda GX200, which is commonly used to power agricultural pumps, will damage their fuel system and void their warranty? Treasurer, if the use of high ethanol blends can damage motors and void warranties, why won’t you agree to a 10 per cent cap on ethanol blending to protect Australian consumers?

Mr **COSTELLO**—I would recommend to anybody that they not use fuel outside the manufacturers’ warranties. If anybody is using fuel outside the manufacturers’ warranties, not only will the warranties be void but they risk doing damage to their cars. And so we would recommend very strongly against the practice. I thank you for raising it. You give me the opportunity to reinforce the message. Thank you very much.

**Economy: Performance**

Mrs **MOYLAN** (2.09 p.m.)—My question is addressed to the Treasurer. Would the Treasurer advise the House of the findings of the International Monetary Fund’s annual assessment of Australia, released today? What does the report say about the management of the Australian economy?

Mr **COSTELLO**—Every year the IMF does an annual report—it is called an article IV Consultation—on the economies which are members of the IMF, which is nearly every economy of the world. Today, the article IV report was released on Australia. I can confirm to the House that the article IV report by the IMF finds that the Australian economic performance over recent years has been impressive and that, despite major external shocks, the impressive economic performance has continued. The IMF attributed this success to the Australian authorities’ skilful economic management. I think most Australians will welcome that.

The IMF commended the foundation established by sound economic policies sustained over the past several years, including fiscal consolidation, adoption of an inflation targeting framework, structural reforms in the product and labour markets, trade liberalisation and appropriate discretionary monetary and fiscal policy actions. The IMF also finds that, in the 2002 year, Australia will continue to be the strongest growing of the developed economies of the world, that inflation will be at the midpoint of our inflation targeted band, that our fiscal position is strong and that we now have a flexible economy which can cope with external shocks.

I think it is worth while just remembering that these things do not happen by accident. It is the result of sustained economic work that our economy has been made flexible. It would not be, in this case, if we still were carrying $96 billion of Labor debt or if our budgets were haemorrhaging or if our inflation were high or if our mortgage interest rates were where they were under Labor Party administration. And, by way of comparison, let us go back 10 years, to 1991. I ask the House to compare the situation 10 years ago, in 1991. In that year, GDP—now projected to grow at 3 ¾ per cent—contracted by 1.1 per cent. In that year, 205,000 jobs were lost. In that year, the unemployment rate was 9.2 per cent. In that year, the home mortgage interest rate was 14 per cent. In that year, Paul Keating was the Treasurer, and in that year his assistant was Senator Bob McMullan. Writing in the *Canberra Times* on 5 May 1991, Senator McMullan said:

I know that it’s unfashionable to have anything positive to say about the Australian economy at present. However, last week I had the opportunity to represent Australia at meetings of the IMF and World Bank. Such occasions tend to put domestic concerns into perspective. We should never forget our relatively favourable situation. As I have said before in these articles, when compared to the problems of Mali, Peru or Bangladesh, all Australians should rejoice in our good fortune.

In 1991, the Labor Party compared Australia with Mali, Peru and Bangladesh in order to
rejoice in our good fortune. These days we tend to compare ourselves with France or Germany or Britain or the United States. He said:

As I have said before in these articles, when compared to the problems of Mali, Peru or Bangladesh, all Australians should rejoice in our good fortune.

Many members of the House will not remember but, after writing that article, former Senator Bob McMullan earned himself the nickname of Bob Mali—M-a-l-i. Different hairstyle, Mr Speaker!

It indicates that things have turned around in Australia over the last 10 years. We have had stronger economic growth. It is the product of economic reform. That is why economic reform is important, and that is why the coalition intend to continue with good economic management.

Fuel: Ethanol Content

Mr COX (2.14 p.m.)—My question is addressed to the Treasurer. Can you confirm that there is no requirement for fuel retailers to declare whether their fuel is blended with ethanol, or the amount blended, and that there is no limit on the amount of ethanol that can be added to fuel? Didn’t the ACCC warn the government to set a 10 per cent limit and force disclosure of ethanol blending almost a year ago? Why have you failed to act on this advice? Why have you done nothing to protect Australian motorists from serious damage to their cars?

Mr COSTELLO—As I have said previously, anybody who uses a fuel which is outside a manufacturer’s warranty or indemnity voids that warranty or indemnity, and I would recommend strongly against it. Secondly, anybody who passes off ethanol as petrol would engage in misleading and deceptive conduct under the Trade Practices Act and, as a corporation, would be liable for fines of, I would think, up to $1 million. The Trade Practices Act has a provision which finds that any corporation engaging in misleading or deceptive conduct contravenes the Trade Practices Act and is liable for fines of up to $1 million. If there is any evidence that a corporation is trying to pass off ethanol as petrol we would be very interested in launching a prosecution. As far as the government are concerned, we recommend very strongly against the practice of voiding indemnities, and we would certainly recommend that nobody put ethanol above 10 per cent because they will be liable to prosecution and that nobody buy it because they will be liable to damage their car.

Mr Cox—I seek leave to table a letter from Professor Fels to the government asking them to set this standard.

Leave granted.

Rural and Regional Australia: Assistance

Mr JOHN COBB (2.17 p.m.)—My question is addressed to the Minister for Agriculture, Fisheries and Forestry. Would the minister advise the House of government measures to assist farmers facing severe seasonal conditions, particularly in the electorate of Parkes and in the Bourke and Brewarrina regions? What other measures has the government put in place to assist farmers facing severe drought or other seasonal downturns? Is the minister aware of any alternative policies?

Mr TRUSS—May I thank the honourable member for Parkes for his question and also for the opportunity to travel with him and the Deputy Prime Minister through much of his electorate last week to visit some of the people who are affected by serious drought in the electorate of Parkes. It is indeed tragic to see the way in which so many of those usually productive areas have been destocked. Crops have failed, and the potential for an income for many of those producers has been lost for another season. This government cares about farmers and the impact of serious seasonal conditions upon their livelihoods and has acted to provide relief and permanent programs that can support farmers who are facing difficult times, whether or not they are in a drought declared area, and especially to have in place arrangements to meet the exceptional needs that occur perhaps once in a lifetime in farmers’ experiences.

I am pleased to advise the House today that the government has announced some new measures to assist farmers who are facing very serious seasonal conditions. These new measures will apply to any exceptional circumstances applications that are lodged
from today and also will include the application for the Bourke and Brewarrina region which the New South Wales government lodged a week or two ago. Under the new measures the government will be prepared to provide welfare assistance for a period of six months as soon as a prima facie case has been made to send an exceptional circumstances application to the National Rural Advisory Council. In other words, we will provide welfare benefits immediately the prima facie case is established, without waiting for the National Rural Advisory Council to consider the application in more detail. If the application succeeds, the benefits will continue for two years, as they do at the present time; if it fails, the benefits will end after six months. This will mean that farmers facing difficulty will have some immediate assistance so that they are able to address the daily need of putting food on their families’ tables to get them through those difficult times.

The EC criteria agreed between the Commonwealth and the states some years ago require that to be eligible for EC assistance a farmer must have suffered a severe income loss for a period of more than 12 months as a result of the exceptional seasonal event. Sometimes there are therefore long waiting periods as that 12-month period ticks by before an area can be effectively declared to be in exceptional circumstances, so the government has decided to use predictive modelling, where appropriate, to enable an application to be referred to the National Rural Advisory Council much earlier—as soon as we are satisfied that the criteria will be met in the months ahead. The government has also decided to apply these new criteria to the EC application for the Bourke and Brewarrina region, so, as a result, I have referred that application to the National Rural Advisory Council, the independent body that is designed to deal with these sorts of matters and make recommendations as to whether or not the area should be permanently declared to be in exceptional circumstances. As a result, welfare payments will be available to the eligible producers amongst the 471 farmers covered by that particular application, and they will be available immediately.

This is a clear demonstration of this government’s commitment to do what it possibly can to help make the exceptional circumstances arrangements work much better. These measures are in addition to the continuing assistance that we provide through programs such as Farm Help, through the Farm Management Deposit Scheme, through financial counsellors, FarmBis and a range of other programs that are available whether or not an area is in an exceptional circumstances declaration.

It is well known to the House that I have been endeavouring to reform the EC arrangements for some time. I wanted the scheme to be more timely, to be fairer and to provide more generous assistance to farmers in need. Unfortunately, a couple of weeks ago the Labor states got together and decided that they would gang up and block these reforms. They would refuse to deliver to farmers the benefits that they really need in times when circumstances are difficult. I am very disappointed about that approach; I am very disappointed that there is no concern for the needs of farmers. But I said at that time that, in spite of the intransigence of the states, we would do what we could to help make the existing arrangements work as well as they can. These announcements today are a clear commitment of our willingness to try to make a flawed system work as well as it can. But, if there is a state that is prepared to break ranks with this horrible deal that has been done, the federal government will stand ready to talk to them because we do not want the farmers in one state to be disadvantaged because of the lack of caring concern of Labor governments in other states. We want the system to be reformed, and to provide more timely and inclusive consultation with the community and more generous assistance to affected farmers. But we can only do that if there is a partnership with the states. Sadly, that has not been forthcoming. I condemn those states who show so little concern for the farmers of their region, but we have at least acted to do what we can to make the current arrangements work as well as possible.
DISTINGUISHED VISITORS

The SPEAKER—I recognise in the gallery the Hon. Tony Messner, former Minister for Veterans’ Affairs and Administrator of Norfolk Island. On behalf of all members of the House, I extend to him a warm welcome.

Honourable members—Hear, hear!

QUESTIONS WITHOUT NOTICE

Fuel: Ethanol Content

Mr MARTIN FERGUSON (2.24 p.m.)—
My question is to the Treasurer. I refer to his previous answers on ethanol. Isn’t the case that more than six months ago the Chairman and Managing Director of Holden wrote to the head of the Prime Minister’s department that the use of more than 10 per cent ethanol in fuel would cause vapour lock and carburettor boiling in hot weather, corrode metallic components and increase fuel consumption in Holden motor vehicles? Didn’t he also tell Max Moore-Wilton that, for cars using this high ethanol fuel, ‘warranties would be voided’? Treasurer, if the use of high ethanol blends is damaging Holden motor vehicle engines and voiding their warranties, why haven’t you agreed to a 10 per cent cap on ethanol blending to protect Australian consumers, particularly those in the Sydney-Wollongong basin?

Mr COSTELLO—I am asked about some correspondence to the Prime Minister and Max Moore-Wilton. Obviously the proper people who would be in receipt of that would be the Prime Minister or Max Moore-Wilton.

Mr Crean—Don’t they talk to you?

Mr COSTELLO—As it turns out, I do not open their letters.

Honourable members interjecting—

The SPEAKER—There is a fundamental obligation under standing order 55 that makes all interjections out of order. The Treasurer has the call. The Treasurer will be heard.

Mr COSTELLO—I am asked about correspondence to the Prime Minister and Mr Max Moore-Wilton—

Mr McMullan interjecting—

The SPEAKER—The member for Fraser is warned!

Mr COSTELLO—As it turns out, I do not receive their correspondence, so obviously I cannot comment on that. Does the government support use of ethanol above 10 per cent? No. There seems to be an assumption here that the government supports the use of more than 10 per cent ethanol. The answer is no. And we thank you for raising that in the parliament because it gives us the opportunity to say to people, ‘We don’t recommend using more than 10 per cent ethanol.’ What is more, we also say that anybody passing off should be subject to legal action, and we would be very happy to alert Professor Fels if there is evidence of that or if there is misleading or deceptive conduct.

The letter that was tabled a moment ago was a letter to the minister for the environment, which I think was dated December 2001—which is late last year—which, as far as I can read it, talks about the commission being represented on an ethanol task force managed by Environment Australia. One of the purposes of the task force is to determine an appropriate level of ethanol for regulation in the national fuel standards. We will certainly make inquires of that task force and of Environment Australia and see if there is a recommendation to move in relation to that. We would have no objection to doing it. I thank you for referring the letter to us. But, in the meantime, what we would say is this: we do not recommend that anybody breach the manufacturer’s warranty. We recommend that if the Labor Party has any evidence of people passing off ethanol as petrol it be given either to us or to the ACCC, and we would be very happy to see a prosecution taken.

Mr Martin Ferguson—I seek leave to table correspondence of 22 February 2002 from Holden Motors to the Secretary, Environment Australia, copied to Max Moore-Wilton, Secretary, Department of the Prime Minister and Cabinet, and copied to Professor Fels, Chairman, ACCC, whom I assume the Treasurer still has responsibility for.

Leave granted.
Transport: Infrastructure Reforms

Mr SCHULTZ (2.29 p.m.)—My question is addressed to the Deputy Prime Minister and Minister for Transport and Regional Services. Would the Deputy Prime Minister advise the House of the progress in delivering Australia’s long-term transport infrastructure future? How will Australians benefit from transport reform? Is the Deputy Prime Minister aware of any alternative policies?

Mr ANDERSON—I thank the honourable member for his question and note his real interest in improving transport outcomes in this country, particularly given some of the recent regional development projects in his area which are very dependent upon roads infrastructure if they are to maximise and optimise the investment and job outcomes for that part of Australia.

I have said in this place before, and said elsewhere too, that Australia faces a very daunting task if it is to prepare its infrastructure for future transport needs. Transport is a vital enabler for the rest of the economy and, in its own right, the transport and logistics sector constitutes something like nine per cent of the national economy. With a doubling of our freight task and an increase in passenger movements of around 50 per cent expected over the next 18 years, it is incredibly important that we make certain that we plan our infrastructure carefully and consistently in the national interest to boost exports and to maximise interconnectivity between our major cities and regions. We have not been doing it well enough, frankly, as a nation, partly because it has been very hard for Australia to break free of the cross-jurisdictional issues.

I am delighted to be able to say that our proposal, which has been named AusLink, for taking forward a national five- to 10-year rolling plan for infrastructure has now met with solid agreement from all of the states to work together collaboratively. This is a very welcome breakthrough. In fact, it has not happened for a very long time and, in relation to rail, it can be argued that it has never happened. In 2002, 101 years after Federation, we still do not have a truly seamless interstate rail freight track in Australia. We are working collaboratively, and I think we are going to be able to fix that with the New South Wales government with the substantial carrot from the Commonwealth of nearly $900 million in promised upgrades. Taking over a lease of the interstate track in New South Wales for a period of 60 years will enable us to drive forward what this country needs, and what the private freight and logistics sector in this country says is the most urgent need, in terms of transport infrastructure: an upgrading of east coast freight rail so that it can meet with demands into the future.

I should note on the way through that, enthusiastic as I am about rail reform, with the exploding freight task before us, there will be enormous opportunities for the trucking industry—which has been and is very strongly supported by this government; tax reform has dramatically reduced the cost of trucking transport—and there will be more than enough for both sectors in the future.

Yesterday, I met with the state ministers responsible for transport. I am delighted to again note that they are working collaboratively with us as we finalise a green paper. That will go out for comment, I hope, in early November, and the private sector, the states and local governments will then have a period of some months to comment on it. Towards the middle of next year I hope we can strike a new intergovernmental agreement which will set the country up for its long-term transport needs. This is a government which is looking not simply to the next election but also to the long-term needs of the nation, whether it has been with economic reform, whether it has been with the intergenerational considerations that the Treasurer has been leading or with important matters such as transport.

I was asked whether there are any alternative policies. The truth is that I am having great difficulty working out whether there are or whether there are not, because my opposite number on this issue initially said that all I had done was steal Labor Party policy. He then moved to say it was not Labor Party policy. He is now saying, I think, that even though the state Labor colleagues agree that this is the best way forward, he does not
agree with it. So I have to say that, at this stage, I cannot confirm whether there is an alternative policy or what it might be.

Fuel: Ethanol Content

Mr McMULLAN (2.33 p.m.)—My question is to the Treasurer. I refer to his previous answers on the government’s failure to act on damagingly high ethanol blending. Treasurer, following a story on Today Tonight, didn’t the then Minister for Financial Services and Regulation say 18 months ago:

Consumers have a right to know the extent their petrol is being mixed with ethanol, and they also have a right to know if their engines are at risk of being ruined.

Treasurer, why have you spent so long doing nothing to protect Australian motorists? Why have you failed to act to ensure that ethanol content is disclosed? Don’t motorists have a right to be advised if they are buying fuel that is going to wreck their engines and void their warranties?

Mr COSTELLO—The first part of the question had a false assertion, which does not make it true just because it was by the member for Fraser. As to the second part, of course there should not be misleading or deceptive conduct by any corporation. We have very stiff penalties in relation to that, and any evidence which the Labor Party wants to supply or which is otherwise available would be referred to the proper authorities.

The member for Batman tabled a letter to Environment Australia which was dated 22 February 2002 on the question of ethanol above 10 per cent, which is certainly not recommended by the government. Obviously I am not responsible for Environment Australia but I am very happy to answer on its behalf. Environment Australia is completing a study of the barriers in the fuel market to the wider take-up of ethanol and biodiesel. The preliminary results of the study will be with the minister by the end of the year. The government is undertaking longer-term testing of vehicles to assess the impact of 20 per cent ethanol in petrol blend on the current Australian car fleet. These results will be available by June 2004.

The government recognises the need to provide industry and motorists with reliable, high-quality fuels. The setting of a maximum level of ethanol that can safely be added to petrol and quality standards are important aspects, and this matter is being considered by Environment Australia to determine the appropriate level of the cap on ethanol. When Environment Australia considers that, I assume that through the national fuel standards regulations, which Environment Australia is responsible for, it will be acting.

Although I am not the minister for Environment Australia, I have sought from the minister what in fact Environment Australia is doing and I am told that Environment Australia is getting ready to get all of those results and to act on the fuel standards accordingly. It seems to me that that is a pretty logical thing to do. In the meantime, what we would say is: do not void your warranties; and, if you have any evidence of misleading or deceptive conduct or passing off, we will be very happy to refer that to the appropriate authorities and to have a prosecution. We thank you for your questions because they give us the opportunity to underline to people: do not void your warranties; do not buy any petrol that has greater than 10 per cent ethanol. It is not something that has ever been recommended by this government.

Mr Cox—How would they know?

Automotive Industry

Mr BILLSON (2.37 p.m.)—My question is addressed to the Minister for Industry, Tourism and Resources. In view of the figures released yesterday indicating high growth in the manufacturing sector, would the minister inform the House of the contribution being made to this sector by the automotive industry? Is the minister aware of any threats to the continued growth in the manufacturing sector and the resulting employment opportunities that the growing sector offers?

Mr IAN MACFARLANE—I thank the member for Dunkley for his question. He is a great advocate of manufacturing in his electorate. I also congratulate him on his launch recently of the M:Tec project, funded by the Commonwealth government, which encourages young people to play a role in manufacturing and consider manufacturing as a
career. It gives them exposure to the industry while they are still at school. As the figures yesterday show, manufacturing continues to be a strong contributor to the economic growth of Australia. This is particularly evident in some of the figures we have seen recently in the automotive industry. In fact, the latest ABS figures show a 4.1 per cent growth in motor vehicle sales in August, with sales 9.8 per cent higher than they were 12 months ago.

I had the pleasure yesterday—as did the member for Rankin and many of my federal colleagues—of being at the launch of the new Camry, released by Toyota. It is a great example of Australian manufacturing: about 80 per cent local content and supported by some 100 local companies, some of which are in the member for Dunkley’s electorate. Today we have Ford’s new car, codenamed Barra, launched onto the market. This confirms that the industry is confident about its future, and it confirms that the $2.8 billion ACIS scheme introduced by this government is an outstanding success.

I am asked about threats. I am not going to go back over all the threats that Dougie Cameron has for the car industry. But, in a general sense, in the manufacturing industry there are concerns about some of the attitudes from the unions, as well as those from Dougie. It is interesting to note that Leigh Hubbard was quoted on 12 August in Sky News as saying, ‘If we don’t have militant unionism in the building industry, we don’t have a union movement at all.’ I would suggest that he is right on both counts—and you will not have a union movement, the way membership is falling right now. Comments like that explain why, under the Bracks government, 110 firms have left Victoria, shed staff or decided against investing. That has cost Victoria 21,000 jobs, and that is only a taste of what would happen if Labor were in power in the federal government. It explains why industry in Australia supports the Howard government so strongly.

**Fuel: Ethanol Content**

Mr CREAN (2.41 p.m.)—My question is to the Prime Minister. I refer to the government’s failure to put a cap on ethanol blending and to ensure that consumers know what they are putting into their cars. I ask the Prime Minister whether he is aware of a recent meeting between the chairman of the Australian Institute of Petroleum and the minister for agriculture to discuss the regulation of ethanol blending in fuel. Are you aware that, according to this leaked record of the meeting, Minister Truss made it quite clear that the Prime Minister would not agree to a 10 per cent limit on blending if it affected the operations of Manildra. Prime Minister, why don’t you own up to the real reason that you are not protecting motorists from having their engines wrecked by high ethanol fuel?

Mr HOWARD—I thank the Leader of the Opposition for the question. As to the government’s policy on this issue, I think it has been admirably explained by the Treasurer in the course of answering a whole series of questions. I do not think I could have put it any better than he has; I think he put it very well. As to discussions that other people have that I am not a party to, obviously I do not have any knowledge of those discussions.

Mr Cox interjecting—

The SPEAKER—The member for Kingston, for the third and final time!

Mr HOWARD—in relation to individual companies, nothing that has been done by me or by the government in this area has been designed to confer any benefit on a particular individual or a particular company. When governments take decisions that have an effect on revenue or involve the payment of consumer subsidies, some people inevitably derive benefits from those decisions more than others. That has been the case from time immemorial. The question is whether the right decisions have been taken.

This is perhaps a good opportunity, seeing as the company Manildra was mentioned by the Leader of the Opposition, to answer the question that was directed to me yesterday by the member for Fraser. The member for Fraser asked me some questions about communications between Manildra and my office. In the time available, I have had a search made and this is the latest advice I have. I put it in that conditional sense be-
cause sometimes—as the member will know from his own experiences as a minister—you are not always given the full story right at the very beginning. Bits and pieces turn up later on, and you have to be careful. That is not said negatively; it is just a fact of life.

The member asked me what communication my office had with Manildra relating to the decision to change excise arrangements for the ethanol industry. As I stated earlier, I had not spoken to Dick Honan on this issue. I have, on checking, found that a number of letters were received on this general issue—not just on ethanol but on the general issue. In fact, my office received 16 in all, from different sources, from January until now. Some of these dealt with the shipment from Brazil while others dealt with options to promote the ethanol industry more generally. My office did receive a letter from Mr Honan but that letter was not passed to me. I point out to you that I receive 2,400 letters a week and I have to say that not each of them is drawn personally to my attention.

My office spoke to a number of parties about options for promoting the ethanol industry. Obviously, this included the Australian Biofuels Association, but it also involved people with a different view. This is a normal part of government when dealing with an issue like this. I point out that the decision on ethanol—that is, the decision to impose a full excise but also to have a subsidy—was taken as part of a number of decisions taken by the cabinet. It was a cabinet decision and it was taken as part of a range of measures affecting the sugar industry.

Cabinet considered the sugar industry on a number of occasions, and ethanol was part of this. Cabinet made the decision in relation to not only ethanol but also other matters concerning the sugar industry. Cabinet made the decision based on a memorandum from a task force, which was prepared by the Department of the Prime Minister and Cabinet in consultation with the Department of the Treasury; the Department of Finance and Administration; the Department of Agriculture, Fisheries and Forestry; the Department of the Environment and Heritage; the Department of Transport and Regional Services; the Department of Employment and Workplace Relations; the Department of Industry, Tourism and Resources; the Department of Foreign Affairs and Trade; the Department of Family and Community Services; the Attorney-General’s Department; and Customs.

In other words, there was a proper process followed to take the decision. It was the right decision. I support the decision totally. It was not designed to confer a particular favour on Mr Honan at all, and any suggestion to that effect is strenuously repudiated by me and by members of the government. It was the right decision. It has been widely applauded, I might say, by the cane growers of Australia, and I think there are many members in this House who believe that this decision is in the interests of Australian industry. I make no apology for taking a decision which is consistent with this country’s World Trade Organisation obligation and which is in the interests of Australian industry. What is happening is an attempt by the Labor Party to find fault with a decision that was manifestly beneficial to an Australian industry. I find it passing strange that you have the Australian Labor Party trying to undermine a decision that was taken in the interests of Australian industry. It was the right decision, it was properly taken and I have absolutely no compunction in supporting it 100 per cent.

**Trade: Automotive Industry**

Mr BARRESI (2.48 p.m.)—My question is to the Minister for Trade. Would the minister inform the House of the recent developments in Australia’s auto exports with regard to the Middle East. What impact does our auto export industry have on jobs growth?

Mr VAILE—I thank the honourable member for Deakin for his question. Indeed, I have pleasure in informing the House that the latest development in terms of Australia’s auto exports to the Middle East took place in Melbourne this morning. I had the honour of participating in a ceremony in Melbourne where a shipload of the current model Camrys was being loaded, bound for the Middle East. Our auto exports have dramatically increased in number since 1996, to the point where last year we sold $5 billion worth of auto exports to the world. The auto industry
is well on target to achieve its goal of selling $6 billion worth of exports by 2005.

It is interesting to note that in 1996 we exported 44,000 vehicles to the world and last year we exported 112,000 fully built-up vehicles across the world. The shipment that left this morning will mean that Toyota Australia has exported 250,000 individual units, manufactured in Australia, to the markets of the world. Of those—for the interest of the member for Deakin—200,000 have gone to the Middle East market. If you go to Saudi Arabia or Dubai, all you see are Toyota Camrys driving around everywhere—and they are all manufactured in Australia. They form part of an industry that employs 386,000 Australians.

Mr Howard—Along with our 1997 policy.

Mr Vaile—Exactly right. There has been a significant increase in the number of jobs in the auto sector. That is a direct result of this government’s policies in terms of the auto industry in Australia since 1997, but also in terms of the broader economic management of the Australian economy by our government, which has created a much more competitive and efficient environment in Australia so that it can compete in the markets of the world. That is an undeniable fact. We all know that all those changes have been opposed every inch of the way by the Labor Party. They have not supported one of the changes that this government has introduced in that time. If you go and ask the people in the industry, they will tell you that these changes have undeniably been the root cause of the increase in exports to the markets of the world.

It is important that we recognise that the Australian export sector is not just fundamentally based on commodities anymore. Our exports are not just minerals, resources and agricultural products; those products are now being equalled, in terms of earning capacity for the Australian economy, by elaborately transformed manufactures like the auto sector. I congratulate Mr Ken Asano and Mr John Conomos from Toyota; they have done a fantastic job, along with their work force. If you go into that factory in Altona, you will see that they do a fantastic job. I recognised that at the launch this morning. They have an assembly line that equals the best in the world.

The challenges for the future still rest in the stability of this industry. We have heard in recent times from the AMWU about the militant action that they have taken, particularly to the first tier suppliers because they are the critical suppliers to this industry and can bring it to a standstill. Earlier this year, I tabled a document—the yearbook from the AMWU—which indicated:

Our proud traditions of militancy need to be renewed and refined.

These are the prospects of challenge for the industry in the future. The industry leaders know what the problems are. If the trade union movement continues to try and undermine the success of this industry the way it has done in the past, it should stand condemned not only by the people that work in the industry and that have achieved these exports but by all Australians, given the contribution the automotive export sector makes to the Australian economy.

Fuel: Ethanol Content

Mr McMullan (2.53 p.m.)—My question is to the Treasurer. Treasurer, I refer to your promise to prosecute if you are advised of fuel retailers selling ethanol in blends over 10 per cent. Hasn’t the government’s own body, Environment Australia, already reported:

Manildra Park Petroleum ... the largest independent distributor of ethanol blended fuel in the Sydney/Wollongong basin ... has been selling blends up to 20% in NSW since 1992.

When are you going to stop passing the buck and act?

Mr Costello—The member, as he habitually does, misrepresents what I said. What I said was: anybody engaging in misleading and deceptive conduct would be prosecuted. If you were passing off ethanol as petrol, that would be misleading and deceptive. But, if one was being honest and saying ‘this is ethanol’, I imagine it would not be breaching the law. What I said was not that they would be prosecuted if they had a 20 per cent blend; what I said was that they would be prosecuted or subject to action for
passing off or misleading and deceptive conduct. I have noticed this sort of attempt to try and put a false assumption into the question which, if one does not repudiate it, they try and pass into the public debate.

Let us go on from there. We find that the ACCC has written to the Minister for the Environment and Heritage with some recommendations. Fair enough. We find that Environment Australia write off to the manufacturers to get further information—fair enough—as you would expect them to do. I am told by the minister that Environment Australia is responsible for the national fuel standards, that they are considering this matter and that, after they have considered the matter, they will make a determination. That seems fair enough to me. That is what he has informed me is happening. I do not see any big scandal in any of that. What is the slur that the Labor Party then seeks to hang over all of this? The slur that the Labor Party then seeks to hang over all of this is that, somehow, this all leads to Manildra, which the government is seeking to give some corrupt benefit to.

Mr Crean interjecting

Mr COSTELLO—I repudiate that absolutely, as the Prime Minister did. I repudiate that absolutely. And, by his interjections, he maintains that slur.

Mr Crean—Special treatment.

Mr COSTELLO—See? By his interjections, he maintains the slur. So the allegation is not in relation to the national fuel standards, nor is it in relation to the finding of further information, nor is it in relation to prosecution for misleading and deceptive conduct. The real allegation, confirmed by the interjections here, is that there is some kind of special treatment which is corrupt.

Mr Crean—Got it!

Mr COSTELLO—that is the allegation that Labor makes, and he says, ‘Got it.’ I repudiate that absolutely. It is a slur not only on Manildra but also, if I may say so, a slur on all of the ministers that have been involved with this. There is not one skerrick of evidence to back up that particular slur. It is the kind of thing you would expect from a Labor Party which has no policy, which is going backwards in the polls, which up until today was interested in Iraq and which now veers off on something, presumably for the benefit of its Cunningham by-election. I notice the word ‘Wollongong’ keeps slipping into all of Labor’s questions, and I notice that the member for Hotham was going, I believe, to Cunningham today.

The SPEAKER—The Treasurer is responding to a question, not asking a question.

Mr COSTELLO—he has been to Cunningham today, and the questions have ‘Wollongong’ in them, and the questions have a slur—and if I know my Labor Party, this is nothing but a cheap populist trick.
strikes, mostly because of a campaign of industrial militancy waged by the public sector unions against the Beattie government. Unions control the Labor Party, but that does not mean that they take any notice of Labor governments. In fact, they think Labor governments are a soft touch. We even had big Bill Ludwig, that great political sire, describing the Beattie government as a bunch of sooks. What do Labor governments do when they are in trouble? They send for Bob Hawke. ‘Bring back Bob’ is what they say. When watching Bob Hawke on TV last night, it was impossible not to feel a sense of profound nostalgia for the days when Labor had a ‘real’ leader. What did Bob recommend? He recommended that there should be new limits placed on the right to strike. That is precisely what the government is trying to do with the cooling off provisions of the genuine bargaining bill currently before the Senate. We all know that the Leader of the Opposition is going to take Bob Hawke’s advice when it comes to increasing the union bloc vote at Labor national conferences from zero to 50 per cent. I strongly urge the Leader of the Opposition to also take Bob Hawke’s advice and pass the government’s genuine bargaining bill.

Workplace Relations: Queensland

Mr McCLELLAND (3.01 p.m.)—My question is to the Minister for Employment and Workplace Relations, it follows that answer, and it also concerns the Hawke review of enterprise bargaining in the Queensland public sector. Minister, didn’t Mr Hawke also report that ‘good faith bargaining is important for the development of collective agreements, to ensure that the parties negotiate openly and honestly’? Didn’t he further say that ‘the concept of bargaining in good faith should be seen as an extension of a constructive relationship between employers, employees and unions’? Minister, will you take Mr Hawke’s advice and acknowledge that it was a mistake to remove the good faith bargaining provisions from the act? Will you support Labor’s amendments to your so-called genuine bargaining bill which would do precisely that: restore the good faith bargaining provisions?

Mr ABBOTT—I said that Bob Hawke was part right; I did not say that he was all right.

Australian Citizenship Day

Mr FARMER (3.02 p.m.)—My question is to the Minister for Citizenship and Multicultural Affairs. Would the minister report to the House on Citizenship Day and how current take-up rates compare with previous experience and overseas trends?

Mr HARDGRAVE—I thank the member for Macarthur, one of the great citizens of Australia who has seen a lot more of Australia than most on the other side ever have and probably ever will, for his question. Australia’s second ever Citizenship Day took place this week. I am pleased to report that over 60 citizenship ceremonies have taken place around the nation this week. In fact, almost 3,500 people have joined the Australian family this week, which I think is fantastic. It is 1,000 more than in last year’s inaugural event. In fact, two to three times more people would have affirmed their citizenship in special reaffirmation ceremonies that were held in concert with that. So we have something in the order of 10,000 Australians who have been touched by Australian citizenship during this week.

The member for Macarthur and others will be interested to know that over 700 new members of the Australian family signed up in New South Wales, 250 in South Australia, 900 in Queensland, 500 in Victoria and 500 in Western Australia. In the last financial year, a total of 86,289 people were conferred with Australian citizenship—up on the previous year, when it was just 72,000, and up on the year before that, when it was 70,000. More citizenship ceremonies will be taking place over the next couple of days. Tomorrow tonight in Sydney the Chinese-Australian Services Society will bring 87 new Australian citizens to the family. Today, South Australia will be welcoming 93 new citizens at a special ceremony. The member for Sturt would be interested in the fact that 12 new citizens were also welcomed into his electorate.

In Australia, we have one of the highest take-up rates of citizenship anywhere in the
world. In fact, the rate now is at something like 75 per cent—that is, three-quarters of those eligible are taking up the offer to become Australian citizens. That is a significantly higher rate than under the Australian Labor Party, when it was just 65 per cent. This is certainly one of the best take-up rates in the world. In the United States, for example, the rate is somewhere between 50 and 60 per cent. Processing times in Australia are much quicker, with the vast majority of people applying finalised within the first month of lodgment. In the US, Canada and New Zealand, processing times can take six to nine months, on average.

Maybe it is because Australia no longer has a million unemployed but, rather, a million new jobs. Maybe it is because there is just a general sense of pride in Australia. Maybe it is because the government is concentrating heavily on a sense of invitation for people to take up the opportunity to join the Australian family. Either way, we are seeing a noticeable improvement in the number of people applying for Australian citizenship.

Last year’s three-month campaign showed a 56 per cent increase in the applications for Australian citizenship during the life of the promotion and a 454 per cent increase in the number of inquiries for information about becoming an Australian citizen. Of course, it is off to a great start this year, with 1,000 more than last year participating in Australian Citizenship Day. I want to take the opportunity to welcome them all to the Australian family.

Telstra: Service Charges

Mr TANNER (3.06 p.m.)—My question is to the Minister representing the Minister for Communications, Information Technology and the Arts. Is it true that, in March 2000, Telstra’s phone rental fee for most customers was $11.65 per month? Isn’t it true that, under your new Telstra pricing arrangements, line rentals have increased to $21.90 per month and will eventually rise to around $32 per month? Isn’t it also true that ordinary families are not being compensated for these new increases by lower call costs, as you promised, and that Telstra’s increased line rental revenue will outweigh any reductions from lower call costs by up to $100 million a year? Aren’t you just letting Telstra squeeze more money from struggling families under financial pressure in order to fatten it up for full privatisation?

The SPEAKER—Before I recognise the Minister for Science representing the Minister for Communications, Information Technology and the Arts, I point out to the member for Melbourne, although he is by no means the person solely responsible for this, that if he looks again at his question he will discover that I am much more implicated than I would want to be. It seems that ‘you’ has frequently crept into the comments of people on both sides of the House.

Mr McGAURAN—I thank the honourable member for his question, but I am a bit puzzled as to why he would raise the subject matter now, given that the new price controls were gazetted in early July. I think the clue as to why the opposition is turning to this subject now was given a little earlier on: it would not have anything to do with Wollongong, would it? It would not have anything to do with the Leader of the Opposition’s disastrous attendance at Wollongong earlier this morning?

I recommend as mandatory reading the transcript issued by the Leader of the Opposition’s office of a press conference he gave at Wollongong today. He was asked questions which relate very closely to this particular issue: is Mr Howard too hard to beat at the next election and do you have splits in the Labor Party with the member for Franklin crossing the floor? He was asked questions about the smacking they got in the local mayoral election and questions about imposing—

The SPEAKER—I invite the minister to tie his remarks to the question.

Mr McGAURAN—The Leader of the Opposition, turning to the particular matter contained in the question—

The SPEAKER—I am happy to recognise the member for Melbourne, but I have already intervened and asked the minister to return to the question. The member for Melbourne will not gesticulate across the chamber. He will resume his seat. The minister will return to the question.
Mr McGAURAN—The Leader of the Opposition, in the midst of this flurry of hostility, said:
I will be recommending to my caucus next week that we disallow these new charges in the Senate.
After several months and weeks have passed, the opposition has finally discovered the new price controls. The opposition is on very shaky ground here. We are obtaining advice as to effect of a disallowance of the regulation in the Senate. It is a very blunt instrument.
The new price controls have many aspects to them. For instance, under the new price controls Telstra is required to reduce the average price of local, trunk and international calls by at least 4½ per cent in real terms each year. It also requires that connection charges must not increase in real terms. The opposition needs to very carefully study the price controls applying to line rental increases, which are consistent with the recommendations of the ACCC. The government requires Telstra to have in place a package of products and arrangements for low-income consumers to protect them from the effect of any line rental increases. All of this will be teased out in further and greater detail. An open invitation exists for all members to attend the debate of the MPI.
This is a filler. The opposition have run out of things to say. This is a smokescreen. They have no policy on Telstra. Moreover, it is a distraction, of course, from all of their other policy failings. At this initial stage, we believe that the effect of disallowance will not mean that Telstra is completely free of price controls, as some of the provisions of the previous determination will continue to operate. However, not all of the protections of that previous determination will carry forward, so Telstra will be subject to less price control.

Education: Funding

Mr BARTLETT (3.10 p.m.)—My question is addressed to the Minister for Education, Science and Training. Can the minister outline for the House how the Howard government’s policy supports parents’ ability to choose the schooling that best suits their children? Is the minister aware of other comments or policies with implications for the parents of the one million Australian students who attend Catholic or independent schools?

Mr Sawford—It’s giving to the rich.

Dr NELSON—I thank the member for Macquarie for his question, his interest in education and, in particular, his advocacy for Chisholm Catholic School in his electorate. In responding to the member for Macquarie, I pick up on the interjection from the member for Port Adelaide, who said that the Howard government’s education policies are about giving money to the rich, which is very interesting. I will come back to that. This government believes very strongly that all Australian children are entitled to a good, well-resourced education, that all Australians should support the education of students in state government schools and support them through their taxes—state governments being responsible for the regulation, funding and administration of state government schools.

In addition, this government believes very strongly that, having made a contribution to state government schools, Australian parents who then choose to should be able to send their children to the kind of school which they think meets the educational aspirations they have for their children—whether it is a Catholic school, an independent school, a Jewish school, a Christian school or any one of a number of non-government schools. The point ought to be made that the 69 per cent of Australian school students who are in state government schools receive 78 per cent of all of the public funding which supports school education. Further to that, every single child who attends a non-government school—a Catholic school or an independent school—receives less money than if that child were being educated in a state school. The kids who come from the poorest families receive at least 30 per cent less than if they were being educated in a state school. That means, for example, that the one in five families earning less than $73 a day who have their children in a non-government school receive at least 30 per cent less than if the child were in a state school and the kids from the
wealthiest families receive at least 87 per cent less.

I was asked about alternative policies. Last week at a conference on university financing at the Australian National University, the Labor Party's education spokesperson, the member for Jagajaga, was asked a question. I will read the question to the House. The question was:

I think everyone has agreed that the more money we get for higher education the better. What I'd like you to address is not the question of whether the government pays for it or the private individual pays for it, but if the Government was going to pay for it, and I think there is a role for that, does the government pay for it by increasing the fiscal deficit ... does the government increase taxes, or does the government do it by selling off other assets ...?

The response is very interesting. The member for Jagajaga said:

So yes you can do all the things that you said but you can also rearrange your priorities .... if you look at what's happened to — if you compare the increases to non-government schools and compare that to spending on higher education. What the Australian Labor Party plans to do, as the member for Port Adelaide has alluded to in his interjection, is to take money from Catholic and independent schools in this country—to take money from the one million parents of the one million kids in those non-government schools—and put it into higher education. If the Labor Party wants to reorder priorities, what is its plan? Will it close nursing homes? Will it take money from regional roads? Will it leave the sugar industry out to dry? That is the Labor Party's plan.

There is one thing the Labor Party has not learned in relation to education. When the member for Macarthur and I spent two days in the western suburbs of Sydney, only two people said anything to me about education. They both said exactly the same thing: 'Why is the Labor Party against you sending your kid to a private school?' The one thing the Labor Party has to learn, as Greg and Gina Fletcher know at the Bird in Hand Inn, is that no Labor Party policy has changed. Labor is still against parents working their tails off to give their kids the kind of education that they want. I table the question to and the answer from the member for Jagajaga.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Taxation: Family Payments

Mr Howard (Bennelong—Prime Minister)—Mr Speaker, I seek the indulgence of the chair to add to an answer.

The Speaker—The Prime Minister may proceed.

Mr Howard—I indicated yesterday the likely impact of the changes announced by the Minister for Family and Community Services on the overpayments. I have received further advice on that. The current advice available to me indicates that at the moment about 630,000 overpayments take place. There has been no variation in the 400,000 underpayments, which involve top-ups. As a result of the changes announced by the minister, the overpayments will be reduced by approximately 200,000.

Mr Neville (Hinkler) (3.17 p.m.)—Mr Speaker, my question is addressed to the Minister for—

Honourable members interjecting—

The Speaker—Order! The House will come to order.

Opposition members interjecting—

The Speaker—I will deal with those who defy the chair by persisting with their interruptions. Is the member for Hinkler seeking the call, or is he not seeking the call?

Mr Neville—Mr Speaker, I was unaware that the Prime Minister had finished question time.

PAPERS

Mr Abbott (Warringah—Leader of the House) (3.18 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:
Communication Under the Convention Against Torture-
- Decision: Communication No. 880/1999
- Decisions: Communication No. 162/2000
- Decision: Communication No. 177/2001
- Outline of ICCPR Communication No. 1080/2002
- Views: Communication No. 802/1998
- Views: Communication No. 154/2000
Government Response to 'Australia's Relations With the Middle East'. The Report of the Inquiry into Australia's Relations with the Middle East by The Foreign Affairs Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade.
Debate (on motion by Mr Swan) adjourned.

LEAVE OF ABSENCE
Mr ABBOTT (Warringah—Leader of the House) (3.19 p.m.)—I move:
That leave of absence for one month be given to the honourable members for Maranoa and Kingsford-Smith on the ground of parliamentary business, and to the honourable member for Adelaide on the ground of ill health.
Question agreed to.

MATTERS OF PUBLIC IMPORTANCE
Telstra: Service Charges
The SPEAKER—I have received a letter from the honourable member for Melbourne proposing that a definite matter of public importance be submitted to the House for discussion, namely:
The Howard Government’s support for Telstra’s unfair price increases.
I call upon those members who approve of the proposed discussion to rise in their places.

More than the number of members required by the standing orders having risen in their places—
Mr TANNER (Melbourne) (3.19 p.m.)—Since the federal election in November last year, prices in telecommunications services have gone up, almost across the board. Telstra has introduced download limits on its Internet services and, effectively, prices have gone up. Mobile phone prices have gone up, as have the flag fall rates and penalties for getting out of contracts early. Small businesses that advertise in the new divided White Pages have been hit with a bill of $126.50 if they want to put in a dual advertisement. Text messages have gone up from 20c or 22c, depending on the carrier, to 25c per message in spite of the fact that the usage of text messages has gone through the roof on the same fixed cost base. The price on a whole range of other things are going up, like wake-up and reminder calls, directory assistance, call connect and call display—all kinds of things that Telstra provides.

But now for the final blow. The most devastating blow to consumers, and particularly to low income consumers, is that it sits within the new price control regime that has been introduced by the government—which Labor will seek to disallow in the Senate—and that is to jack up the price of their phone rentals. They held off until after the election. This from the government of low taxes, the government that supports the battlers, the government that is hitting consum-
ers every way they turn, whether it is levies on milk and sugar, automatic private health insurance increases or the air ticket tax, and now an additional effective tax on ordinary families in the shape of substantial increases in their phone lines rentals. In March 2000 they were $11.65; as a result of the changes introduced by the government that Labor is seeking to reverse, they are now $21.90 per month. On the typical Telstra plan, the one that is most commonly used, Homeline Complete, this means that in 2½ years the ordinary person’s phone line rental bill has gone up by $123 per year, or 90 per cent. The new controls that the government has introduced will allow this to continue to go up by the CPI plus four per cent, which will ultimately lead to the line rental fee being $32 a month.

This is all based on an arcane set of academic economic theory called the access deficit theory, which says that Telstra is being forced to undercharge the true cost of its line rentals. This means that, for the line rentals that we all pay, in many cases for lines that have been in our houses for decades, Telstra have been forced to charge below a true cost. The trouble with this access deficit theory is that it is very dubious. It is based on a whole lot of assumptions about what costs you attribute to the network that already exists, which was built with what was ultimately taxpayers’ money over many decades, and it includes attributed costs for things like head office costs, marketing, human resources and a whole range of things that have really got no connection whatsoever with the existence of a piece of infrastructure, the phone line into your house. We reject the academic calculation on which this line rental fee is based. It is highly dubious, it is built on doubtful assumptions and it is certainly no basis on which to go slugging low income earners with the outrageous hikes in line rental fees the government is proposing.

To add insult to injury, this is happening at a time when Telstra’s infrastructure investment in Australia has fallen to almost $1 billion less than it was three or four years ago, and in the last financial year they have knocked off a further 4,000 staff. So at the same time as they and the government are coming to you and saying, ‘The cost of your phone is not being covered. We want you to pay more,’ they are actually reducing the service, reducing the infrastructure investment and reducing the maintenance that makes your phone work and makes it work decently. Ordinary lines people and ordinary technicians are all getting sacked and there are reductions in infrastructure investment—all of which means lower quality services. At the same time as they are demanding a lot more money from ordinary citizens for the privilege of having a phone, they are putting a lot less into the value of the phone network.

It is no wonder Telstra is taking short cuts to deliver services now with things like pair gains and RIM technology, which might be good for splitting your phone lines but mean that you cannot get ADSL, so you cannot get broadband and your dial-up Internet speed gets halved. It is no wonder that Telstra is cutting these corners. It is a disgrace that in these circumstances Telstra has got the hide to come along to ordinary Telstra customers and say, ‘We want more money out of you for phone line rental.’ While they are cutting back on capital investment and on staffing, and while their services are deteriorating, at the same time they are buying mobile phone networks in Hong Kong and they are dusting off their plans to invest in Channel 9 and maybe in Fairfax. They are waiting for the government’s cross-media ownership laws to go through so that the $3.5 billion cash in the bank that they have currently got, courtesy of the ordinary customer, the one who is going to pay the extra line rental fees, can be used to buy media assets or other assets overseas. They have an absolute gall to demand that ordinary customers have to pay these huge hikes in line rentals just for the privilege of continuing to have a telephone in a network that is deteriorating and where investment is declining.

The government claim that this is all okay, this is fine, that the new price control regime just involves a bit of rebalancing. Their theory is that you might pay some more for line rental but the call costs will go down, so you lose on the roundabouts and gain on the
swings. The trouble is that it is not true; it is not happening. It may have happened in the past but, if you look at the standard plans that most customers have, Homeline Complete and Homeline Plus, you see that under these plans local call prices are not going down. There are minor adjustments in a few areas to things like STD prices, but the things that really matter to people, local call prices, are not going down. So they are getting slugged on one side with no effective compensation on the other.

The extra revenue that Telstra will get from these line rentals if telephone usage patterns stay roughly the same will be up to $100 million more than they will lose from the minor changes that they have made to plans with slight reductions in things like STD calls. The compensation measures that they introduced for low income earners included something like the product that was going to be called Homeline Classic, where you got a cheaper line rental fee and you paid 15c for neighbourhood calls and 22c for your ordinary local calls. The trouble is that, when they finally introduced the new regime, what had been announced was not delivered. Instead of Homeline Classic, we have a new Homeline Budget plan. This does reduce call rental costs by 20c, so instead of $17.70 per month you pay $17.50, a marginal reduction in line rental fees. But to get that you have to pay 30c for every local call. In other words, you wipe out the benefit you get from the lower rental by making two calls—two calls a month and that benefit is gone. So much for John Howard’s battlers, so much for looking after lower income earners and so much, I might say, for some of the welfare organisations that were conned into approving this when it was announced a couple of months ago.

To be fair to the government, they are not just slugging battlers, they are slugging everybody. They are hitting everybody with this new price control regime. They are also taking mobile phones out of the price control regime altogether. At a time when mobile prices are going up, when the flag fall fee after the election was put up from 20c to 25c, Telstra whacked in a $150 exit fee if you wanted to leave their plan early and a $50 low use fee. We are seeing ever more complex plans by most of the carriers which make it harder and harder for consumers to compare and decide what they should do, with Vodafone an honourable exception. Text messages, which should be going down and which probably only cost in real terms 3c to 5c, are going up and young people in particular are being slugged by this government. The government is proposing to relax the price controls and take them off mobile phones altogether when people are getting shamelessly ripped off because of the cost of text messages.

The cost of phone calls from fixed lines to mobiles still is way too high. It is another issue that should be resolved in the regulation of mobile phones and that is not being addressed. Mobile telephony is the big cream earner for the major telecommunications companies. It is still an oligopoly. Telstra has almost 50 per cent of the market and Telstra and Optus, between them, have almost 80 per cent. It is not a fully competitive market; it still should be regulated.

Whichever way you go with this government, whether you are a battler who does not have a mobile phone and needs the phone to function in society, to keep in touch with loved ones and friends, or whether you are somebody who has a mobile phone, you get slugged no matter which way you turn. In spite of the minister’s derisory observations in question time suggesting that this is somehow a tiny, trivial issue and a distraction, it may not matter much to him or to many of us, but for a lot of people an extra few dollars a month really does matter. When it is going to end up being effectively, over a few years, $20 a month just for the privilege of being able to have a phone, before you even pay for a single call, that matters to people.

Why is this happening? I do not think we have to look too far. This government is fattening up Telstra for privatisation. All the pieces are being put in place. We have the Estens inquiry—with John Anderson’s mate, new National Party member Dick Estens, heading the inquiry for two months only and with no public hearings—to announce that Telstra is ready for sale. We have the introduction of cross-media ownership laws being
attempted so that a new privately owned Telstra can buy Fairfax, Channel 9 or whatever it likes. We have deregulated prices so that consumers can get slugged more. We have $650 million in the budget to pay for investment bankers and lawyers to sell the rest of Telstra. And there are plans by the government to use the proceeds from the sale of Telstra to buy foreign bonds and foreign shares—the dirty little secret of the Telstra sale that they will not admit to.

This debate is not just about a few dollars a month for people, even though that is, as I say, a very serious issue. This debate is ultimately about values, about how we see our society. It is about how the government sees the society and how it should function, and how we see it. We see telecommunications as being essential services that people need to function in society, to stay in touch with their families and loved ones, to protect them in emergencies, to ensure their safety and generally to be able to participate in work or social life. We are committed therefore to ensuring that our nation guarantees reasonable access to telecommunications services at affordable prices for all Australians, irrespective of their income and irrespective of where they live. If that means that some people who are better off have to help contribute to that, so be it. If that means cross-subsidisation, so be it.

The Liberal and National Party view is a bit different. On a philosophical basis, their view is that the market should rule and if you cannot afford to have a phone, bad luck. If you are too distant to be profitable, if you are too far away from the major markets, bad luck. They believe in the market ruling here. We happily accept the market having a predominant role in telecommunications, but not an absolute role. We believe there is a critical role for government ownership to play in telecommunications to ensure that all Australians will have access to decent telecommunications services, whereas they see telecommunications as just another market.

The real issue in telecommunications and the real question about the future sale of Telstra is not where services are before Telstra is sold; it is where services will be after Telstra is sold, the next year and the next year and the one after that. That is the real question because, once Telstra is privatised, that will be the end of it. No amount of posturing and puffing by this government, or indeed genuine efforts by future governments, will be able to stop that organisation from pursuing profit at all costs to satisfy shareholders—which, as a private company, it is legally obliged to do—and wriggling out of its obligations to the community to ensure that lower income earners and people who live in more distant parts of the country still can get reasonable access to telecommunications services.

This proposal by the government is an outrageous grab for cash by Telstra. I attacked it when it was announced. The minister’s implication that somehow we are late-comers to this debate is total rubbish. We attacked it then and we attack it now. I call on the Democrats, the Greens and the Independent senators to join Labor in disallowing these outrageous new price controls. I call on the government to go back to the drawing board and to come back to this parliament with new proposals that are fair and reasonable, that look after ordinary people and that do not slug people with these outrageous line rental increases that will hurt many ordinary Australians.

Mr McGauran (Gippsland—Minister for Science) (3.35 p.m.)—The phoniness and opportunism of the Labor Party in listing this as the subject matter for the MPI today is highlighted by the very simple fact that, since the new price controls for Telstra were gazetted, there have been some 200 questions by the opposition in this place and not a solitary one of those approximately 200 questions has been dedicated to this subject matter. At the same time, there have been something like 20 of these matters of public importance on each sitting day, bar Monday, and not a single one has been given over to this issue of price control. That is how serious the Labor Party is. The shadow minister for communications may have done something back in June or July, when the price controls were announced, before they were gazetted, but the simple fact is that he has done nothing since.
There has been only one intervening event since the Labor Party made its customary passing, opportunistic criticism back in May, and that is the thing called the Cunningham by-election. Dr Stephen Smith, I mean Dr Stephen Martin—how quickly you forget; I would expect the same recognition of me after I left this place, I hasten to add—left the front bench, saying on the way out that he left because he saw no future for the Labor Party, with little or no prospect of winning the next election. We have a by-election in his seat of Cunningham. The Leader of the Opposition visited Cunningham today, as was made abundantly clear in question time, and he made policy on the run.

For the member for Melbourne, who regards himself, on some occasions justifiably so, as a policy purist, this is very dangerous ground. If you make policy on the run in complex areas such as this you are more than likely to fall flat on your face. On this issue I am certain that will be the outcome in the next few days, because the Leader of the Opposition, no doubt after consultation with the member for Melbourne—although there is doubt that the member for Melbourne is in full agreement with the Leader of the Opposition’s course of action—has announced that the opposition will disallow these new charges in the Senate. They have left it to the death knock, because the period in which the Senate can disallow such a determination expires, I think, about this time next week. You have left your running very late. No doubt that has in large part been induced by the panic that has been besetting the Labor Party as they try to win the seat of Cunningham with a head office imposed candidate.

I turn now to the specifics of the issue, because it is very important that members and interested observers fully understand what is involved in these price controls on Telstra. But before doing so, I want to answer the charge of the member for Melbourne that Telstra are rip-off merchants. When it is all boiled down—to use a colloquialism—that is the essence of his allegations against Telstra. I turn to the independent umpire, the Australian Competition and Consumer Commission: highly reputable and regarded as a fearless advocate for and champion of consumers. In its latest report, the ACCC stated that the price of a full basket of telecommunications services decreased by 21.4 per cent between 1997 and the year 2002. Since full and open competition started in 1997, prices have fallen, if you take the whole basket of goods, by 21.4 per cent. Moreover, the ACCC reported that the price decrease for the 2000-01 financial year was 8.9 per cent. So the allegations—accusations, in actual fact—of the member for Melbourne against Telstra of exploiting consumers are unjustifiable and ought to be retracted.

The price controls are part of the government’s strategy to deliver a very significant competitive environment in the telecommunications sector. We believe that competition between the carriers will be more effective in driving down prices than any price cap, however well-intentioned or generous the member for Melbourne would have us believe a Labor government would be in these circumstances. Lower prices are what matters to residential and business users in the longer term. To achieve this, we need to impose these price controls on Telstra so as to drive efficiency improvements and allow adjustments between line rentals and call prices to increase overall efficiency. The controls also encompass measures to protect low income users of Telstra services. The decision to vary retail prices within these controls was a commercial decision by Telstra. In essence, the Leader of the Opposition and the member for Melbourne are, by their declaration that they will oppose the determination in the Senate, interfering with the commercial capacity and capabilities of Telstra. Again, the opposition are skating on very thin ice.

Telstra is a public company that has two million Australian shareholders. The government’s first reaction to this news of the disallowance is that it will drive up prices. It will drive up prices because part of the effect of the government price controls on Telstra would be to force a decrease in the average price of local, trunk and international call services by 4½ per cent in real terms. Telstra would have to decrease these prices by 4½ per cent, and they would not be allowed to increase connection prices in real terms. On
the other hand, Telstra would be able to increase the average price of a basket of business and residential line rentals by up to four per cent a year in real terms. There is a reason for that. The member for Melbourne, to his credit, outlined the actual fact of it, but then he disagreed with the policy implications. We would allow Telstra, within the price control cap, to increase the average price of line rentals by up to four per cent so as to remove the access deficit. This is crucial to understanding this whole issue and to showing the paucity both of the intellectual understanding of the opposition and the honesty of its position.

The access deficit has been identified by the ACCC, the consumers advocate, and by the Productivity Commission as a major block to competition. The access deficit refers to the shortfall in revenue that Telstra receives compared with the cost of its line network, officially called the customer access network, which is essentially that network of copper lines from local exchanges to each telephone in Australia. Both the ACCC and the Productivity Commission have long sought removal of this access deficit because of its distortional impact on telecommunications competition. It means that Telstra charges other carriers which tap into its access network higher prices, because Telstra is running at a loss. In simple terms, Telstra is running at a loss, and it makes that up by higher charges to competitors for use of the network. Consequently, all those independent authorities with a vital interest in spurring on competition in the interests of lower prices for the benefit of consumers argue that this access deficit must be eroded and eventually eliminated. That is why we want to force a decrease in prices on Telstra under these controls with regard to telephone calls and allow an increase in line rental. But within that specification Telstra will make its commercial decisions, and underpinning them is the safety net—the safety net of a package of products and arrangements for low income consumers to protect them from the effects of any line rental increases. The low income package developed by Telstra comprises initiatives that address a wide range of low income consumer needs. While it contains measures that target holders of pensioner concession and health care cards, it is largely a self-selecting package enabling all those in need of assistance and benefits to claim within it. That is the safety net for any increases in line rental, as opposed to decreases in telephone call charges.

The ability to achieve the removal of the access deficit will be severely constrained if the determination is disallowed in the Senate, and that is the responsibility that the opposition are taking upon themselves. This would mean higher interconnect costs, the continued subsidy of line rental by call cost and ongoing inefficiency in industry.

This is part of the opposition’s curate’s egg approach to Telstra and telecommunications. They are hoist with their petard. They say that they will not sell Telstra, they have pledged not to—they have made such a pledge with regard to many other government businesses, the most famous being the Commonwealth Bank—but they have got no plan. The member for Melbourne has said previously that the ownership structure of Telstra as it stands today is untenable, that it is unworkable and that it works against the interests of investors as well as consumers. Having said that, what is his proposal? What is his plan? What is his policy? What is his way forward? He should give us some indication. He says they will disallow the determination in the Senate, but what will they put in its place? How will they address the issue of the access deficit? Maybe the access deficit is just a figment of everyone’s imagination. Is it a figment of the imagination of the ACCC or of the Productivity Commission? Members opposite are sinking deeper and deeper into a quagmire of their own making. They put out a paper in May entitled ‘Reforming Telstra’, but they have done nothing except run away from it ever since. They have set down their own challenge—to reform Telstra—so now they should tell us how.

By the way, whilst you are telling us that, why don’t you tell us what happened to the caucus think tank or workshop that you had on the Friday of the last parliamentary sitting week in August? I understood you and your friends—
Mr McGauran—I understand that the member for Melbourne and his friends in the caucus were going to meet and exchange information and prepare a cunning plan to overcome the hole you have dug for yourselves with regard to Telstra. What happened to it? We have heard nothing more. At least there have been no leaks from that meeting, so you were definitely surrounded by your friends. I wonder how many went. How many in the opposition were interested enough to go?

It is not just the member for Melbourne who is caught in a bind. The shadow Treasurer, the member for Fraser, has said that competition is the key to lower prices, not the ownership of Telstra, yet we have the Premier of New South Wales, Bob Carr—the most successful Labor leader in the country today—agreeing that the company could be sold once services were up to scratch. Does that sound familiar? It sounds very familiar: it is the government position. Telstra can only be fully privatised when services are up to date. We are doing something about it by having the inquiry to determine whether or not services, particularly in regional and rural areas, are standard and suitable enough to allow that test to be met.

There has been a lot of fanfare and a lot of noise from the member for Melbourne, but he has been silent within the parliament. It has been left to the Leader of the Opposition to try to make further political capital out of this matter. I wonder why the member for Melbourne did not raise this issue. Why did it take the Leader of the Opposition, in the midst of a crucial and fast-deteriorating situation in the Cunningham by-election, to raise this issue?

The member for Melbourne’s only published or known position on Telstra so far is to break it up. He calls it ‘structural separation’: you sell off the profitable bits and keep the trunk line. He is all over the shop. But he seems to have run away from that. I invite him to give more information for the parliament and, through the parliament, the people. What are the opposition’s policies? This MPI today and the actions of the Labor Party in the Senate with regard to disallowing the determination are a smokescreen. It is an attempt to shift the focus away from a myriad of issues and problems that the Labor Party is facing down in Cunningham, here in the parliament and across the nation, and it is also a deliberate move to shift the debate away from Labor’s problems with regard to Telstra and telecommunications policy in so much as they do not have a policy. They have tentatively put their foot in the water, but they seem to have got it scalded and have backed right off. It is quite clear that the only reason the member for Melbourne is pursuing the break-up option is to allow them to flog off bits and pieces of the company in a piecemeal fashion. That is the only policy on Telstra that they have.

On the other hand, since we came to government, we have instigated a whole range of consumer protection guarantees across the board. We have given over the supervision and monitoring of those guarantees of consumer protection to independent bodies. We are acting in line with their recommendations. At the same time we have massively increased the standard of communications in rural and regional areas. Consequently the government is getting on with the job. We are faced with an opposition which will seize on any opportunity to cloud the matter, to distort the facts, but in the end good policy wins out against bad policy.

Ms Hall—The contribution by the Minister for Science shows how out of touch he is with the Australian people and how little attention he has paid to the ALP’s policies. The starting point for the ALP’s policy is that we do not support the sale of Telstra. For his information, neither do the Australian people. Already the Australian people are struggling under the financial pressures that are being forced upon them by this out-of-touch government that wants to increase their financial hardship even more.

During the minister’s contribution I found it interesting to look to the other side of the chamber. I noticed that only five members of the government were sitting behind him—simply because they did not want to associate themselves with what he was
themselves with what he was saying. One thing I found very sad from a personal point of view was that one of those five members was the member for Dobell. He has supported the minister's move to hit the people of the Central Coast with an increase in their telephone line rental and, I might add, he has supported the privatisation of Telstra. I must say that at least one member of this parliament from the Central Coast does not support the privatisation of Telstra.

The Howard government's relentless pursuit of its agenda to fully privatis e Telstra is what is driving its latest plan to increase the cost of telephone line rental on standard residential phone lines and abolish all price control on mobile phones. It is rather worrying, isn't it? Who will this hurt? It will hurt average Australian people—middle- and low-income families—and it will make it harder and harder for them.

This government gave a commitment to the people of Australia—people who look to it for support and trusted that it would reduce the price of local calls. And guess what? To date, it has not delivered. There are promises that it will deliver in the future, but I treat those promises with the contempt they deserve. This is a government that says one thing and does another. The only promise on Telstra that this government intends to deliver is to sell it off. That is its one and only agenda—the full sale of Telstra, as it outlined in this year's budget. It is about positioning Telstra for sale, not about justifying price increases, not about a fair deal for Australian families. Telstra is making enormous profits, yet the Howard government is proposing that the Australian people be forced to pay enormous increases in their telephone line rental, increases for which there is no justification. This is just another example of just how mean-spirited this Howard government is. It is a government that attacks those people who are most disadvantaged, those who look to government for assistance. It is a government that takes money from families, that takes away their tax cheques. It has done nothing to stop the decline in bulk-billing. It is about increasing the price of pharmaceutical benefits. And now it is about increasing the rental on telephone lines. Yes, it is supporting these draconian increases.

It plans to privatise Telstra. This is a plan that is not supported by the Australian people and one that the ALP will not support. We will not support it in this House, we will not support it in the Senate and, in government, we would abandon that plan. In August, the Telstra Homeline Complete plan went up by $2 per month, a 10 per cent increase, and Telstra Homeline Plus went up by $3 per month, a 14 per cent increase. It is hardly in line with CPI, is it? The Howard government wants Australian people to pay up to $30 per month just for the privilege of having a telephone. How do these prices compare to prices in the past? A couple of years ago, line rental fees were just $11.65. I would say that the Howard government has certainly delivered to the Australian people—delivered massive increases in costs. The sweetener with these increased costs is that line rental will go down and that the cost of a local call will go down. That is what we have promised in the past and it has not been delivered. Now there is a possibility of minor decreases in call costs but, as I mentioned earlier, I do not believe that will ever eventuate.

Other things that have gone up under this government are directory assistance, wake-up and reminder calls, mobile phone flag calls, text messaging, Internet access and White Pages dual listing—it goes on and on. As I said earlier, the only promise this mean-spirited government intends to deliver in relation to Telstra is to sell it. With increased costs, surely there would be an improvement in service? No. In my electorate, when there have been problems with lines, workers have had to be brought from Queensland, and the problems have continued over a number of days. You would wonder why with these huge profits, but there has been a decrease in capital expenditure of about $1 billion over the last three years. Accompanying that there has been a massive decrease in the number of people who are employed by Telstra.

I would like to go now to the Estens inquiry. It is going to be chaired by Dick Estens. He is a good mate of the Deputy Prime Minister and a member of the National
Party. There is a second inquiry member, Ray Braithwaite, a former National Party member for Dawson. This is an inquiry that is mainly composed of mates of the National Party. It really looks like it is about jobs for the boys—jobs for mates—when two out of three members of that inquiry committee are members of the National Party. The inquiry is going to look at present and future adequacy of regional telecommunications services and to report to the government by November. It is taking place from August to November, so it is about two months in duration, and during that inquiry there will be no public meetings or evidence taken. You might ask how this inquiry is going to come up with fair findings and how it is going to decide whether these services are adequate or not. They will not talk to people, they will not take any evidence, so I suppose it is just the mates of the Deputy Prime Minister who are going to sit down and make a decision. Compare that to the Besley inquiry that went for six months, speaking to the public and travelling around Australia, and you have got quite a contrast. This inquiry is there for one reason: to deliver on the full privatisation of Telstra.

These are the actions of a government that is determined to sell Telstra at all costs. On this side of the House, we know that the remainder of Telstra should not be sold. We know that a privatised Telstra will lead to further price hikes, continued poor service and a worsening service, particularly in regional Australia—areas like those that I represent and those that the member for Capricornia represents. When I was in her electorate a couple of months ago, she was telling me of the enormous problems that exist there and so were the people of Capricornia—people that this inquiry will not talk to. The real losers in this whole scenario are the people of Australia, particularly the people living in regional Australia. On this side of the House we know that these enormous price increases are hurting low- and middle-income Australian families. We know the government is fattening up Telstra to sell it. We know that there will be further price increases under a fully privatised Telstra. We know that these price rises are not justified. That is why the Labor Party will move to have these price increases disallowed in the Senate. This government does not care about Australians unless they are their mates at the big end of town. On this side of the House we care about all Australians. (Time expired)

Mr CAMERON THOMPSON (Blair) (4.00 p.m.)—Mr Deputy Speaker, you can see that the ALP is flopping about like a fish out of water. It used to have the GST as a crutch to hang on to whenever it got into difficulty, and that one has gone down the gurgler so now it has got out the old faithful: Telstra. We used to see, when the ALP got into difficulty, it would whip straight back onto the GST—and now it is Telstra. The latest thing it is in trouble on is Iraq. The opposition leader went down to Wollongong to launch the campaign of the ALP’s hopeful candidate in Cunningham. When he got down there, what came up? The issue of Iraq and how his people were falling apart behind him, how they were going to cross the floor and what a disaster it was. What did he do? He popped up with this issue of Telstra and how he was going to be tough and stop the increase in the line rental fees or something like that. Of course, it does not bear any relationship to the cost of actually conducting a phone call in Australia. He did not get down to that. He just found this one little issue on which he can nitpick, which he reckons he can hang on to. I will repeat some of the questions that were thrown at him today:

Are you concerned that other members will break away from the party, cross the floor ...

Here is another one:

Harry Quick has said, though, that if Labor does back war with Iraq under any situation, he’ll cross the floor.

They are talking about things like that. That is what the journalists are saying. What is he saying in response?

The issues that are important down here are Telstra—people want to know about John Howard’s intentions and how he intends to develop them. That was not the tune he was singing earlier on this week. He has got into trouble and he has pulled out the old crutch: he has gone for Telstra. He is hobbling down the street with Telstra to support him.
Following opposition arguments on Telstra is quite enlightening. They tend to work their arguments along the latest press releases from the opposition leader. Their latest little catchcry is this business about fattening up Telstra to sell it. They tend to move around these arguments. It is like following the clock around the dial: you go around and eventually you wind up 360 degrees back on yourself arguing against what you argued for before. According to them, Telstra makes enormous profits, so they argue that we should not sell it and that we had better stop it making enormous profits—because that is a terrible thing in the eyes of the ALP. All of those are mutually exclusive propositions, but that does not concern the ALP.

Let us look at some of the real situations out there and at how our phone system and the data system and everything that it supports stacks up internationally. I have been looking at some very interesting data that I got courtesy of the Parliamentary Library—I would urge members, particularly those opposite, to go and have a look at some of this stuff—which, for example, assesses the impact that our telecommunications system has on our ability to do business in the new economy.

There is something on the web site European Telework Online which assesses the various costs imposed on various countries when they are trying to do business online, when they are trying to use the telecommunications system to conduct their business. There is a system where they have established a table of relative distances in the networked economy—that is, the relative distance that any country in the world might be from the central point of the world economy. What is interesting is that, due to the efficiency and the low cost of our telephone system, Australia is only sixth on the list in terms of distance from the centre of world commerce—relatively speaking. Comparatively, it is interesting to note that Singapore is 36th, France is ninth, Germany is 10th, New Zealand is 17th, Finland—the home of Nokia—is 18th and Japan is 28th. Quite obviously, we are being very well served by our telecommunications system.

Another analysis of just how cost effective, efficient and supportive our phone network is of business and our general community is being relayed at this moment on the web site of the New South Wales Department of State and Regional Development, where there is a report of the Telecommunications Competitiveness Index 2001 compiled by the National University of Singapore. On that list—which assesses how competitive our phone network is—Australia is third, with an index of 71. That puts it way ahead of a whole bunch of the major world economies and puts it in a very favourable position. Remember, this is a list compiled by the National University of Singapore. The index, which has four subindices—service, choice, regulation and, notably for this argument, price—showed Australia, Singapore and Hong Kong as the only nations in the top five places in all categories. We are in the top five in all of those categories, and I think that is something that the opposition should acknowledge.

Let us look at international telephone call charges. The NUS Consulting Group reported in its June 2001 survey that Australian costs for a standard three-minute business call to the United States had been reduced by 2.2 per cent in 2001. At the top of the list compiled by the World Competitiveness Yearbook for a three-minute call to the United States are Germany, second are the US themselves—for being able to phone themselves—and Australia are third. Once again, on price we are way in front.

Let us look at some of the things that are being said. I turn to the OECD Communications Outlook report of 2001. It said the telecommunications market is changing dramatically and that:

Traditionally, the price of local telephony was based on users making, on average, three-minute calls. By way of contrast, rebalancing local price calls considerably increased the cost of accessing the Internet, where the duration of calls is generally much longer.

The report goes on:
Assessing the relative performance of various companies in terms of cost for access for 40 hours of Internet access at peak and off-peak times, the difference is magnified. At peak times, the coun-
tries which traditionally have had unmetered local calls—Australia, Canada, Mexico, New Zealand and the United States—are five of the seven least expensive.

It also says:
The average international call charge per minute for the OECD fell from $US1.07 in 1995 to $US0.52 in 2000. The best gains have been made since 1998, with an overall reduction of 32 per cent to the OECD average between 1998 and 2000. Steep declines were registered between 1998 and 2000 in Switzerland, Australia and Canada.

So internationally our performance is pretty good, and people who rely on our phone system are getting very good deals internationally. Something that I should point out to members is that, according to the Australian Bureau of Statistics, communications is the only one of the 11 components of the CPI which has actually fallen in nominal terms—that is, in cost—over the last five years. This compares with a CPI rise of more than 13 per cent in that time. So the CPI is going up, the cost of telecommunications is going down—and the opposition are still complaining. It does not make sense; they are just covering up for their own inadequacies. In fact, all services monitored by the ACCC fell in the years up until 2001 by 4.4 per cent, five per cent, 9.2 per cent and 8.9 per cent. That is an incredible performance in the Australian telecommunications market. It defies logic that the members opposite continue carping in the way that they do.

I would like to draw to the attention of members the performance of community telcos. If you are not satisfied with that incredible performance of a 20 per cent reduction in your phone bill over five years, you can get another 20 per cent, because these local community telcos are offering it. I refer to iTel, which is operating around the Ipswich area. It does offer bundled services to businesses Australia wide. By lumping demand together and taking advantage of the demand aggregation model, they can provide businesses with, on average, a 20 per cent savings providing they have a standard plan. They get that service from Telstra, and that shows you again the efficiency of the Telstra network.

They are able to bundle them together—fixed calls, mobile calls, data calls and Internet calls—and provide a 20 per cent saving on one bill. Importantly for regions like Ipswich, it means that those costs come back to the region. They do not go off overseas or to a parent company in Sydney; they go into the region. We have benefited locally from the work of iTel by them sponsoring very important local events, like the huge Australian National Drag Racing Championships and the Ipswich Festival. We have also benefited because our local businesses have grown with the support of iTel. I commend their performance to the House. (Time expired)

**STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE) AMENDMENT BILL (No. 2) 2002**

*Report from Main Committee*

Bill returned from Main Committee without amendment, appropriation message having been reported; certified copy of the bill presented.

Ordered that this bill be considered forthwith.

Bill agreed to.

**Third Reading**

**Miss Jackie Kelly** (Lindsay—Parliamentary Secretary to the Prime Minister) (4.11 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**ACIS ADMINISTRATION AMENDMENT BILL 2002**

*Report from Main Committee*

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

Ordered that this bill be considered forthwith.

Bill agreed to.

**Third Reading**

**Miss Jackie Kelly** (Lindsay—Parliamentary Secretary to the Prime Minister) (4.11 p.m.)—by leave—I move:

That this bill be now read a third time.
Thursday, 19 September 2002

EGG INDUSTRY SERVICE PROVISION
BILL 2002

Report from Main Committee
Bill returned from Main Committee without amendment, appropriation message having been reported; certified copy of the bill presented.
Ordered that this bill be considered forthwith.
Bill agreed to.

Third Reading
Miss JACKIE KELLY (Lindsay—Parliamentary Secretary to the Prime Minister)
(4.14 p.m.)—by leave—I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

DAIRY INDUSTRY LEGISLATION
AMENDMENT BILL 2002

Report from Main Committee
Bill returned from Main Committee without amendment; certified copy of the bill presented.
Ordered that this bill be considered forthwith.
Bill agreed to.

Third Reading
Miss JACKIE KELLY (Lindsay—Parliamentary Secretary to the Prime Minister)
(4.13 p.m.)—by leave—I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

PARLIAMENTARY ZONE
Approval of Proposal

Mr TUCKEY (O'Connor—Minister for Regional Services, Territories and Local Government) (4.15 p.m.)—I move:
That, in accordance with section 5 of the Parliament Act 1974, the House approves the following proposal for work in the Parliamentary Zone which was presented to the House on 29 August 2002, namely: external waste enclosures at Commonwealth Place.
This motion seeks approval by both houses of parliament under section 5 of the Parliament Act 1974 for the construction of two waste enclosures at Commonwealth Place in Parkes, Australian Capital Territory. In a three-stage process in 2000 and 2001 both houses of this parliament approved the works necessary to construct Commonwealth Place in the parliamentary zone. Construction of Commonwealth Place was completed in June 2002 and it was opened on 22 July by the Prime Minister. Tenancy arrangements for the internal space was being finalised in the weeks prior to the opening and, as a result, the design for this space had not been settled. Part of the western wing of Commonwealth Place is to be operated as a restaurant and much of the remaining space is to be used as offices by Reconciliation Australia. The National Portrait Gallery will use the eastern wing as a gallery for its contemporary works for at least the next three years.

These tenancy arrangements require external waste enclosures. Matching enclosures have been designed for each side to preserve the symmetry of the building about the land access. Each of the enclosures will measure 6.8 metres in length and 1.5 metres in both height and depth. The low scale enclosures have been designed to hold the equivalent of nine 240-litre waste containers. These will
cater for waste and recycling requirements within the minimum practical space. On each side four bins have been dedicated for the recycling of glass, paper and metal, while four others will accommodate day-to-day waste such as food scraps and the like. These bins will be cleared daily. A dedicated oil recycling bin also has been accommodated within the enclosure and this will be cleared every three days. An intensive standards schedule of cleaning and maintenance will be put in place to manage the waste enclosures. The enclosures are to be sited north of the international flags display as far from the building and land access as practical to minimise their impact on the heritage listed Old Parliament House vista. The rear wall of the enclosures will be clad in Victorian bluestone to match the exterior and detailing of Commonwealth Place and the international flags display. The sliding door units will be constructed of stainless steel to match existing finishes on Commonwealth Place. A narrow path of charcoal-coloured concrete will link the enclosures to the matching Commonwealth Place forecourt.

The National Capital Authority has advised that it is prepared to grant works approval pursuant to section 12(1)(b) of the Australian Capital Territory (Planning and Land Management) Act 1988. As the parliament house vista is listed on the Register of the National Estate, the Australian Heritage Commission has been consulted. On 23 August 2002 the commission advised that it supports the proposed works. The approval of both houses is sought under section 5 of the Parliament Act 1974 for the external waste enclosures for the Commonwealth Place, section 56, Parkes ACT.

Question agreed to.

**PARLIAMENTARY ZONE**

**Approval of Proposal**

The DEPUTY SPEAKER (Hon. I.R. Causley) (4.19 p.m.)—I have received a message from the Senate transmitting the following resolution agreed to by the Senate:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being the construction of external waste enclosures in Commonwealth Place.

**FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (DISABILITY REFORM) BILL (No. 2) 2002**

Second Reading

Debate resumed from 28 August, on motion by Mr Anthony:

That this bill be now read a second time.

upon which Mr Swan moved by way of amendment:

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

“the House declines to give the Bill a second reading, and

(1) condemns the Howard Government’s attempt to deny Disability Support Pensions to more than 100,000 Australians living with a disability over the next three years;

(2) condemns the Government’s attempt to create two classes of people with disabilities by seeking to pay many of those who apply for a Disability Support Pension after 1 July 2003, $52 a fortnight less than people currently receiving the payment;

(3) endorses the view of the ALP supporting the need for welfare reforms that offer the opportunity for people with disabilities to participate fully in the community, including to work;

(4) refuses to support Government cost cutting that will discourage people with a disability from seeking employment; and

(5) calls on the Government to work with the ALP on a bipartisan basis to achieve real welfare reform”.

Mrs IRWIN (Fowler) (4.20 p.m.)—I might begin by briefly going over some of the points I was making before this debate on the Family and Community Services Legis-
The amendment (Disability Reform) Bill (No. 2) 2002 was interrupted. In speaking earlier—two weeks ago—to this bill I made the point that, without real support from governments and a vastly different approach by employers, this bill will be harsh and unfair, particularly to mature workers. We are saying to the many thousands of Australian workers, people who have literally broken their backs to build this nation, that they have to find their own way back into the labour market. The amount set aside for this bill to provide training and assistance is nowhere near enough to do the job properly. There is no intensive assistance, because unless it is backed up by workplace assistance—and, more to the point, by understanding employers—then this is nothing more than a cruel hoax.

It is a trick played on some of the least fortunate people in our society. For many people who fall into this class the new economy, or even the service economy, offers little in the way of real job prospects. In my electorate of Fowler there are many men and women who came to Australia as young adults and did the backbreaking work that was needed. They worked in the mines and on the building sites. They cleaned shops, schools and offices. They worked in our hospitals and even at Australia Post, as I mentioned in the first part of my speech over two weeks ago. They have poor written English skills so they were not allowed to move into supervisors’ jobs. If, after years of backbreaking work, they did suffer from broken backs, they might have hoped for some understanding of the pain and suffering they endure every day. They might have hoped that, having based their lives on their physical strength, they would be able to maintain active employment even when they did not possess their full strength. It is a sad commentary on Australia’s employment policies over the years that we have not catered for the changes in our workplaces and the demand for 100 per cent able-bodied workers.

There is a stark contrast between how this government treats those men and women who have done the backbreaking work—in some cases, for more than 40 years—and those who have taken a different career path. The other week, I was listening to a public servant who was telling me that he was able to resign from his position at the age of 55 and, a few days later, be engaged by his former department as a consultant. I do not have any official figures on how many public servants choose to do this, but I understand there are quite a few. Here we have a government which gives its blessing to people who, in most cases, have no physical disabilities. These people who, you might have thought, have skills and knowledge because the government has invested in their training over the years and who could have worked for many more years are encouraged to retire at the age of 55. Thanks to some generous tax concessions introduced by this government, they are able to retire on modest or, in some cases, good incomes for life.

This is the real worry. We are saying to one group in the community—people who are fit and well—‘Retire, take it easy, put your feet up; you’ve earned your retirement.’ But, to another group, we are saying: ‘We don’t care that you might have a back problem. We don’t care if you have some disorder that makes day-to-day living very hard for you. Go out and get a job!’ But, in the first case, that of the early retiree, we not only allow retirement but encourage it with generous tax concessions. Some of our most highly skilled people spend their days on the golf course and get tax concessions and retiree discounts to help them enjoy their golden years. But to others, and particularly to those less skilled, we say, ‘Get a job!’ We will make them go through the process of applying for job after job, knowing full well that they will never get one. I wonder who is laughing at that joke. I wonder who can see the funny side of that tragedy. But that is exactly what the government is doing with the measures contained in this bill that we are debating today.

As I said at the beginning of this speech—over two weeks ago—the government is 20 years behind the times. Let us get one thing straight: we need people to continue to work as long as they can. As we have seen from the Intergenerational Report, we need to keep people in the workforce as long as we can, but we have to equip them for the jobs
of the future and we have to fit them into the jobs that will need doing. We can be like Australia Post and just get rid of people if they do not quite fit in at the moment. We can cast them onto the human scrap heap for the rest of their lives, or we can take a long-term view. We can make the jobs fit the people, not the people fit the jobs—or at least we can go halfway to doing that.

This legislation does nothing to help reduce the number of Australians seeking disability support payments. All it does is make the lives of tens of thousands of Australian workers miserable, put 100 per cent of the mutual obligation on the backs of people who can least bear it and take away whatever dignity they have left. Worse than that, it does nothing to ensure that Australia has the kind of work force it needs. It is not a far-sighted measure; it is a penny-pinching one. It is not a policy for the 21st century; it is a throwback to the last century.

In opposing this bill, Labor is saying to the government: ‘Go back to the drawing board. Look at the labour market needs of Australia for the decades ahead. Look at the make-up of our work force and at its skills, its abilities and its disabilities. Come up with some measures that address the real problems that we face, not solutions that place the burden on individuals but solutions that consider real mutual obligation—obligations for employers like Australia Post to ensure that their workers have a full working life, obligations that make employers responsible for those injured in their workplaces and obligations to ensure that workers upgrade and modify their skills so that they can continue to work well beyond the age of 55, 60 or even 65.’

This bill will not achieve that. It is self-defeating. Most people will live with the hassle of filling in the forms and keeping Centrelink happy. They will go along with what the government wants them to do. They will put up with the indignity they have to face. In the end, what will the government have achieved? Nothing. There will be just as many people with minor disabilities unable to contribute to the economy. There will be just as many cast off by industry because they are not young, fit and attractive. And who loses? We all do. As a nation, we lose the benefit of their labour and, as individuals, they lose from being denied the self-esteem and dignity that work provides.

The growing number of people in their late 40s or in their 50s will have no chance to save that bit extra to see them through their retirement years. They will be that much more dependent on our social security system. They will be a burden on our social security system, not by choice but because short-sighted governments—like the government that we have now—cannot come up with real solutions to the work force problems, because governments would rather cut back benefits than help people to get off benefits altogether.

The measures in this bill will not help anyone. They will simply commit many people to lives of poverty and despair. They will not help our economic performance; they will simply shuffle people from one line at the Centrelink office to another. They will send us back to the last century, to the old solutions and to the failed policies of this government. They will destroy not just the dignity but the potential of so many people of working age. As a nation, we will definitely be poorer for it. This bill must be defeated.

Ms PLIBERSEK (Sydney) (4.30 p.m.)—The measures contained in the Family and Community Services Legislation Amendment (Disability Reform) Bill (No. 2) 2002 were proposed in the Treasurer’s budget speech in May. Since then, there has been a great deal of discussion and, indeed, a great deal of public concern about the measures. Very soon after the budget—in fact, the very next day—my office was flooded by calls from people on disability support pensions concerned about the effects that the proposal would have on them. But it was not only people on disability support pensions who were phoning; it was the parents of children with disabilities and the organisations that help place disabled workers both in supported employment and also in subsidised open employment. There has been a great deal of grave concern across the disability sector about this measures, and that concern is very warranted.
The changes proposed centre around the tightening of eligibility for the disability support pension so that it is payable only to people who are capable of working fewer than 15 hours per week instead of, as it is at the moment, 30 hours per week. ACOSS, the Australian Council of Social Services, pointed out soon after the budget in their budget response that the tougher tests for the disability support pension will punish tens of thousands of people with disabilities who face significant and genuine barriers to work. The changes, they said, would shunt people with disabilities onto lower paid and tightly monitored unemployment benefits. They also said that people with disabilities would lose $26 a week in payments, as well as pensioner concessions, and would have to look for up to 10 jobs a fortnight under the threat of fines. The Australian Council of Social Services also estimate that the $500 million cut from the Pharmaceutical Benefits Scheme will raise the cost of medicine for an average age pension by about $50 a week. In addition to 1.7 million age pensioners, of course, this measure affects the very people that we are talking about today, disability support pension recipients.

The legislation before us today differs very slightly from the original legislation introduced by the government in that it introduces some transitional provisions for DSP recipients. It is still proposed to reduce the qualification hours under the continuing inability to work test from 30 hours a week to 15 hours a week, but the new limit is going to apply only to those claiming a disability support pension on or after 1 July 2003. All disability support pension claims made up to and including 30 June 2003 are to have the existing DSP qualifications requirements applied to them. It is obviously the aim of the government to try to silence the recipients of the DSP at the moment who have been voicing their concerns publicly about these proposed measures. Basically, the government is trying to buy them off, to buy their silence, by saying that the measures will not affect them, that they will only affect people coming after. Certainly people who work in the disability sector are not so easily bought off, and they continue to have grave concerns about the legislation.

In a nutshell, the reason for the concern is that this will cause additional worry for people on disability support pensions. They do not deserve to feel insecure about their income. They do not deserve to be frightened about taking on more work. Many people in the disability sector whose whole life’s work it has been to find employment for people with, at times, quite severe impairment tell me that the most likely effects of these measures are that people who are capable of working 20 or 25 hours a week will, instead of taking on extra work, reduce their work commitments or not even try in the first place to find work. That is indeed a tragedy.

It is not just a tragedy because it costs the tax system to have people not taking on work; it is an absolute tragedy for the quality of life of the people involved. Work is not just about income—it is not just about income for anyone in this chamber, certainly—for the majority of workers get their self-esteem and socialisation from going to work. For disabled workers, this is perhaps even more important. Because of the limitations that they may face in other spheres of their life, work is a way of feeling like a valued member of the community. If we take that away from people with disabilities, not only do we do ourselves a disservice when it comes to looking at the budget bottom line but we are a poorer society for it.

The sorts of comments that I have had from constituents in my electorate have really been quite heartbreaking at times. Many of the people who have contacted me have expressed extreme fear—I suppose ‘fear’ is the most accurate word—about what life holds for them in the future. They are not just frightened of losing their jobs and the self-respect and independence that comes from their work; they are worried that, if they lose their jobs and are forced to go onto Newstart, they will lose their income because they will not be able to meet the requirements of the Newstart allowance. Making this legislation apply only to people who claim DSP on or after 1 July 2002 does not allay the fears of many people. They know that they may be able to work for a couple of years, in a workplace that is able to cope with their disabilities and give them the sup-
port that they need, but if they lose that work, their disability will make it virtually impossible, or indeed very difficult, for them to again find a supportive employer who will give them the sort of work that they are able to do. They know that being on Newstart, when they are not able to find work, is not a solution for people who, in some cases, have great difficulty filling in forms let alone being active job seekers. These are the sorts of people who are very likely to be penalised under the Newstart regime that exists at the moment.

It is also worth reminding people in this place that Senator Vanstone threatened the funding of about 200 disability services in New South Wales. She certainly said some time ago that the $125 million worth of unmet need funding that was being negotiated nationally was in danger if this legislation was not passed in the Senate. I think it is absolutely outrageous to use the lives and the fears of people living with disabilities to try to ram through inappropriate legislation. It is completely unprincipled, and I think the senator should be ashamed of herself. As far as I know, she has withdrawn that threat. The letters and phone calls I received after she made that threat showed that people were absolutely beside themselves. The correspondence and contacts I have had are pretty varied. I want to share some of them with you. One constituent said:

Thank you for respecting my views and mostly for acknowledging my letter—you were the only one to do so.

I think it is pretty shoddy that we have a minister responsible for this area who does not even respond to the fears that people are raising with her. Another constituent said:

... merely trying their best to fit into a society which says, ‘We have no place for you.’

I think the strength of feeling that people have about wanting to work is expressed by the words, ‘We have no place for you.’ For people who finally find a place that fits with the skills and abilities they have to then be told that that is threatened by the insecurity attached to the new provisions of the disability support pension is terrifying. I will read some of the other letters I have received. One letter, a copy of which was sent to the government, stated that the government’s one size fits all approach to job seekers facing a multitude of hurdles is wrong. The letter writer said:

Please have some compassion for those less fortunate ... this decision runs counter to the Howard government’s commitment to govern for all Australians.

Another woman says that she is ‘cross’ with the Prime Minister. She said:

If people like myself on disability support were able to work, don’t you think we would be working? Isn’t our disability determining the amount of work we can do? In my case, just having a shower is work.

Another constituent, who could not believe that this is the Australia of ‘a fair go’, said:

What ignorant and cruel people Howard and company are. People with any kind of disability face discrimination every day. We the disabled of Australia deserve better! We are not disabled by choice. Why are we being singled out as those who have to pay for a safer coastline—protecting against the mythological beast?

I think that is a point very well made—the Pacific solution and the war on Afghanistan are being paid for by the most vulnerable people in our community. Another letter came from a Centrelink worker in my electorate who said:

I have been following the discussion on the DSP in the budget. As a person with a disability, I am glad there is going to be opposition to this proposal—

This one of the government’s own employees—glad that there is going to be opposition to this proposal—

Life is about to get tougher for those who depend on the DSP and the PBS. Thank you for taking this position.

Another woman in my electorate, whom I had the pleasure of meeting when she received a posthumous certificate of appreciation in recognition of service to Australia on behalf of her late mother, said this in a letter to me:

I am very distressed and concerned about this change in policy. I have suffered from schizophrenia since 1976. I now also have bad depression. I haven’t been eating or sleeping lately. I generally find it hard to manage washing, cooking et cetera ... I do these things with difficulty. I spend my spare time lying down on my bed. I
have tried to work. I was a bus driver from 1985 to 1993, but was badly affected by the stress. I have a Bachelor or Arts (Hons) and a Bachelor of Social Work. I am currently waiting for my mark for a master of philosophy in social work.

I have low self-esteem and do not think I can get a job in social work. I’m enrolled part time (10 hours a week) in a diploma of library and information services where I am doing well.

She goes on to talk about all her efforts to find and keep work and the difficulties she has had. She talks about her various suicide attempts and her efforts to get help at these dark periods in her life. She concludes by saying:

I am afraid that I will be taken off the disability support pension and I will have to leave TAFE plus I won’t have enough money to live on. I have no family in New South Wales, and I wonder if you can help me keep my disability support pension. Thank you for reading this.

How tragic it is that people who have so many difficulties and burdens in their lives already are faced with the fear that they will lose their only means of support. I want to talk a little about some of the organisations that I have worked with, and indeed have done work for, such as Job Support and Windgap. These organisations find employment for people with quite severe disabilities, in some cases, both learning disabilities and physical disabilities.

I have seen quite a number of Job Support’s clients in open employment. I visited one young woman who is doing an excellent job in the library of the state parliament of New South Wales photocopying articles from newspapers and filing them. She was at one end of the scale of Job Support clients because she was able to read. Her reading level was restricted, but she was able to read. At the other end of the scale, I visited another one of their clients who washes dishes in a café. He picks up dishes from tables and washes them in the kitchen and returns the clean crockery and cutlery out to the service area for other staff to use. The employers of both these people have said that they are amongst the best employees they have—certainly the most dedicated and the most eager to please. The reason that they value their jobs so much is that it is not easy to find an employer who will employ someone with an obvious disability. Those jobs are very hard to come by. The sort of training that is necessary to help a person with a disability to learn a job like that and to learn the public transport routes to get to work, what to do in situations where perhaps they might be bullied by co-workers, how to negotiate conditions at work and how to say no to unreasonable requests—all of those things that the majority of workers might take for granted—take weeks and weeks of individual, one-on-one, training with Job Support staff, Windgap staff or the staff of any of the other organisations that do this excellent work.

If for some reason the job is lost, these workers will be completely back to square one. It is much harder to find another job for someone who has certain limitations in their work skills. It is not just the fact that there are not very many entry-level basic jobs out there—that is true for all young people in the community at the moment—but, on top of that, it is really a feat to find an employer who is prepared to overlook the prejudices that lots of people have about hiring a disabled worker and to then match up an appropriate client with a workplace that is not too far away geographically, that has public transport nearby and that meets all the other necessary requirements. If someone loses a position like that, their hope of picking up another one quickly is not great.

Someone who has managed to work in that sort of supported employment is paid award wages. We are not talking about sheltered workshops here—we are talking about people whose award wages are subsidised, but they take home a pay packet at the end of every week with an award wage in it. The government says that they should be able to cope with the requirements of something like Newstart—looking for 10 jobs a week and getting 10 knock-backs. It would not be hard to find 10 knock-backs, but it would be difficult for someone with a disability to apply for 10 jobs a week. Their disability could be physical. For example, someone with severe rheumatoid arthritis who has been able to do their accounting job for a couple of years, but their arthritis has got worse so they cannot do it. It is only a small degree of difference. They have to go through all the diffi-
difficulties of proving, once again, that their level of impairment has changed. It is very difficult to prove that and to meet the requirements of the legislation as proposed by the government.

It was considered at the time of the introduction of the disability support pension that the limit may have been lower. The 30-hour limit was not drawn out of a hat. The reason that it was set at 30 hours was that it was considered that 10, 15 or 20 hours a week might take people off the pension too quickly and it might act as a disincentive to looking for employment and finding employment. Certainly from my discussions with people in the disability sector and with disabled workers this legislation will act as a disincentive. If our aim is to have people with disabilities integrated into the community and working in open employment with the support they need, this legislation will go against that aim.

Mr ANTHONY (Richmond—Minister for Children and Youth Affairs) (4.50 p.m.)—

I thank all members on both sides of the House who participated in this debate. I will sum up the government’s view on the Family and Community Services Legislation Amendment (Disability Reform) Bill (No. 2) 2002. The government is absolutely serious about improving the outcomes for people with disabilities. This budget delivers on this commitment. Spending many years on income support is not the best outcome for a person who can play an active role in society. Many people with disabilities want to work and to earn real wages. People in the disability sector and people with disabilities have been telling us that they want more opportunities to participate.

The changes made to the criteria for the disability support pension by schedule 1 of this revised bill will ensure that people with disabilities are actively encouraged to take up part-time jobs or other activities consistent with their capacities that will facilitate the transition from welfare to work. This is a major opportunity to turn around our prevailing welfare culture and to provide people with the support they need to improve their living standards and overall quality of life through employment and being increasingly active within their communities.

The new bill will support necessary changes to ensure the sustainability of DSP for those with limited capacity to participate. The current structures are not sustainable. DSP numbers have more than doubled from 300,000 10 years ago to 653,000. More spending on DSP over time means less money available for critical services and support that could really make a difference for a person with a disability and help them to participate. There is strong support for the reform and the ALP has in the past acknowledged that reform of DSP is essential. One of the chief advocates for that, of course, is the member for Werriwa.

The strong focus of McClure was to shift towards a focus on ability rather than disability. There is broad acceptance within the disability sector that the current system is unsustainable and also that the focus should be on supporting people who are least able to support themselves. The government has been prepared to compromise and has listened to the concerns of the community. It is encouraging to hear from many individuals, groups, people with disabilities and their representatives who agree that the DSP should be there for people who need it most. Through encouraging and supporting individuals to be more active, we hope to open new doors for people with disabilities in employment and activities within their communities.

This bill addresses the critical issues of people moving onto DSP. That is why we have maintained our commitment to create up to 73,000 jobs in employment assistance, rehabilitation, vocational education and training places to help people with disabilities affected by the changes as they move into work or more activities within their communities. This is not a crackdown on DSP recipients or a cost-cutting exercise. The grandfathering arrangements made under this new bill will protect people receiving DSP prior to 1 July 2003. The most vulnerable people with disabilities, those who cannot work 15 hours a week at award wages, will not be affected. The new rules will apply only to people who claim DSP after 1 July.
2003, and under this new bill the changes will not apply to people receiving DSP or those who apply before 1 July 2003. There will also be no change to the arrangement for people who are permanently blind. The rate of DSP will not be cut as a result of these changes. These changes mean that people with substantial work capacity will not be eligible for DSP. People who do not qualify for DSP will be able to test their eligibility for more appropriate and active payments such as Newstart allowance that will help them realise their potential for work. These people have greater access to services and assistance to support the person in gaining skills and realising their work capacity.

The McClure report also recommended that the government realign the 30-hour work capacity threshold test with current working patterns. This measure takes that step. The new 15-hour work capacity threshold reflects the trend towards part-time and casual positions in the labour market. Part-time or casual employment can improve a person’s financial position and can lead to more substantial employment opportunities in the future. In many cases people with disabilities who have skills to offer but could not work full time could undertake this kind of work. This measure also ensures that in assessing whether a person has a continuing inability to work Centrelink takes into account the range of services and assistance that is available to assist a person with a disability in realising and developing their skills and their work capacity. In addition, the measures remove the relevance of a person’s place of residence in determining whether the person has a continuing inability to work. This aspect of the measure recognises that a person should not be granted DSP based on their age or where they live but rather on their capacity to undertake work.

This measure represents a real investment in people with disabilities. The increased assistance funded as part of this package will help people with disabilities to improve their competitiveness in the labour market. The government will over three years purchase up to an extra 73,000 places in services, including additional employment assistance, rehabilitation, pre-vocational assistance, education and training to help people with disabilities find employment. The government will use the rest of the savings from this measure to contribute to a range of disability services as part of the third Commonwealth-state disability agreement. This is an unparalleled growth in Commonwealth assistance for people with disabilities. More people will have access to financial assistance to help meet the cost of participation through payments such as mobility allowance, the language, literacy and numeracy supplement, Work for the Dole supplement and employment and educational entry payments. These changes are about improving the work capacity of people with disabilities and assisting them to participate to their full potential. I commend the bill to the House.

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

Question put.

The House divided. [5.02 p.m.]

(The Speaker—Mr Neil Andrew)

Ayes............. 75
Noes............. 56
Majority......... 19

AYES

The House divided. [5.10 p.m.]

(The Speaker—Mr Neil Andrew)

Ayers……….. 75
Nees……….. 56
Majority…… 19

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, I.R.
Charles, R.E. Ciobo, S.M.
Cobb, J.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. * Galle, C.A.
Gash, J. Georgiou, P.
Haase, B.W. Hardgrave, G.D.
Hartley, L. Hawker, D.P.M.
Hockey, J.B. Hill, K.E.
Hunt, G.A. Jull, D.F.
Kelly, D.M. Kelly, J.M.
Kemp, D.A. King, P.E.
Ley, S.P. Lindsay, P.J.
Lloyd, J.E. Macfarlane, I.E.
McArthur, S. * McGauran, P.J.
Moylan, J. E. Nairn, G. R.
Nelson, B.J. Neville, P.C.
Panopoulos, S. Panopoulos, S.
Prosser, G.D. Prosser, G.D.
Randall, D.J. Secker, P.D.
Schultz, A. Smith, A.D.H.
Sliper, P.N. Southcott, A.J.
Somlyay, A.M. Thompson, C.P.
Stone, S.N. Toller, D.W.
Ticehurst, K.V. Tuckey, C.W.
Truss, W.E. Vale, D.S.
Vaile, M.A.J. Washer, M.J.
Wakelin, B.H. Williams, D.R.
Williams, D.R.

NOES
Adams, D.G.H. Albanese, A.N.
Andren, P.J. Beazley, K.C.
Bevis, A.R. Burke, A.E.
Byrne, A.M. Corcoran, A.K.
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. Fitzgibbon, J.A.
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. Jenkins, H.A.
Katter, R.C. Kerr, D.J.C.
King, C.F. Lawrence, C.M.
Livermore, K.F. McClelland, R.B.
McFarlane, J.S. McLeay, L.B.
McManus, R.F. Melham, D.
Mossfield, F.W. Murphy, J. P.
O’Connor, G.M. O’Connor, B.P.
Plibersek, T. Price, L.R.S.
Quick, H.V. * Ripoll, B.F.
Roxon, N.L. Sawford, R.W.
Sercobbe, R.C.G. Sidebottom, P.S.
Smith, S.F. Snowden, W.E.
Thomson, K.J. Vanvakinou, M.
Wilkie, K.

* denotes teller

Question agreed to.

Question put:
That this bill be now read a second time.
Mr ANTHONY (Richmond—Minister for Children and Youth Affairs) (5.11 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a second time.

Third Reading

Mr ANTHONY (Richmond—Minister for Children and Youth Affairs) (5.11 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

COMMONWEALTH ELECTORAL AMENDMENT BILL (No. 1) 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 5), before item 1, insert:

1AA Subsection 287(1)

Insert:

designated federal party has the meaning given by subsection 287B(1).

2 Schedule 1, page 3 (after line 9), after item 1, insert:

1A At the end of Division 1 of Part XX

Add:

287B Designated federal party

(1) For the purposes of this Part, a designated federal party is a registered political party (other than the Liberal Party), where:

(a) there are 2 or more State branches of the party; and

(b) there is in force a choice under subsection (2) that the party be treated as a designated federal party for the purposes of this Part.

(2) The registered officer of a registered political party may, on behalf of the party, give the Electoral Commission a written notice stating that the party chooses to be treated as a designated federal party for the purposes of this Part.

(3) A choice under subsection (2) may be revoked at any time by the registered officer by written notice given to the Electoral Commission.

(4) Despite subsection (3), a choice under subsection (2) must not be revoked during the period:

(a) beginning at the start of the polling day for an election; and

(b) ending on the 14th day after the day on which the writ for that election is returned.

(3) Schedule 1, item 2, page 3 (after line 30), after paragraph (b), insert:

(ba) if:

(i) the party is a designated federal party or a State branch of a designated federal party; and

(ii) a notice for the election is in force under subsection (5H) in relation to the State branch of the designated federal party that is organised on the basis of the State or Territory in which the candidate or candidates stood for election;

pay the applicable federal percentage of the amount to the agent of the designated federal party and the applicable State percentage of the amount to the agent of the State branch of the designated federal party mentioned in subparagraph (ii); or

(bb) if:
(i) paragraph (ba) does not apply; and

(ii) the party is a designated federal party or a State branch of a designated federal party;

pay the amount to the agent of the designated federal party; or

(4) Schedule 1, item 3, page 4 (after line 23), after paragraph (aa), insert:

(aaa) if:

(i) the members of the group were endorsed by one registered political party and that party is a designated federal party or a State branch of a designated federal party; and

(ii) a notice for the election is in force under subsection (5H) in relation to the State branch of the designated federal party that is organised on the basis of the State or Territory in which the members of the group stood for election;

pay the applicable federal percentage of the amount to the agent of the designated federal party and the applicable State percentage of the amount to the agent of the State branch of the designated federal party mentioned in subparagraph (ii); or

(aab) if:

(i) paragraph (aaa) does not apply; and

(ii) the members of the group were endorsed by one registered political party and that party is a designated federal party or a State branch of a designated federal party;

pay the amount to the agent of the designated federal party; or

(5) Schedule 1, item 3, page 4 (line 24), omit “and (aa)”, substitute “, (aa), (aaa) and (aab)”.

(6) Schedule 1, item 3, page 5 (after line 37), after paragraph (ad), insert:

(ae) if the members of the group were endorsed by 2 registered political parties, only one of those parties is a designated federal party or a State branch of a designated federal party, and a notice for the election is in force under subsection (5H) in relation to the State branch of the designated federal party that is organised on the basis of the State or Territory in which the members of the group stood for election:

(i) divide the payment into such shares as are agreed upon between the agents of the State branches of those parties that are organised on the basis of the State or Territory in which the members of the group stood for election or, in the absence of agreement, into such shares as the Electoral Commission determines; and

(ii) in the case of the share applicable to a State branch of the designated federal party in accordance with that agreement or determination, as the case may be—pay the applicable federal percentage of the share to the agent of the designated federal party and the applicable State percentage of the share to the agent of the State branch of the designated federal party; and

(iii) in the case of the share applicable to the agent of the other party in accordance with that agreement or determination, as the case may be—pay the share to the agent of the other party; or

#af) if paragraph (ae) does not apply, the members of the group were endorsed by 2 registered political parties, and only one of those parties is a designated federal party or a State branch of a designated federal party:

(i) divide the payment into such shares as are agreed upon between the agents of the State branches of those parties that are organised on the basis of the State or Territory in which the members of the group stood for election or, in the absence of agreement, into such shares as the Electoral Commission determines; and

(ii) in the case of the share applicable to a State branch of the designated federal party in accordance with that agreement or determi
nation, as the case may be—pay the share to the agent of the designated federal party; and

(iii) in the case of the share applicable to the agent of the other party in accordance with that agreement or determination, as the case may be—pay the share to the agent of the other party; or

(7) Schedule 1, item 4, page 6 (line 1), omit “and (ad)”, substitute “, (ad), (ae) and (af)”.

(8) Schedule 1, item 5, page 6 (line 4), after “(ad)(i)”, insert “, (ae)(i), (af)(i)”.

(9) Schedule 1, item 6, page 6 (line 15), omit “The”, substitute “For the purposes of subsection (5E), the”.

(10) Schedule 1, page 6 (after line 21), at the end of item 6, add:

(5H) The registered officer of a designated federal party may, before the polling day for an election, give the Electoral Commission a written notice determining that, for the purposes of the application of this section to the election:

(a) a specified percentage is the federal percentage applicable to a specified State branch of the party; and

(b) a specified percentage is the State percentage applicable to a specified State branch of the party.

(5J) For the purposes of subsection (5H), the sum of:

(a) the federal percentage applicable to a particular State branch of a designated federal party; and

(b) the State percentage applicable to the State branch of the party;

must be 100%.

(5K) A notice under subsection (5H) has effect accordingly.

(11) Schedule 1, page 6 (after line 21), at the end of the Schedule, add:

7 After section 299

Insert:

299A Method of making payments

Payment by direct credit or by cheque

(1) If the Electoral Commission is required to pay an amount under section 299 to the agent or principal agent of a party, the Electoral Commission must pay the amount:

(a) if the party has nominated a bank account for the purposes of this section—to the credit of that account; or

(b) otherwise—by cheque payable to the party.

Nominated bank account

(2) A bank account nominated by a party for the purposes of this section must satisfy the following conditions:

(a) the account must be maintained by the party;

(b) the account must be with a bank;

(c) the account must be kept in Australia;

(d) the account name must consist of, or include:

(i) if the account is maintained by a registered political party—the name of the party as it appears in the Register of Political Parties; or

(ii) if the account is held by a State branch of a political party, and the branch is not a registered political party—the name of the State branch.

Name on cheque

(3) For the purposes of this section, a cheque is taken not to be payable to a party unless:

(a) if the party is a registered political party—the cheque is made out:

(i) if a determination under subsection (4) is in force in relation to the name of the party—in the special abbreviation of the name of the party; or

(ii) otherwise—in the name of the party, being the name as it appears in the Register of Political Parties; or

(b) if the party is a State branch of a political party, and the branch is not a registered political party—the cheque is made out:

(i) if a determination under subsection (4) is in force in relation to the name of the State branch—in the special abbreviation of the name of the State branch; or

(ii) otherwise—in the name of the State branch.
Abbreviation of party names

(4) The Electoral Commission may, by notice published in the Gazette, determine that a specified abbreviation of the name of a party is a special abbreviation of the name of the party for the purposes of this section.

(5) The Electoral Commission must publish a copy of a notice under subsection (4) on the Internet.

(6) Before making a determination under subsection (4) in relation to a party, the Electoral Commission must consult the party.

(7) To avoid doubt, if a cheque under this section is made out in the special abbreviation of the name of a party, the cheque is as valid as it would have been if it had been made out in the name of the party.

Dispatch of cheques

(8) To avoid doubt, if a cheque under this section is payable to a party, this section does not prevent the Electoral Commission from dispatching the cheque to the agent or principal agent of the party.

Definitions

(9) In this section:

bank means a body corporate that is an ADI (authorised deposit-taking institution) for the purposes of the Banking Act 1959.

party means a registered political party or a State branch of a registered political party.

(12) Schedule 1, page 6 (after line 21), at the end of the Schedule, add:

8 After section 306A

Insert:

306B Repayment of gifts where corporations wound up etc.

Where:

(a) a political party, a candidate or a member of a group receives a gift from a corporation being a gift the amount of which is equal to or exceeds $1,000; and

(b) the corporation within a period concluding one year after making the gift has been wound up in insolvency or wound up by the court on other grounds;

an amount equal to the amount of the gift is payable by the political party to the liquidator and may be recovered by the liquidator as a debt due to the liquidator by action, in a court of competent jurisdiction against:

(c) in the case of a gift to or for the benefit of a political party or a State branch of a political party:

(i) if the party or branch, as the case may be, is a body corporate—the party or branch, as the case may be; or

(ii) in any other case—the agent of the party or branch, as the case may be; or

(d) in any other case—the candidate or a member of the group or the agent of the candidate or of the group, as the case may be.

Note 1: The gift received by the liquidator is an asset of the corporation to be distributed under the provisions of the Corporations Act 2001.

Note 2: This section applies to gifts made after the commencement of this provision.

(13) Schedule 1, page 6 (after line 21), at the end of the Schedule, add:

9 After subsection 316(2C)

Insert:

(2D) Where a body corporate, unincorporated body or individual has made a gift or disposition of property of $25,000 or more to a registered political party or candidate, an authorised officer must conduct an investigation of that gift or disposition of property in accordance with this section.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (5.12 p.m.)—I move:

That the amendments be agreed to.

Question agreed to.

AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION LEGISLATION AMENDMENT (TERRORISM) BILL 2002

Second Reading

Debate resumed.
The SPEAKER—The original question was that this bill be now read a second time. To this the honourable member for Banks has moved an amendment that all words after 'That' be omitted with a view to substituting other words. The question now is that the words proposed to be omitted stand as part of the question.

Mr RIPOLL (Oxley) (5.14 p.m.)—Some have suggested it is not possible to effectively eliminate terrorism while respecting human rights. This suggestion is fundamentally flawed. The only long-term guarantee of security is through ensuring respect for human rights and humanitarian law. The essence of human rights is that human life and dignity must not be compromised and that certain acts, whether carried out by state or non-state actors, are never justified, no matter what the ends. At the same time, human rights and humanitarian law are tailored to address situations faced by states, such as public emergency, challenges to national security and periods of violent conflict.

This body of law defines the boundaries of permissible measures, even military conduct. It strikes a fair balance between legitimate national security concerns and fundamental freedoms. Mary Robinson said this: Ensuring that innocent people do not become the victims of counter-terrorism measures should always be an important component of any anti-terrorism strategy.

A thought that may be appropriate at this stage of this debate might be the way that government and police powers are always on the increase. You will never see a situation where we come to this place to move legislation to decrease those powers. My real concern is that while this legislation is designed to bring about huge increases in these powers, it is inevitable, as always happens with these types of bills, that at some later point they will come to us again for a further extension of powers.

My view is that the powers that are currently in existence are sufficient. If we really want to remove the fear, if we want to make people feel safer and more secure at home, then we will not do it through this bill; we will do it through good legislation, through proper security and through demonstrating that the government, the police and the intelligence organisations can deal with our own citizens in a proper manner. To me that is the correct path to follow: not to increase their powers in an unlimited way. (Time expired)

Mr BRENDAN O’CONNOR (Burke) (5.16 p.m.)—When we consider the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002, I think it is fair to say that we are considering it in the way that we considered the legislation with regard to antiterrorism: we consider it in light of the awful events of September 11 last year. We do that because clearly the need for legislation to secure Australia’s citizens and sovereignty has become more important as result of those events. It is important to note that this bill is in some way related to the efforts by this parliament to come up with what I think in the end was good law to combat terrorism. So, when asked to consider the proposed antiterrorism legislation some months ago, members were really being asked what parliamentary response was required after the tragic events of September last year in New York and Washington, what new laws were required to counter the real threat of terrorism, and also what was needed to maintain societal calm and to restore Australia’s confidence. Was parliament striking a sensible balance between, on one hand, the defence and security of the sovereignty and citizens of this nation and, on the other, the maintenance of the country’s enviable democratic rights and individual freedoms?

Despite the government’s rhetoric about the urgency, it should be noted that it took nine months before the matter was properly considered in this place. The bills were introduced to the House about six months ago. At the time the Attorney-General provided no notice to the opposition when he introduced those badly constructed bills that clearly failed to distinguish terrorist violence from other forms of violence already covered by domestic laws. Worse still, I think it is important to remember that the bills when introduced contained provisions that could have allowed for industrial action or community protest to be dealt with, potentially, as terrorist offences and provided the Attorney-General with powers to ban organisa-
The bills would also have enabled prosecutions for terrorism without proving an intention to commit a terrorist act.

The Labor Party, through its caucus and caucus committee, in consultation with a broad range of community groups—and it is particularly important to note the work of Senator Faulkner and the member for Banks, Mr Melham, and their staff—crafted a raft of amendments which civilised the government bills in relation to those important matters. I want to note that the Attorney-General and the government ultimately accepted the logic and appropriateness of the amendments. When the amendments were put I think it is fair to say that they accepted they had gone too far, and they should be commended for wisely acceding to Labor’s amendments. Indeed, it was only after that process that we were able to pass the antiterrorism legislation.

It is important to note how differently this bill is being treated by the government. The government has not responded in the same manner with regard to the ASIO bill. The Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002, like some of the earlier antiterrorism bills, is a badly constructed piece of legislation and fails dismally to strike the right balance between security on one hand and freedom on the other. More than that, this bill is substantively flawed because it converts ASIO, an intelligence gathering body, into a law enforcement agency or—as some would aptly if pejoratively put it—into a secret state police force.

In failing to properly strike the right balance, the bill fails to achieve its purpose. We have been constantly reminded by leaders and commentators that the goal of terrorists is to strike fear into a community, to create division and to have its targeted victims turn in on themselves. If this is the terrorist objective, then certain draconian provisions of this bill will be seen as a victory for terrorism.

The bill as introduced in March this year will enable ASIO to detain adults and children, to have them strip searched and to hold them for 48 hours—which, under the bill, can be indefinitely extended. For a body that has never had detention powers before, this provision is alarming to say the least. I should also add that the bill would allow for detainees—and they could be Australians—who are not suspected of committing an offence to be so held. Those detained would not have the right to legal representation, although the government is now considering allowing such a right after the first critical 48-hour period. We would have a situation whereby innocent citizens of Australia could well be detained, but they would have no recourse to legal representation until after two days of detention.

The concerns raised about the bill have been well considered on this side of the House. They have been considered passionately, and certainly there has been bipartisan support to some extent on the two parliamentary committees that have spent a large amount of their time and energy considering this bill. The committees have opposed many of the provisions of the bill, strongly asserting that it would violate Australian citizens’ human rights.

The bill is clearly without precedent. It has been about 50 years since Menzies’ attempt to ban the Communist Party in 1950. That issue is in some way analogous to what is going on now. The committees that oversaw this legislation outlined a series of amendments that included a seven-day limitation on detention, a three-year sunset clause, a prohibition upon minors being interrogated or detained, protections against self-incrimination, and legal representation provided by security-cleared counsel. But the government has not accepted these measures.

Unlike the antiterrorism legislation amendments, particularly the changes sought and achieved to the Security Legislation Amendment (Terrorism) Bill 2002, the government appears less willing to move from the current draconian stance reflected in some of the provisions of this bill. This may be partly due to the government’s sensitivity about presenting such badly constructed bills to the House. It may consider that backing down will add further embarrassment to a government that stresses legislative urgency but prevaricates and then produces such a thoughtless and flawed bill. I say to the gov-
ernment that if this is their concern, then saving face is not nearly as important as preserving our civil rights and freedoms. But it is more likely that the inflexibility of the government on this matter has more to do with playing politics. Indeed, the Prime Minister and the Attorney-General have been considering this bill through the prism of populism.

Having made a success of wedge politics over the refugee issue, the Prime Minister is looking on the horizon for another *Tampa* and hopes that this legislation could be it. It is a bill so draconian and so undemocratic that it was always going to draw opposition from the Labor Party and many community organisations. Why else would the bill be introduced to the House in this form? When the bill is compared with comparable laws in the United States, the United Kingdom and Canada, it goes further in a number of crucial ways. Firstly, the above mentioned countries do not allow for their own citizens to be secretly detained. Secondly, citizens in those countries have recourse to legal representation and, moreover, there are no provisions in those countries for citizens to be detained where they are not suspected of any terrorist offence.

A week after the attack on New York and Washington, an understandably shaken United States President signed a military order authorising non-citizens suspected of terrorism to be detained and tried for violation of the laws of war. Our government wishes to provide powers to detain our own citizens not suspected of any terrorist act. Bush, a the week after the attack on New York and the US capital, restricted detention to non-citizens who were suspected.

It would be fair to say that, in recent times, the United Kingdom has had to deal with a far greater threat from terrorist acts than Australia. The Prevention of Terrorism Acts 1974-89 permitted the arrest and detention of anyone ‘reasonably suspected’ to be ‘concerned in the commission, preparation or instigation of acts of terrorism’. These UK acts were superseded by the Terrorism Act 2000, which was introduced and passed by the Blair government. This new act introduced safeguards by transferring the power to extend detention from the Secretary of State to the judiciary. The UK has quite rightly limited the powers of the executive and recognised the need to uphold the principle of the separation of powers, which is sadly lacking in this bill.

In contrast to those countries with which we share common democratic values but which, I think it is fair to assert, have experienced greater terrorist acts and have a more imminent fear of terrorism, Australia will have responded in an excessive and intemperate manner if it enacts this ASIO bill. The Labor Party opposes this bill because it fails to protect our cherished democratic rights in a clumsy effort to attack terrorism. Unlike the final outcome of the antiterrorism bills, the government appears to be hell bent on riding roughshod over Australia’s long-held principles. The parliament must provide effective and tough laws that target terrorism. In doing so, the laws must not surrender the rights of Australians. Otherwise, to a large extent, terrorism has already won.

The important thing to note is that there has been a stark contrast between the way in which the government has dealt with this bill as opposed to the antiterrorism bills. It is now up to the government to consider acting in a much more responsible manner than it has to date. The only way that can occur is to ensure that proper discussion takes place between the appropriate shadow ministers and the minister responsible so that we can look to achieving the outcome that was so successfully undertaken and determined by this House on the antiterrorism bills. That is the way this government should operate in this matter. What it has not done is attempt to engage with the opposition to find a solution that will sort out this problem. Until it does, I do not think we will be able to find common ground on such an important matter as this bill. Labor are not against ensuring there are laws that will protect the security and sovereignty of this country. However, until the government stops playing politics with this issue, we will not be able to support the bill.

**ADJOURNMENT**

The SPEAKER—Order! It being 5.30 p.m., I propose the question:

That the House do now adjourn.
Media: Journalism Standards

Dr EMERSON (Rankin) (5.30 p.m.)—In seeking to capitalise on racial tensions in the aftermath of horrific gang rapes in Sydney by a group of Lebanese youths, Janet Albrechtsen used her column in the *Australian* on 17 July this year to condemn ‘gutless censorship from multicultural man’. Under the banner ‘The cultural divide’ and the heading ‘Blind spot allows criminal barbarism to flourish’, Ms Albrechtsen quoted a French psychotherapist to back her allegation that France had ignored the problem of gang rapes by young Muslim men for years. Albrechtsen wrote:

Pack-rape of white girls is an initiation rite of passage for a small section of young male Muslim youth, said Jean-Jacques Rassial, a psychotherapist at Villetaneuse University. *Media Watch* went to the source article and alleged Albrechtsen had misquoted the psychotherapist, having herself added in the words ‘white’ and ‘Muslim’. Full of self-righteous indignation, Albrechtsen denied all allegations against her, accusing *Media Watch* of ‘bias and dishonesty’, of ‘suppressing speech with which it disagrees’ and having ‘been hijacked by sectional interests’. I have obtained the original source, an article published in the *London Times* in December 2000. The article reported that the psychotherapist had:

...said gang rapes had become an initiation rite for male adolescents in city suburbs.

There is no reference to ‘white’ and no reference to ‘Muslim’. Albrechtsen herself inserted those terms, deliberately misquoting the psychotherapist to support her own preconceived views. This is not sloppy journalism; it is dishonest journalism. Ms Albrechtsen did not fail to check her source. She checked it all right—and doctored what he had to say, to deceive the public in her column. I say to Ms Albrechtsen: if your case is strong, you do not need to deliberately misrepresent the views of experts and deceive your readership into believing an independent expert has backed you up.

In her online opinion, Ms Albrechtsen is maintaining she did not misrepresent the French psychotherapist. The obvious way of testing that is to ask him what he said. *Media Watch* has done just that. His answer: he did not use the words ‘white’ or ‘Muslim’. He went on to say:

There would be grounds, in France, to insist on a correction, even sue for defamation; may I ask you make it known that I strongly disassociate myself from the remarks attributed to me which are the opposite of my views.

In referring to gang rape, he said:

There is absolutely no connection between the cultural background, even less between the ethnic one, and this practice.

Another columnist seeking to capitalise on racial tensions is Miranda Devine. She wrote, on 12 August 2002:

Why did it take two years and as many as 70 rapes for us to be made aware of what appears to be a home-grown form of systematic ethnic cleansing by a group of men said to be of ‘Middle Eastern’ extraction? How many girls and young women have been sacrificed because no-one wanted to offend ethnic sensibilities or inflame racist feelings in the community?

I have with me six media releases from the New South Wales Police issued over a period of 11 months to the time of Ms Devine’s piece, where she alleges a conspiracy of silence hatched out of political correctness. These media releases include news of investigations into the rapes, arrests and charges and a warning to women not to take unnecessary risks in the light of serious sexual assaults in the Bankstown area. Some of them are titled: ‘Police investigate sexual assaults in south-western Sydney’, ‘Two charged in arrests’ and so on. If Ms Devine were doing her job, she would have reported these media releases. Instead, she ignored them because they totally disprove her allegation of a cover-up. It is all in a day’s work when conservative columnists seek to capitalise on racial tensions—the truth being the very first casualty.

Gilmore Electorate: Isabel Story

Mrs GASH (Gilmore) (5.34 p.m.)—I speak tonight on behalf of Isabel Story, aged 15 of Cambewarra. She goes to Bomaderry high school and is in year 10. Isabel has been with me for the last two weeks for work experience. Last week, she was in my electorate office and this week she has been at Par-
liament House. She is sitting in the public gallery. These are her words:

Well, how fast these two weeks have gone. I have greatly enjoyed both my week at the electoral office and my week here in Parliament.

I have greatly extended my knowledge on what it is to be a politician in the past two weeks. I was expecting politicians to sit down at their desks and do more paperwork then the reality of being constantly running to the next meeting or village stop.

I also didn’t think that politicians would keep such long hours or be able to fit so many things into one day.

After two weeks of trying to keep up with such a hectic schedule, I feel like I have been on a whirlwind tour of Cairns—I am not quite sure why you picked Cairns—and have enjoyed every bit.

I arrived for my first day at the electorate office, very nervous, when I was viciously attacked by a howling beast—that really turned out to be Tuppence, the electoral office’s resident cute little white fluffy dog.

After I was over my scare, I was put to work on what I was told was a very important job—stick ing labels on pamphlets. But things weren’t always as fun as label sticking.

I went on a village stop to Moss Vale to meet and greet the local people and to see if we could find ways to help make their lives better.

One of the hardest things I found during my first week was trying to work the office’s electrical equipment, with mixed results. I managed to stuff up the photocopier and the fax machine and, after that, I left it alone.

During my week in Parliament, I was given the opportunity to ask members of parliament or their advisers from different political parties about issues that I was interested in, as a young person who may get the chance to vote for the first time in the next election.

This helped me to understand what each party’s policy was on aspects of immigration, health, education and the environment and also helped show the differences in ideas and what is valued as most important between the parties.

I appreciated the time these people have made in their busy schedule to come and talk to me.

The first thing you need to learn in parliament is your way around. A very daunting task for your average teenager, to whom every corridor looks the same as the last.

To all the people who gave me directions, thankyou, you are wonderful people. I think they are called the grey people—but they certainly brightened up my days.

So for two weeks I’ve been listening to debates on Iraq and ethanol, asked questions on everything from myna birds to migration to meningococal, met the treasurer, and senators, and members of parliament and advisers from three different parties, as well as ministers of the government. I was also invited to attend the Parliamentary Christian Breakfast, where I met Paul Stevens the footballer and listened to his experiences.

I’ve listened to people’s problems and congratulated graduates and broke the printer.

Did you! She continues:

I watched question time in the Senate and the House of Representatives, learnt about main committee and have almost been flattened by a senator on the run to a division.

I mean, how many people my age can say they’ve done all that?

I don’t believe that young people know enough about politics and would encourage any young person to come down to Canberra or their local electoral office and see how the country is run for themselves.

I thank the House for the opportunity of being able to record my time in Parliament House.

Isabel is someone I am very proud of. She has a great future ahead of her. It was a privilege to have had her work in my offices. As I so often say in this House, our young people are a credit to Australia. Isabel is here with her grandmother, Mrs Craddock—‘Toots’ for short. I mention this as there is a great bond between the two, as Isabel lost her mother to cancer many years ago. Also, I must confess that Toots and I used to be archenemies on the track in the field of go-kart racing. I now take the opportunity to publicly state something I have never done before: Toots, you were pretty good. In fact, I believe that even today we could show the youngsters a thing or two on the track. To Isabel: I think you will go on to great things. Always remember that we here in the House expect to hear a lot more from you.

Ferguson, Mr Jack

Mrs IRWIN (Fowler) (5.39 p.m.)—This week saw the passing of a great leader of the Labor movement, Jack Ferguson—not that Jack would have liked that description.
Throughout his career, Jack despised those with egos bigger than their commitment to the Labor movement that he loved. Jack left school at the age of 13 to help his family through the later years of the depression. After war service in New Guinea, he took up the trade of bricklaying. Jack built his home in Guildford, where he and his wife, Mary, raised their five children. His two older sons, Laurie and Martin, now serve in this House as the member for Reid and the member for Batman, respectively. Jack served on Parramatta City Council before being elected to the New South Wales parliament for the seat of Merrylands in 1959.

I first came to know Jack when, as a young girl, I would attend local Labor Party functions at the Ferguson home. I came to know him better when I became his first electorate secretary in 1975. Jack was at that time the Deputy Leader of the Opposition, and in 1976 he became Deputy Premier of New South Wales. A measure of Jack’s character came when, as public works minister, he was forced to close the Newcastle State Dockyard. Jack did not leave the task to his bureaucrats. He went to Newcastle and faced the workers to tell them they would lose their jobs. In doing so, he earned the respect of the workers in spite of the closure.

Throughout his life Jack Ferguson was both influenced and respected by many women, including his mother, who introduced him to the Labor Party, and his wife, Mary, who took on the task of raising the family while Jack pursued his career. Mary also maintained the family’s links to Saint Patrick’s Catholic Church in Guildford, and acted for many years as his unpaid secretary. Jack encouraged and mentored those women who served with him: Delcia Kite, a member of the New South Wales Legislative Council; Hazel Wilson, who served on his ministerial staff; and my mother, Lois Welsh, who also served as his electorate secretary. All were influenced by his character and determination and held him in great esteem and affection.

Jack Ferguson was one of the last of that breed of Labor men who could call themselves self-educated. Jack read every book he could get his hands on. According to local

myth, Jack Ferguson had read every book in the old Guildford Library. As Deputy Premier, he took great delight in showing the extent of his knowledge at the expense of his university educated staff. Through his membership of the ALP and his beloved union, the Building Workers Industrial Union—which his son Andrew now leads—Jack developed the political skills that made him a key partner in the Wran Labor government. He rose to the leadership of the Left faction in New South Wales, which he united and led to a position of influence in government.

On his retirement, the cracks that emerged in the faction caused him great sorrow. But when he left public life in 1984, true to his word, he preferred to grow cabbages rather than haunt the corridors of power as others have done.

When my husband, Geoff Irwin, succeeded Jack in his seat of Merrylands, many people warned him that he had big shoes to fill. But Jack assured him that it was his hat size he should worry about, not the size of his shoes. Jack Ferguson had a great influence on my life. While I have swapped jerseys in factional terms, I have remained true to the values that Jack believed in. He was a mentor to many in public life and, in spite of his no-nonsense approach, he was admired and respected by all sides of politics. I would like to express my condolences to Mary, Laurie, Martin, Deborah, Andrew, Jennifer, their partners and Jack’s grandchildren on their loss. The Labor movement has lost a great leader and a true socialist. Farewell, Comrade.

Indigenous Affairs: Native Title

Mr TOLLNER (Solomon) (5.44 p.m.)—I rise to speak about an issue that is fundamental to every nation in the world, one that has sparked more disputes and more wars than religion and politics combined—that is, the ownership and administration of land. As members of this House are aware, the Northern Territory has been uniquely chosen in all Australia as the home of the Commonwealth’s Aboriginal Land Rights Act (Northern Territory) 1976. This is an act that established a process, a bureaucracy and special authorities for the transfer of tracts of claimed Northern Territory land from public
ownership to the perpetual and inalienable ownership of successful Aboriginal claimants.

When the act was passed in 1976 the then Minister for Aboriginal Affairs, Ian Viner, was warned that there could be a white backlash against land rights as some Territorians believed the act was discriminatory and a little bit more than hypocritical. It was not discriminatory on racial lines but discriminatory between one Australian and another, because this act applied to the Northern Territory and nowhere else in Australia. No state government has ever attempted to imitate the act in terms of scale or scope. The federal minister assured concerned Territorians in 1976 that, at most, 28 per cent of the Territory would transfer to such control. Of course, he was wrong. It now stands at some 56 to 58 per cent of the Northern Territory. Having issued these assurances, the Commonwealth made it the responsibility of the Northern Territory government to represent the public interest in any hearing of matters arising from the claims process.

The Labor Party, ever ready to exploit and encourage issues that may divide Aboriginal Territorian from non-Aboriginal Territorian, has parroted over the years that the Northern Territory government has opposed every land claim that has ever been lodged. Today the Labor Party, as the Territory government and with the same duty and responsibility to the public as the previous CLP government, says that it must represent the public interest and Aboriginal claimants know and understand that. The irony does not escape my constituents. They see and understand the hypocrisy. They see and understand the politics at work. But this week the Northern Territory Labor government faces a new dilemma: the public knowledge that nearly six months ago the minister for indigenous affairs placed before the Territory government an options paper on possible changes to the Aboriginal Land Rights Act (Northern Territory) 1976. Among those options was the proposal that all or part of the act be transferred to the Northern Territory government’s executive authority.

Today the Chief Minister of the Northern Territory, the Labor Chief Minister, was asked for her response. She said, twice, ‘Certainly, repatriation is not on our agenda.’ I find this absolutely extraordinary. It is simply unbelievable that the current Territory government has no interest in gaining executive authority over the land laws that govern more than half of the Northern Territory. Patrimony of the land rights act to the Territory, and indeed the transfer of all outstanding responsibilities remaining in the hands of the Commonwealth that would normally be a state responsibility, has been central to CLP policy since self-government. You have to ask yourself why the current Labor government in the Northern Territory does not want this authority. The answer is obvious to all Territorians, Aboriginal and non-Aboriginal: the land councils rule.

The Labor government have said that they are currently negotiating with the land councils on the question. That is simply not true. Yes, they are negotiating on changes to the land rights act in regard to mining and other issues, but there is no way that one word has been said across the table about the possible repatriation of the land rights act to the Territory government. Labor would not even bother to ask. They know what the land councils’ response would be. It would be two words. It would be emphatic. It would be monosyllabic. It would be non-negotiable. The question must then be asked: at what point can the responsibility of the Northern Territory government to represent the best interests of the great majority of their constituents be subjugated to the vested interest of a minority, who are their keenest supporters and advocates? The answer must be: never. As a representative of the people of the Territory in this House, I say to the Territory government: you have been given an opportunity to truly represent your constituency. This you have failed to do. You have buckled to a minority. (Time expired)

Cleary, Mr Rob

Mr MURPHY (Lowe) (5.49 p.m.)—It is with deep regret that I report this evening to the House on the untimely passing, on the night of Wednesday, 4 September this year, of Mr Rob Cleary, the President of the Burwood Chamber of Commerce. He was aged only 58 years. Rob Cleary was an extraordi-
nary, community-spirited citizen whose good deeds for our community deserve special recognition in the House of Representatives. Like all of us who knew Rob Cleary, I was shocked to learn of his death. On behalf of my wife, Adriana, and all of Rob Cleary's extended Burwood family, I offer to Susan, his wife, our heartfelt sympathy.

Rob Cleary worked in restaurants and art galleries prior to the mid-1980s, when he started putting his energies into helping those less fortunate in our society. He acted as a houseparent and manager in a halfway house, the Rainbow Lodge at Glebe, working in a welfare and social work capacity for released male prisoners. Towards the end of the 1980s, he founded the outreach program at Ashfield Uniting Church providing hot meals to the needy and, in association with the Reverend Bill Crews, Rob’s Kitchen went on to become the Loaves and Fishes. The drug and alcohol counselling services he founded are still based at the Ashfield Uniting Church.

Rob married Susan in 1989 and joined her in her business—Natural Health Sense, Burwood—in 1995. They worked hard to make the business a success. When Rob Cleary became President of the Burwood Chamber of Commerce in 1999, he asked me to become a patron of his ‘bridging the gap’ initiative: a program to put real meaning into the lives of our youth, our future. This program was supported by the Burwood Chamber of Commerce, the Briars Sporting Club, the Burwood Police Citizens Youth Club and Burwood Westfield. As President of the Burwood Chamber of Commerce, Rob really made things happen for the people of Burwood. He put great energy and enthusiasm into many projects, including: the Burwood Town Centre plan, the Burwood Council Safety and Access Committee, the Burwood Festival, the Federation Ball, the Christmas lighting and decorating along Burwood Road, Eurella Community Services, the Young Achievers Awards, the Burch Awards, Australia Day Young Citizen of the Year Awards, Pollies for Small Business Day and his beloved ‘bridging the gap’ program.

Only last Sunday I said to Susan, in Burwood Park, that I had never seen a more successful Burwood Festival. That success was, in no small way, due to the efforts of Rob Cleary. Rob Cleary was apolitical. He was only interested in achieving outcomes for people and hated politics getting in his way. He asked nothing for himself and only sought help for others. He practised what he preached and he therefore commanded great respect in our community.

Rob Cleary had style. He had panache. He was creative and he was artistic. His personal effort to bring the atmosphere of the Hollywood Oscars to Burwood with the gala ball he organised in Burwood on 22 March this year—a ball to help young people—was an extravaganza never seen before in Burwood. Rob also had a great sense of humour. He loved his pet cats and even planned a Christmas party for the Burwood community’s household pets. He called this project BARK, and I was very proud when he asked me to be the patron.

Burwood will miss Rob Cleary. While no-one who knew Rob Cleary seriously believes anyone will be able to do the job as President of the Burwood Chamber of Commerce like he did, I can assure you, Mr Speaker, and the House this evening that Rob Cleary’s memory and great work will live on with the help and support of Susan and his many friends. Vale Rob Cleary—truly Burwood’s premier citizen for the new century.

Ms JULIE BISHOP (Curtin) (5.53 p.m.)—In a society that rejects racism, it is surprising that there appears to be one acceptable chauvinism—that of anti-Americanism—pushed so assiduously by the Left. We witnessed this anti-American sentiment in the opinion pages and in the letters to the editor pages in the months following September 11 as blame was attributed for the callous brutality of the attacks along the lines of, ‘What a terrible tragedy—but America, with its foreign policy, brought it on itself. America’s just reaping the harvest of its numerous imperialist crimes.’ So perhaps I should not have been surprised that an unfortunate and unedifying by-product of this week’s debate on Iraq was that certain left-
wing members of this House and the other place have felt free to unleash upon Australia’s foremost ally more of the old cliches and prejudices. I will not repeat it all. Suffice to say that it has stretched from the absurd, such as the supposition that US scepticism about multilateralism and the efficacy of United Nations action—a scepticism presumably shared in Rwanda, Bosnia and Zimbabwe, amongst others—is a far graver defiance of international law than the Iraqi regime’s expulsion of UN-appointed weapons inspectors, to the surreal, including a refusal to holiday in the United States after September 11 because the upsurge in American patriotism might be discomforting.

So why does the self-styled intellectual Left so hate America? It can have no basis in the facts of history—after all, the United States is the original revolutionary nation. It is the national embodiment of the liberating themes of the Enlightenment; a nation that crafted a constitutional republic founded on natural rights; a nation that makes poor men rich and refugees free; a nation that crushed Japanese militarism, Nazism and Soviet imperialism; a nation where the ideas of equality, opportunity, the tolerance of difference and the freedom to dissent find their strongest expression; and a nation that shares a common language, culture, system of governance and history with Australia. Certainly the United States is hegemonic. It has even been described as a hyperpower. But there can never have been a more benign or less imperial hyperpower in the story of mankind.

To quote Sheridan:

Any remotely objective observer would characterise the Bush administration as cautious and prudent, not to mention profoundly conscientious in seeking to include and protect US Muslims.

So why the hatred? I think Andrew Bolt diagnosed the condition best when he concluded a column last week thus:

But what has the US done? It’s done what the Left always demanded—made the poor richer and free. But it did it by ignoring the Left’s plans.

It did it by private enterprise, rather than socialism. By leaving the future to the people, not the Left elites...

Anti-Americanism? It’s merely the spite of frustrated bullies with far more pride than sense.

One of the tragedies of chauvinism is that it debilitates the chauvinist. By relying on prejudice rather than reason, the anti-American begins to self-distort and to swing ever more wildly away from their own principles. We can see it now in the pacifists who protect a regime that has invaded its neighbours in Iran and Kuwait, used chemical weapons against its own people and threatened the annihilation of Israel; in the antiracists who pardon the butchering of ethnic minorities; in the international legalists who would rather the UN disappeared into irrelevance than countenance action by the one member of the Security Council actually capable of bringing force to bear; and in the anticapitalists who would defend a dictator whose personal wealth, garnered solely by expropriation, is measured in the billions. Of course, there are also those who lament the state of the repressed and the miserable but would do nothing for them if it meant lining up alongside the President of the United States.

Earlier this year, the distinguished progressive scholar Michael Walzer asked in a Dissent essay, ‘Can there be a decent Left?’ Walzer was unsure. In a contemporary political culture where the Left is reflexively anti-American, it is uncertain that old prejudices can be abandoned in favour of a more disinterested but engaged assessment of American foreign policy. To Walzer, the first step was to ‘put decency first’. This I ask of the parliamentary and the extra-parliamentary Left.
debate, I wish to congratulate the Melbourne Phoenix on winning last Friday night’s Commonwealth Bank Trophy to become Australia’s champion netball team. In doing so, I also acknowledge the efforts of the Adelaide Thunderbirds, who were the runners-up. I do this not because I am necessarily a great netball fan—although I admit to being a spectator sportsman—but I admire the skills and the hard work of the elite players that played in that game. I have to simply say that I was appalled at the media coverage.

Too often, women’s sport gets scant regard throughout the media. I think that this is regrettable. Netball, as I understand it, is one of the highest participatory sports in Australia. We are the world champions at netball. This is the elite competition in Australia. If it was the other gender that was playing the sport, I believe it would have been covered much better. I believe these players are role models for female sportspeople. I think that young girls especially need encouragement to stay in sport. As I said, I congratulate the Melbourne Phoenix. I congratulate all netballers and I just hope that the media will pay much more attention.

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

House adjourned at 6.00 p.m.

NOTICES

The following notice was given:

Mr Mossfield to move:

That this House:

1. recognises that:

(a) young people have a diversity of talent and can provide a fresh insight into the creative industries;
(b) there is a need for positive promotion of young people and their achievements;
(c) young people wish to advance themselves by utilising work placement and work experience programs; and
(d) young people are willing to promote and enhance positive programs of a range of issues such as multiculturalism, education, the environment and social justice issues, including asylum seekers; and

2. urges the Government to:

(a) organise a collaborative effort by schools in local areas to provide the opportunity for students to audition, take part in and display their individual talents in a musical performance, with the help of local sponsorship and government funding, to provide a professional opportunity for students in creative areas;
(b) provide increased resources to support mechanisms to students in order to enhance educational opportunities and outcomes, including library facilities, syllabus management and student support infrastructure;
(c) provide incentives to employers to encourage their participation in work experience and work placement programs and to address the public liability insurance issues that are threatening such programs; and
(d) create youth sport and recreation facilities where young people can physically participate and interact with each other to promote better physical and mental well-being.
The DEPUTY SPEAKER (Hon. I.R. Causley) took the chair at 9.40 a.m.

STATEMENTS BY MEMBERS

Health: Medical Indemnity Insurance

Mr MURPHY (Lowe) (9.40 a.m.)—Last month I brought to the attention of the parliament some of the messages I had received from doctors and patients in my electorate of Lowe, expressing their concern about the long-term consequences of the collapse of United Medical Protection and the crisis in medical indemnity insurance. Sadly, it appears that the government has all but abandoned doctors, patients and Australian families, with a combination of broken promises and outright laziness.

As the member for Perth outlined in yesterday’s matter of public importance debate in the House, failure in public policy on health is a growing theme of this government. The Prime Minister guaranteed, on private health insurance, that any future change in private health insurance premiums would only be as a result of a decision at political level, when the government was satisfied that the rise was completely justified. This commitment evaporated in the late afternoon of 11 September, the timing of which reflects the growing arrogance of the government. We have already seen families under pressure hit with rises of between $150 and $250 a year. Now there will be automatic private health insurance premium increases every year without any scrutiny by the government. In addition, all taxpayers will pay more to fund the rebate—no protection for the consumer, no protection for the taxpayer.

As to pharmaceuticals, the government has increased by some 30 per cent the cost of essential medicines for pensioners and families under pressure. I refer to the answer by the Minister for Health and Ageing to my question No. 680 that I put on Notice Paper regarding the increase in payments concessions patients could face in 2003. The minister replied the other day that the government was still considering its position on the matter.

Bulk-billing rates in Australia are falling. The average fee people pay when they visit a non-bulk-billing GP has increased by 44 per cent in the life of this government. Now more and more doctors and specialists are seeking up-front payments. Why? To cover the problems they now find because of the medical indemnity insurance crisis.

With regard to medical indemnity, after months of inaction, it is now—as Craig Knowles said yesterday—one minute to midnight, with thousands of doctors deciding that they can no longer afford to bulk-bill or offer services at all. We have further reports in this morning’s papers: the Daily Telegraph has an article saying that neurosurgeons are ready to quit and in the Sydney Morning Herald there is an article titled ‘Patients to carry cost of indemnity levy: doctors’ which reads:

Thirty-thousand doctors caught in the crash of Australia’s biggest medical insurer are expected to learn within days the cost of a levy to be announced by the Federal Government.

The levy, which is expected to cost doctors thousands of dollars a year over several years depending on their risk category, would flow through to patient fees, doctors say, and could force specialists out of practice.

Australians deserve a government committed to public health, able to respond to a crisis and committed to ensuring affordable access for all Australians.
Health: Tough on Drugs Strategy

Mr KING (Wentworth) (9.43 a.m.)—One of the priorities of this government, in partnership with the states and territories, has been to strengthen the national effort to reduce the impact of illicit drugs in our community. The national approach being adopted through the $516 million Tough on Drugs strategy represents more than just a knee-jerk law enforcement response to this important issue. For while we have increased resources available to law enforcement agencies, the government has recognised that the long-term solution to deterring people from using drugs and forming addictions must also include education, treatment and rehabilitation. I am pleased that over $57 million has been provided to over 130 non-government organisations to improve access to treatment programs. I know that access to these programs is an issue in the eastern suburbs of Sydney and I hope that services will continue to expand.

Equally, the government has recognised the power of effective education programs in steering people, particularly the young, away from the perils of drug use. Those education programs have been designed to better equip both parents and our schools. Both can and do play an important role in setting role models and, through effective communication, alerting young people to the risks of drugs. It is often hard for parents to talk to their children about these issues without creating tension or building a wall of suspicion and misunderstanding. The program has been designed to help fathers and mothers overcome those problems.

In this regard, I want to draw the attention of the House to an excellent initiative recently undertaken by one of the schools in my electorate. Last week, I attended a drug forum convened by the Bondi Beach Public School, a fine school in the eastern suburbs. The forum was designed to bring teachers, parents, police and community services together to canvass drug issues that could affect students at that or any other school. I mention the forum here today because I was so genuinely impressed with the material presented by all those involved in the forum. I particularly acknowledge the school’s principal, Graeme Ross, who did an outstanding job in bringing the forum together, and the president of the P&C, Lyn McGimpsey.

The forum heard excellent presentations from Christine Sellick, one of the longstanding teachers at the school, and Sergeant Chris Stiles, who is the community liaison officer at Bondi Beach police station. Other contributors to the forum included Tom Henderson Brooks, who does a wonderful job as head of Anglicare. As a parent, I learned something, and I am sure those other parents present did as well. I commend the school for its initiative and I would encourage other schools in both the government and non-government sectors to consider organising forums such as this. They provide a unique opportunity for schools and the broader community to share information and forge a greater understanding of how we can respond to the challenges posed by drugs in our society.

Housing: Public

Mr TANNER (Melbourne) (9.46 a.m.)—Since the great Labor governments of the 1940s, the Commonwealth has contributed substantial sums of money to public housing in all of the states through the Commonwealth-State Housing Agreement. Although the Howard government has substantially cut funding under the CSHA, that Commonwealth contribution continues. However, there have been some suggestions that the government is considering abandoning the Commonwealth-State Housing Agreement. I call on the government to desist from any such considerations and to continue to fund public housing, which is a fundamental part of the social fabric, particularly in my electorate.
In the past, some people, on both sides of the political divide, have even argued that we should abandon the capital funding which the Commonwealth provides to the states for public housing and convert that money into some kind of rent assistance benefit. I would be very strongly opposed to that kind of approach, which I believe ultimately would lead to the privatisation of public housing by many, if not all, states.

I have a lot of public housing in my electorate. I have a very substantial proportion of Australia’s high-rise public housing. There are many problems. The estates have very serious problems with drugs, with security and with maintenance. There are many issues that need to be addressed. But it should be acknowledged that the Bracks Labor government in Victoria is putting substantial sums of money into public housing. The Kennett government did nothing for seven years. The Bracks government is putting money in and doing things like redeveloping some of the walk-ups in my electorate, which were in an absolutely disgraceful state. I look forward to that program continuing and accelerating.

The fact is that, despite all of the difficulties that exist, the high-rise estates in my electorate, broadly speaking, do work. People there live reasonable lives. They are in fairly basic circumstances, on low incomes, but they are surrounded by a whole array of services. In spite of all the difficulties people have to put up with, those estates should be maintained. They are where the services are; they allow the people in the estates who are on low incomes to access a wide range of services like transport and health services, unlike equivalent estates in other parts of the world which were put on the outer fringes of cities in isolated circumstances and which turned into ghettos. I believe that we should maintain, upgrade and improve our public housing estates in inner Melbourne, not contemplate selling them off or getting rid of them.

It is also important that tenants have their say in the running of public housing. The Bracks government has improved this to some degree. I think it should improve it more. The old system of funding tenant councils to provide a voice for tenants and a role for tenants to assist them was extremely good. It was abandoned by the Kennett government. I think it should be reintroduced.

Finally, there has been some suggestion that the running of public housing could be handed over to charitable agencies and not done by the government. I would oppose that very strongly. I think charitable agencies should stick to their core business of performing charitable duties and leave the administration of government activities like public housing to the government. (Time expired)

**Queen’s Birthday Honours List: Karim Kisrwani**

Mr ROSS CAMERON (Parramatta—Parliamentary Secretary to the Minister for Family and Community Services) (9.49 a.m.)—I want to acknowledge one of my constituents who received a Medal of the Order of Australia in the Queen’s Birthday Honours List. Karim Kisrwani is a migrant from Lebanon and has been in Australia now for 47 years. He is married to his extraordinary wife, Alice, and has four children—Marie, Joan, Anthony and Fabiola—and 10 grandchildren.

When I was first preselected for Parramatta, I was ushered into Karim’s office in his travel agency in Harris Park, where he presides as a sort of informal mayor of Harris Park and of the city of Parramatta. With some ceremony I was presented to this gentleman. I understood intuitively that something significant was taking place. I just was not quite sure what.

Over the last seven years, I have come to know this gentleman well. He is a servant of his community and instinctively reaches out to help those who are in need. He is a Maronite, but he has helped those from all streams of the Arabic speaking community—not just those from...
Representatives

6878
Main Committee
Thursday, 19 September 2002

Lebanon but those from all over the region. Countless new arrivals to the country have found themselves in Karim’s office being helped with housing. Many have been helped to bring a relative to a wedding or to have a spouse visa approved.

It is customary that when a new Australian ambassador is appointed to Lebanon they are likewise ushered into Karim’s travel agency and presented to this venerable gentleman. Such is the esteem and respect in which Karim is held by our own department of immigration that in many instances he has been more successful than the local federal member in achieving outcomes for constituents, which has at times caused a little embarrassment. But it is a mark of the respect in which Karim Kisrwani is held.

Karim is a man with a high regard for the truth. He has earned the honour of his community as a consequence of his good character, of his good judgment and of his willingness—without reward, without seeking glory, without seeking credit—to serve his community. It is with great pleasure that I acknowledge and applaud Karim’s award of an OAM in the Queen’s Birthday Honours List.

Regional Services: Rural Transaction Centres

Mr Hartsuyker (Cowper) (9.52 a.m.)—I spoke recently in the House of the small village of Bowraville in my electorate, where I had attended the memorial services on Long Tan Day and experienced the fine community spirit that exists there. I would like to again talk of the small town of Bowraville. I am pleased to announce that Bowraville has been successful in securing $222,000 which will go towards the cost of providing a rural transaction centre in that town, a very much needed facility. It is certainly part of the National Party’s role to provide services in regional and rural Australia. I know that you, Mr Deputy Speaker Causley, are very focused on providing services to your electorate of Page, as am I in the electorate of Cowper.

The Deputy Speaker (Hon. I.R. Causley)—I remind the member for Cowper that the chair does not represent an electorate.

Mr Hartsuyker—I am sorry, Mr Deputy Speaker. I know that you are very focused on providing services, as am I. The rural transaction program is a good one, providing much needed services in our isolated communities—financial, phone, fax, Internet, Medicare Easyclaim, Centrelink, printing and secretarial type services. RTCs are involved in the provision of a whole range of services, including insurance and tax assistance and even tourism and employment services, which are vital facilities in our smaller communities. The RTC facility is desperately needed in a town such as Bowraville, which has high unemployment, low income and low levels of car ownership.

I am extremely pleased that this application was successful because, on the face of it, Bowraville does not appear isolated. It is only about nine kilometres from the larger town of Macksville. Because there are such low levels of car ownership, it is very difficult for the people of Bowraville to get to the larger centres, so this will be a much welcomed facility. Once again, it is a great partnership between government and the community.

I commend the community of Bowraville. Robyn McGinley, Paul Cole, Claire Mellon, Terry Bates, Bernie Lawler, Lee Somerville, Colin Kemp and Gary Grub have all worked very hard to secure this much needed facility for Bowraville. The local council is also very focused on the provision of services. The general manager, Tom Port, Mayor George Hicks and his council have also been very keen to provide services in the smaller communities within their shire so that the people living there have the services that they deserve.
Thursday, 19 September 2002

Mr FITZGIBBON (Hunter) (9.55 a.m.)—I today join with the Leader of the Opposition, the Prime Minister and the Deputy Prime Minister in extending my condolences to the family of the late Jack Ferguson, a great Labor Party stalwart and a great leader of men and women for many years in New South Wales. I extend my sympathies to Laurie, Martin and the rest of the family. I also associate myself with the views expressed by the member for Reid when he spoke on that very sad occasion yesterday. It is disappointing that some people in this place try to undermine the integrity and respect for members who have come into this place following representation by other members of their family. I am, of course, one of those people; my father served in this place for some 12 years. I say to those people that it should not be all that surprising that children who grow up with politics and who have talked politics around the table since a very early age become interested themselves in politics, form a view about public policy and then seek to represent their local people in this and other places. It is true to say that, being involved in politics from such a young age, one develops some very strong views but also a very strong knowledge of the system of government and the sorts of issues that governments face on a regular basis.

People are far more interested in the ability and the integrity of their elected representatives than they are in where their representatives came from in terms of their lineage. I appreciate the fact that the member for Reid took that opportunity yesterday to make those points. Integrity is the important thing in this place. I am pleased the member for Paterson has joined us because we have a bit of a history in this place of having a bit of a stoush across the table—sometimes in good fun but sometimes because we differ on important public policy issues. I have been having a bit of a look at the member for Paterson lately. I am a bit surprised I had not realised earlier on that he was elected to this place while he was still a member of the Port Stephens Council. I think that brings into question section 44 of the Constitution and questions of holding an office of profit under the Crown, which he might need to have a look at. What surprised me even more is that the member for Paterson has not declared his position on the council on the register of pecuniary interests nor declared the allowance he receives from the Port Stephens Council. (Time expired)

**EGG INDUSTRY SERVICE PROVISION BILL 2002**

Cognate bill:

**EGG INDUSTRY SERVICE PROVISION (TRANSITIONAL AND CONSEQUENTIAL PROVISIONS) BILL 2002**

Second Reading

Debate resumed from 28 August, on motion by Mr Truss:

That this bill be now read a second time.

Mr FITZGIBBON (Hunter) (9.59 a.m.)—I was quite excited because I thought the member for Parramatta came in here to join us for this very important legislation, the Egg Industry Service Provision Bill 2002 and the Egg Industry Service Provision (Transitional and Consequential Provisions) Bill 2002, but alas he has gone again. He must have been called out. I was pleased to see the member for Parramatta here because in the past he has displayed a total lack of understanding of the issues that face people in rural and regional Australia—a total lack of understanding—and suggested that too much is being done in the bush and not enough done in the city.

You would think that the member for Parramatta’s colleagues, like his good friend the member for Paterson, would provide him with a better understanding of the issues that affect...
rural and regional Australia. Indeed, you would think his Prime Minister would bring him into line on issues that are affecting people in rural and regional Australia. Although, it is becoming quite clear that the Prime Minister and the Deputy Prime Minister are themselves failing to grasp the very real and very difficult circumstances currently facing the bush—a drought and a crisis in the sugar industry.

Mr FITZGIBBON—Their responses are all too insufficient. I will return to the bill in a moment. I hope the member for Paterson does get an opportunity to respond to some of the issues I have raised here this morning in respect of both rural and regional Australia and his failure to properly represent his electorate. He talks about state issues all the time and does not get to the meaty issues that are really important to his constituents. I hope he will bring the member for Parramatta into his office and try to at least explain to him the importance of some of these issues—for example, LPG. The Treasurer was given two opportunities yesterday to rule out—

Mr Baldwin—Mr Deputy Speaker, I rise on a point of order. The comments by the member for Hunter are way off line, totally outrageous and without substance. I ask you to bring him back to the bill. Obviously he has no understanding of the egg industry, which is a major player in his electorate.

Mr FITZGIBBON—The Egg Industry Service Provision Bill 2002 and the Egg Industry Service Provision (Transitional and Consequential Provisions) Bill 2002, are very important bills for rural and regional Australia. People living in rural and regional Australia are big consumers of LPG. They paid big money to convert their cars from petrol to LPG, then they were whacked with a GST on LPG—a tax on that fuel for the first time ever. In the House yesterday, I gave the Treasurer not one but two opportunities to rule out placing an excise on LPG and he declined to take up that invitation.

Mr Baldwin—On a point of order, Mr Deputy Speaker: this bill—and clearly the member for Hunter has not read the bill—is about the introduction of a levy on chickens for the establishment of a marketing grant. Obviously he has not read the brief and that is why he is talking away from the subject.

Mr FITZGIBBON—Mr Deputy Speaker, I do propose to deal with the Egg Industry Service Provision Bill 2002 together with the Egg Industry Service Provision (Transitional and Consequential Provisions) Bill 2002 in this place. As it is the member for Paterson who has raised the issue of chickens, I remind the House again of his failure to represent his chicken growers when he was last elected to this place. He totally failed to represent his chicken growers. I recall him putting a motion on the Notice Paper calling for the rejection of cooked chicken meat, but when the opposition put a motion to the House to have his motion brought on for debate he scurried out of the place, thus underlining his genuine approach to these issues.

The bills provide for a new Australian egg industry structure, including the declaration of a new industry services body. The industry services body will provide promotion, research and development, and other services to the egg industry. The Egg Industry Service Provision Bill
REPRESENTATIVES
Thursday, 19 September 2002
MAIN COMMITTEE

provides for the Minister for Agriculture, Fisheries and Forestry to declare a new industry services body and then enter into a funding agreement with that body for the receipt of levies collected by the Commonwealth for industry promotion and research and development, and for the Commonwealth’s matching funding for R&D expenditure.

The second bill provides for the transfer of assets from the existing egg subprogram of the Rural Industries Research and Development Corporation to the new body. Egg industry services are currently provided by the Australian Egg Industry Association and the egg subprogram under the Rural Industries Research and Development Corporation. A levy of 7.87c per laying chicken is imposed under the Primary Industries (Excise) Levies Act of 1999. Levy funds are largely devoted to R&D through the RIRDC egg subprogram with some funds directed to residues and animal health matters.

In 2001, the Australian Egg Industry Association presented a proposal to the Commonwealth for a new industry structure including a Corporations Act company to undertake generic egg promotion, research and development and to provide other industry services. Under the proposal, the existing RIRDC egg subprogram would transfer to the new company. The AEIA also sought a new statutory promotional levy of 32.5c on each laying chick purchased from the hatchery. The levy would be imposed on egg producers but would be collected by the hatcheries. All egg producers who pay the statutory promotional levy will be eligible to become members of the new industry body. The AEIA engaged in extensive consultation on the industry reform, including the new levy, between April and September 2001. The results of an industry ballot suggest significant support for the AEIA proposal from producers and hatchery operators. The bill provides for the new industry structure sought by the AEIA, and new regulations will implement the proposed levy regime. The existing levy for research and development, residues testing and animal health matters will remain in place.

The Australian egg industry has suffered from declining fortunes over the past decade. In the period 1989 to 1999 Australia’s annual egg consumption declined by six per cent, from 146 to 137 eggs per person. Per capita egg consumption is much higher in comparable countries. In New Zealand, for example, average annual consumption is 208 eggs per person. The industry attributes the difficulties to outbreaks of Newcastle disease—which returns me to the point I was making earlier. This is what the campaign in two parliaments was all about: the eradication of Newcastle disease and preventing Newcastle disease from entering our island continent—the issue on which the member for Paterson failed to adequately support his constituents. Previous attempts by the industry to introduce and manage voluntary promotional levies have failed.

The industry believes a new industry services body will have the capacity to engage in effective generic marketing to boost egg consumption and better capitalise on links between product promotion and R&D. The Egg Industry Service Provision Bill 2002 will provide authority to the Minister for Agriculture, Fisheries and Forestry to declare a company limited by guarantee as the industry services body. Before the declaration is made, the minister will be required to enter into a funding contract with the company. The contract between the Commonwealth and the company will establish obligations in respect of the use of levies and matching research and development funding and the company’s accountability to its members and the Commonwealth. Further accountability measures will be contained in the company’s constitution. Once the declaration is made, the Commonwealth can make payments to the company. Agripolitical activities will continue to be undertaken by AEIA as the peak industry body.
The effective use of statutory levies can assist producers to pool resources and work collectively on R&D, promotion and other priority industry tasks. Most traditional industry sectors have a levy system, and a number of key primary industries have recently amalgamated their R&D and marketing functions. Australian Pork Ltd replaced three other industry organisations: the Pig Research Development Corporation, the Australian Pork Corporation and the Pork Council of Australia. It is a not-for-profit company funded by statutory levy funds and a matching government R&D contribution, and it undertakes policy, research and development, marketing and export work. Horticulture Australia was formed from the merger of the Australian Horticultural Corporation and the Horticultural Research and Development Corporation, with the objective of achieving greater integration between marketing and industry research and development.

The opposition supports the implementation of the new industry structure and congratulates the egg industry for seeking to build a better future for members of the industry and for Australian egg consumers. I hope the member for Paterson takes the opportunity to speak on the bill and to share with us his views. I will undertake to check that pecuniary interest register again to see whether the member for Paterson has declared his position on the Port Stephens Council and the allowance he derives from that position. I make the point that while the office of profit under the Crown issue has not been tested by the High Court—

The DEPUTY SPEAKER—The member for Hunter is again straying from the bill.

Mr FITZGIBBON—the largest body of opinion is that a member of council is likely to be in conflict with or offend that provision of the Constitution. I ask the member for Paterson to give that some thought.

Mrs Gash—Mr Deputy Speaker, I rise on a point of order. I ask that the member for Hunter withdraw. This is legislation on the egg industry and has nothing to do with the personality of the member for Paterson.

The DEPUTY SPEAKER—I do not think it is a matter for withdrawal, but if the member for Hunter does not resume the debate on the bill before the chamber, I will sit him down. As the member for Hunter has concluded, I now call the honourable member for Paterson.

Mr BALDWIN (Paterson) (10.10 a.m.)—The chicken and egg industries are extremely important to people in the Hunter, and nowhere more so than in the area of Paterson. I am particularly pleased to be able to speak on the Egg Industry Service Provision Bill 2002 because it will implement changes for the egg industry that will help it develop into the future. According to the Australian Bureau of Statistics figures for the year ending 30 June 2000, there are over 500 egg producing establishments in Australia. This legislation will give the industry more control over its future and producers will have more of a say in the running of their industry. It will also try to assist the industry to put eggs back on to menus and back into Australian kitchens after a steady decline in egg consumption over the years.

Over the past decade, egg consumption has fallen in Australia from 146 per person each year to 137 per person. This is much lower than in other developed nations, such as New Zealand where 208 eggs per person each year are eaten. The reasons for this decline are varied and include Newcastle disease outbreaks, changes to layer hen housing to meet animal welfare requirements, and changes to state marketing arrangements in the 1980s. Through this steady decline, the industry has been limited in its ability to adopt a whole of industry approach to issues and has been unable to communicate to consumers the health benefits of eggs as well as the benefits to industry from research and development. Over the last 10 years there has been a negative consumer perception about eggs and the message about their nutritional
value has not been getting through. We have also seen a major shift in lifestyle and the industry has been fighting to retain eggs as a preferred food category. As a result of declining consumption, some producers have left the industry and others have been left wondering about their viability. Granted, there are some large producers who have the capacity and the capital to develop marketing initiatives, but for the industry as a whole this has not been the case. The industry tried to implement voluntary levies to help with the marketing of the industry but this ultimately failed. There is also the issue that the cost of promoting the industry and promoting egg consumption should be shared by all.

In 2001 the industry came to government to discuss these problems, with a proposal to establish a new promotional levy. Money from this levy would be used to fund generic promotions and to establish a single industry owned company to manage those promotions and industry research and development. The proposal also involved a new statutory promotional levy of 32.5c on each laying chick purchased from a hatchery. This is equivalent to 1.7c per dozen eggs sold. It is estimated that in the first year the levy will raise around $3.1 million. The industry proposal spreads the cost of generic promotion across the industry according to the size of each operation. So large operators will pay a larger levy than smaller producers.

The Egg Industry Service Provision Bill 2002 will create an egg industry company called the Australian Egg Corporation Ltd. All egg producers who pay the statutory promotional levy will be eligible to become registered members of the company. This means that they will have a direct input into how their levies are spent; they will have voting rights and rights in relation to the appointment of board members; they will have input into the company’s policy development and planning activities; and there will be increased accountability for the company board. These reforms will mean that the industry will be more responsive to challenges in the future and they will allow greater flexibility. The company will also improve communications within the industry, with consumers and with government. In New Zealand this type of generic promotion has turned around an industry that was failing. In the five years since they set a statutory levy at around the same rate as the Australian proposal, consumption has increased by about 12 eggs per year to an average of 208 eggs per person per year. These levies have also been used successfully in the United States and Canada. They work because they do not promote just one producer; they promote the entire industry. As a result, the levy has no impact on competition because everyone is set to benefit. If passed, the levy rate and the performance of the reforms will be reviewed in two years time to determine whether the levy should remain in place, be adjusted or be removed.

Accountability plays a large part in these reforms. Under the Egg Industry Service Provision (Transitional and Consequential Provisions) Bill 2002 a contract to establish a company can be entered into only if the minister is satisfied that accountability measures are in place, including in the company’s constitution. These measures include comprehensive planning and reporting requirements, with copies of the plans and reports to be made available to the Minister for Agriculture, Fisheries and Forestry; regular performance reviews to assess the company’s efficiency and effectiveness in meeting planned priorities; regular meetings between the chair of the industry company and the minister for agriculture to discuss industry issues and ensure that the government’s priorities for research and development are being addressed; a mix of producer and specialist skills based directors on the board of the company, including specialists in corporate governance; and a requirement that the company remain separate from any industry agripolitical activities, which should be conducted by the industry’s peak body.

These measures are designed so that the levies are used for their intended purposes of promoting the industry. They will also ensure the efficient running of companies. These reforms
will bring about a new era for the egg industry, one that will hopefully put eggs back in favour with consumers. It is a bold move for the industry itself to take this initiative and to take responsibility for its success, and it is pleasing to see such a partnership developing between government and producers. As I have said, this bill stands to serve the members of the industry in my electorate well. I commend the bill to the House.

Mr GAVAN O’CONNOR (Corio) (10.16 a.m.)—The Egg Industry Service Provision Bill 2002 and the Egg Industry Service Provision (Transitional and Consequential Provisions) Bill 2002 provide for the creation of a new industry services body in the egg industry. The new structure will provide services for the industry in the areas of promotion, research and development, and others. I note that the new structure is strongly supported by the Australian Egg Industry Association. I note also that a period of extensive consultation took place within the industry last year, which gave rise to the proposal enshrined in these particular pieces of legislation.

When we come to the issue of statutory levies, it is important that there is widespread interindustry consultation on what is being proposed in the parliament so that all are aware of the proposal and support it. It gives the industry a sense of ownership over the structures that are going to be very important to its long-term survival. I note that a ballot was held within the industry, and there is widespread support from producers and hatchery operators for the proposal. The sources of revenue for the new structure will come from levies and from the Commonwealth contribution. It is very important in the proposed new structures that the Commonwealth achieves appropriate accountability mechanisms to ensure that the taxpayer’s interest is protected where public moneys are forwarded to an industry. The bills also provide for the transfer of assets and liabilities associated with the Rural Industries Research and Development Corporation’s egg subprogram.

Previous members have commented on the industry’s economic position and the fact that, over the 10-year period from 1989 to 1999, we have seen a decline in annual egg consumption per head of the Australian population from 146 to 137. Comparisons have been made with New Zealand, for example, where egg consumption is considerably higher. There is a need for greater promotion, and one lives in great hope that this new structure will provide the marketing and promotional impetus that can lift per capita egg consumption to a point where profitability is secured in this industry.

The industry faces significant threats, and some have been mentioned in this debate already. The industry is prone to decimation through Newcastle disease. We have had limited outbreaks of that disease in parts of Australia, and that has put enormous pressure on regional communities and on our quarantine services. That is one of the threats, but there are also significant environmental concerns about the industry’s performance. I hope that, in the new structures that will emerge, the industry will be cognisant of its environmental responsibilities and its responsibilities in the animal welfare area.

I am surprised at that decline in egg consumption. Eggs are a relatively cheap and very good food for Australian families. But it is, if I can say this, a chicken and egg situation because, although eggs have great nutritional value, there are those who point to the high cholesterol content of the product. The health debate that has swirled around that particular aspect rolls into particular products—for example, dairy and eggs—and suggests that, if you have those as centrepieces of your diet, you have a long-term health risk, and that is just not so. It is about everything in moderation. The body needs a balance of nutrients, and this particular food is extremely good and relatively cheap for Australian households. I know the minister is a great supporter of the egg industry, the fishing industry and all rural industries—and he is in
the chamber today. The message out there to the Australian community is simply: eat more eggs.

The industry is important to regions of Australia. It is a regionally based industry, but it is coming under increasing pressure from urban sprawl. When an industry that has been for a long time supposedly removed from the outskirts of a town suddenly comes within the ambit of the urban sprawl it creates a lot of problems. I do not think egg farmers, along with other farmers in the same position, have been represented very well in local government forums on planning issues. It is a small industry but in the electorate of Corio, in the Geelong area, it is a very important one in terms of investment. It is a major employer, and the service businesses that support the egg industry in my community are important also.

On many occasions I have sounded warnings on these particular marketing and promotional structures. The industry needs to understand that, by itself, this initiative or this reform will not be the panacea for its long-term growth and future. The Commonwealth does have some rights in these matters, although these structures are being set up beyond the immediate reach of the Commonwealth in terms of its traditional accountability mechanisms. We have to make sure—and I hope the minister is making sure—that the accountability mechanisms that are being put in place in these structures are there to protect the interests of the taxpayers, who after all are putting a lot of money into these industries and these structures.

It is interesting to note the support by the member for Paterson for statutory levies. That was not always a position in coalition ranks. Usually you have had the arguments out in the field manipulated by some conservative politicians from time to time who say that such statutory levies are all a socialist plot and ‘a curse on all our houses’. But history has proven that this statutory levy mechanism can be made to work where it has widespread support within an industry. We will not be opposing this legislation, as I understand it. The egg industry is one of the smaller industries that does not get the big-time airplay that other rural industries do, and its future is going to rest on increased demand for the product. So the simple message to members of parliament and the community is: eat more eggs.

Mr TRUSS (Wide Bay—Minister for Agriculture, Fisheries and Forestry) (10.24 a.m.)—in reply—I thank the honourable members for Paterson and Corio for their contributions and support for this legislation, the Egg Industry Service Provision Bill 2002 and the Egg Industry Service Provision (Transitional and Consequential Provisions) Bill 2002. As the honourable member for Corio has just stated, the egg industry is an important Australian industry. It is generally pretty much out of the limelight but it does make a significant contribution to the economy. Sometimes it does come to public attention because of local planning requirements, as suggested by the member for Corio.

One of the things I have noticed is the significant movement of the egg industry away from urban environments to distant country towns. In fact, I recently attended the opening at West Wyalong of a significant new egg production facility for Pace Farms. That is an example of these facilities being moved into a country community where the environment is more conducive to this kind of operation and where the farmers are able to obtain the automatic quarantine benefits of being distant from other poultry operations. There has been a conscious choice to locate these facilities as far away from urban environments as possible, and I think there are obvious merits associated with that practice. And of course it is good news for small country towns; it makes a huge difference to a country town to have a very large-scale operation of this nature located in their environment.

As the honourable member for Paterson has indicated, the use of levies to fund these sorts of operations is a very constructive element. It is particularly valuable in ensuring that all of
those associated with the industry contribute towards its development. The government does require there to be a clear demonstration of industry support before it is prepared to use its taxing powers to deliver a levy of this nature. The egg industry has clearly demonstrated that this is the route it wants to take, and it is appropriate therefore for the parliament to back it in that initiative.

The honourable member for Corio raised the importance of accountability, and the legislation makes appropriate recognition of that priority. Firstly, there is an accountability to the levy payers as shareholders of the company and, secondly, there is accountability through the deed of agreement to the parliament so that taxpayers can be assured that the contributions they make by way of matching funding for the levies are well spent.

As has been mentioned, the legislation is designed to create an egg industry company, to be called Australian Egg Corporation Ltd, or AECL, to provide generic promotion, research and development, and other industry services to the egg industry. The new company will be limited by guarantee under the Corporations Act and will assume the R&D functions that are currently provided to the egg industry under a subprogram of the Rural Industries Research and Development Corporation. The accompanying transition bill allows for the one-off transfer of assets and liabilities from the egg R&D subprogram to the new company. The legislation also provides for the transfer of the assets and liabilities to be exempt from stamp duty.

Integration of R&D, promotion and other industry services will enable the egg industry to be more responsive to the challenges it faces. The new company will also improve communication with the industry, with consumers, and with government, and this will especially be the case on issues such as food safety, animal welfare and disease management. In addition, the new structure and associated new proposed levy will enable the egg industry to address the market failure which currently hinders egg promotion. By improving communication with consumers and boosting egg consumption, the company will promote the development and profitability of the egg industry.

The new company will be accountable to the Commonwealth. It will be bound by a number of measures outlined in the funding contract with the Commonwealth and in the company’s constitution. Should the company change its constitution in an unacceptable way, become insolvent, or fail to comply with the legislation or the funding contract, the Minister for Agriculture, Fisheries and Forestry will have the ability to temporarily suspend or to terminate the payment of the statutory levies. Alternatively, the minister will have the option to rescind the declaration of AECL as the industry services body.

The Egg Industry Service Provision Bill 2002 and the accompanying transition bill pave the way for the industry to look to the future with a more commercially driven and consumer responsive approach. With this new company, the industry will have the capacity to respond more effectively and efficiently to current and emerging industry challenges. Ultimately this will mean increased egg consumption and improved industry profitability. I commend the bill to the House and thank honourable members for their contributions to the debate.

Question agreed to.

Bill read a second time.

Message from the Governor-General recommending appropriation announced.

A division having been called in the House of Representatives—

Sitting suspended from 10.31 a.m. to 10.40 a.m.
REPRESENTATIVES
Thursday, 19 September 2002
MAIN COMMITTEE 6887

Consideration in Detail

Bill—by leave—taken as a whole.

Mr KATTER (Kennedy) (10.40 a.m.)—I would like to speak to the short title of the Egg Industry Service Provision Bill 2002. The title of the bill indicates a change to a different marketing arrangement. What is happening here is being driven by the big egg producers. Prior to deregulation there were some 1,400 egg producers in Australia; there are now fewer than 300. Six hundred requests for information were sent out, and fewer than 300 were returned, indicating that those other people had left the industry. Of those who did reply, some 30 or 40 indicated that they would soon be leaving the industry. The number of egg producers in the Atherton Tableland area has gone from about a dozen to about three at present.

We are deeply disappointed with the performance of governments over the last 12 years since deregulation. The minister has introduced a bill changing everything around. We need to readdress deregulation, and look at reintroducing some sort of regulatory marketing arrangements. The net outcome of the deregulation was a diminution in incomes for farmers, from around $1.80 net prior to deregulation to under $1 now. This bill does not address any of these problems. Whilst I am not going to ask for a division on this issue, it is right and proper that I should express extreme displeasure at government inaction over this situation. Deregulation was supposed to deliver to consumers, but, following deregulation, the price of eggs has soared—I do not have the exact figures at my disposal—over 300 per cent.

Let us look at the outcome from deregulation: 1,000 Australian family businesses have gone broke and vanished off the planet, the consumer is paying 300 per cent more for the product and the farmer is getting less than half of what he was getting some 12 years ago, in which time the CPI has gone up about 30 per cent. What a wonderful outcome for deregulation and for our economic rationalist friends who run the current government and ran the last government of Australia! The short title to this bill, and the state of the egg industry, stand as a monument to the disastrous failure of the policy of deregulation in this country. Would to heaven we had people like McEwen and Anthony back in the saddle in this place.

Bill agreed to.

Ordered that the bill be reported to the House without amendment.

EGG INDUSTRY SERVICE PROVISION (TRANSITIONAL AND CONSEQUENTIAL PROVISIONS) BILL 2002

Second Reading

Debate resumed from 28 August, on motion by Mr Truss:

That this bill be now read a second time.

Question agreed to.

Bill read a second time.

Message from the Governor-General recommending appropriation announced.

Ordered that the bill be reported to the House without amendment.

DAIRY INDUSTRY LEGISLATION AMENDMENT BILL 2002

Second Reading

Debate resumed from 28 August, on motion by Mr Truss:

That this bill be now read a second time.
Mr FITZGIBBON (Hunter) (10.46 a.m.)—It is good to be back speaking on another important agricultural bill which impacts on my electorate of Hunter. The Dairy Industry Legislation Amendment Bill 2002 amends the Dairy Produce Act 1986 to give the Australian Dairy Corporation a key role in the planning and facilitation of reform for the delivery of statutory services to the Australian dairy industry. Additionally, the bill provides dairy farmers in receipt of assistance under the Dairy Structural Adjustment Program or Supplementary Dairy Assistance Scheme with access to farm help re-establishment grants—access that has been denied since the end of the Dairy Exit Program on 30 June this year.

Members will be aware of major changes to the Australian dairy industry over the past few years. Full domestic deregulation in July 2000 saw state dairy authorities disappear and forced significant change on the industry. Deregulation was supported by a majority of dairy farmers, but it has nonetheless caused much pain, particularly at the farm level, in quota states such as New South Wales, Queensland and Western Australia—and, of course, in my electorate of Hunter and the electorate of the member for Paterson, who is present for this debate.

This pain has been ameliorated to some extent by the Dairy Structural Adjustment Program, a program the member for Paterson is well familiar with and one which he lobbies hard upon, particularly for people like his mate Joe Sepos—an application which, of course, led to the sacking of the chairman of the Hunter Area Consultative Committee. I am glad the member for Newcastle has joined us, because that is an issue she is quite familiar with.

Mr Baldwin—Mr Deputy Speaker, I rise on a point of order. Whilst I accept the argybargy of normal debate, the member for Hunter is deliberately misleading the parliament.

Mr FITZGIBBON—I am not misleading the House, because I actually have in my possession file notes from within the Hunter Area Consultative Committee which show that Joe Sepos did make an application to the Hunter Area Consultative Committee for Dairy RAP assistance. The application was incomplete, but it is untrue that Joe Sepos did not put an application into the Hunter Area Consultative Committee—as has been stated by the member on the other side—of course he did! I have given Minister Tuckey on a number of occasions an opportunity to deny that I have made in this House on a number of occasions.

Mr Baldwin—Mr Deputy Speaker, I rise on a point of order. Whilst I am glad that the member for Hunter is actually debating—

The DEPUTY SPEAKER—What is your point of order?

Mr Baldwin—I see this has absolutely no relevance to the bill before the House.

The DEPUTY SPEAKER—There is no point of order.

Mr FITZGIBBON—We are talking about a period of time which has been very painful for the dairy industry—an industry which has great presence in my own electorate and in the electorate of the member for Paterson. Of course, that goes to a very important program put in place to assist dairy farmers, including assisting them to exit the industry—a plan which, unfortunately, is funded by another levy. We have seen plenty of levies: a milk levy, a sugar levy, a ticket tax.

Despite making a commitment to introduce no new taxes, every time the government runs into a problem its response is to whack a tax on the Australian consumer. So, Mr Deputy
Speaker, when the member for Paterson eats his corn flakes in the morning, he now faces the prospect of paying more for them, assuming that the tax laws are applied to the sugar going into the processing of those corn flakes; and, when he puts his sugar on his corn flakes—and I am sure he puts plenty of sugar on; no question about that—he pays another Howard tax on his spoonful of sugar of probably around 18c. Then he pours his milk on—and it will not be skim milk—and there is another Howard government tax on the milk. We heard Minister Vaile in the House yesterday give new meaning to the term ‘net exports’, because the seafood exports coming out of Paterson are only net of those that he has consumed himself.

But these are important issues, and deregulation forces change at the farm level and at the company level. The industry itself seeks change in the way that dairy industry services—particularly promotion, research and development—are delivered. For over 12 months the dairy industry has been working on a proposal for a new industry structure. Following extensive consultation, the industry has determined that it is desirable to merge the service activities of the Australian Dairy Corporation and the Dairy Research and Development Corporation into a single industry services body, preferably in the form of a Corporations Law company. The industry has identified that the following benefits will flow from its plan: one, greater accountability to stakeholders through industry ownership and control; two, better coordination of research with trade, promotion and marketing activities; and, three, more efficient service delivery.

A dairy industry newsletter dated September 2001 says that this new levy-funded company will provide the industry with ‘greater operational flexibility’ and ‘allow the company to easily adapt its roles and structure to changing industry requirements and the commercial and social environment’. The dairy industry’s desire for a new industry services structure is the very basis of the bill before the House today. The bill does not provide for the implementation of the structure but rather gives the Australian Dairy Corporation the capacity to begin the task of investigating options for reform. By providing the ADC with this capacity, the process of reform can begin in earnest.

The industry wants a new structure in place by July 2003. Upon passage of this bill, I urge the minister and his department to give the ADC and the industry all the assistance it needs to develop a properly considered reform model. There are many complexities involved in transferring functions and funding from statutory bodies to Corporations Law companies, and providing the ADC with the capacity to facilitate investigation of this matter is a prudent action. But the government must not use this action to delay active assistance to the industry to investigate and formulate a final reform model.

The Australian dairy industry is one of Australia’s most important rural industries. That is why it is so important for the government to pay serious attention to its responsibilities to assist this industry to prosper. Across all six states, the industry comprises 12,000 dairy farmers. As a sign of the impact of deregulation, the number of farms declined by almost 1,000 in the period between 2000 and 2001. The Australian dairy industry is a major generator of economic wealth, a significant exporter and a key employer—particularly in primary production, manufacturing and distribution. Most dairy jobs are found in regional Australia. The industry wants a more secure future. That is why the industry presented this plan to the government and that is why it is so important that the government, particularly the minister, gives the industry the assistance it needs to finalise its reform plan. The opposition will support this legislation because it represents an important step towards the realisation of a better industry framework.
The second aspect of the bill is the provision of access to exit assistance under the Farm Help re-establishment grant scheme. Access is provided to holders of Dairy Structural Adjustment Program and Supplementary Dairy Assistance scheme entitlements on the same basis as provided for by the Dairy Exit Program. This is a sensible move, and the opposition supports it. However, we need to ask why it is that the government failed to introduce this measure before the cessation of the Dairy Exit Program on 30 June, 2002. The member for Paterson, when he makes his contribution, might wish to give an explanation on behalf of the Prime Minister, to whom he was so solidly giving support on the AM program this morning. I am sure the Treasurer was fascinated by the member for Paterson’s contribution. The member for Paterson shares a flat with the minister for education, and so I am just trying to work out the factional allegiances there. But I will leave that to others to give thought to.

An opposition member—One of the wets.

Mr FITZGIBBON—Yes, perhaps he is one of the wets. That is an interesting allegiance—flattening with the minister for education. But I do fear this is yet another sign of the minister’s unwillingness or inability to give his portfolio the attention it deserves.

The opposition agrees to the passage of this legislation and will monitor very closely the support the Minister for Agriculture, Fisheries and Forestry provides to the industry once the ADC commences its reform work.

Mr BALDWIN (Paterson) (10.56 a.m.)—It is with pleasure that I rise today to speak about the Dairy Industry Legislation Amendment Bill 2002. This bill is designed to amend the Dairy Produce Act 1986 and, importantly, to allow additional functions for the Australian Dairy Corporation. What is important to note is that this has been driven by the industry. The dairy industry has come to the government seeking reform to improve the direction of the Australian Dairy Corporation. This improvement, through amendment, will allow for planning, facilitation and participation in the reform of the dairy industry statutory service provider bodies, the Australian Dairy Corporation and the Dairy Research and Development Corporation; importantly, for the funding of these processes; and for the minister to issue directions to the Australian Dairy Corporation in relation to this additional function.

There is a second part of this bill as well. It will amend the Dairy Produce Act 1986 and the Farm Household Support Act 1992, and I will come to that in a moment. It is important that the reforms to the Australian Dairy Corporation provide a greater and more streamlined effect and greater results for the industry. As I said, this has been driven by the industry, an industry that was partially brought to its knees by a government—but we need to understand which government. As I have searched through the records, I recalled that it was actually a state government—a state Labor government—that drove dairy deregulation. In fact, the New South Wales Labor government, a friend of the member for Hunter—and obviously he did not stick up for his constituents in demanding that it not support it—drove the deregulation. And it was this government, the Howard-led government, that provided the financial support network for the—

Mr Fitzgibbon—Mr Deputy Speaker, may I ask the member for Paterson a question?

Mr BALDWIN—No, you cannot ask me a question.

Mr Fitzgibbon—Of course I can, Mr Deputy Speaker.

The DEPUTY SPEAKER (Hon. D.G.H. Adams)—Order! the honourable member for Paterson will resume his seat. The honourable member for Hunter.
Mr Fitzgibbon—Mr Deputy Speaker, the member for Paterson, by raising the issue of the New South Wales government, brings into the debate constitutional issues, and I would like to ask the member for Paterson: what were the constitutional imperatives that drove the New South Wales parliament to that position?

Mr Randall—Mr Deputy Speaker, I raise a point of order. I understand that, with the new provision, the person being questioned must agree to answer the question.

The DEPUTY SPEAKER—The honourable member for Canning is correct. The honourable member for Paterson, if he wishes to respond, can do so; if he does not wish to, he can continue his speech.

Mr BALDWIN—Mr Deputy Speaker, I would never deny the member for Hunter the opportunity to question anything the government does. So, in response to that, this dairy deregulation was signed off by a state government—a state Labor government—locking in together with all of its mates in the other states for the benefit of a Victorian Labor government. What the member for Hunter did, in supporting his state Labor mates in New South Wales and in supporting the state Labor members in Victoria, was to give New South Wales markets, including those markets in the Hunter, greater access to Victorian milk. What is disappointing is that, other than some diatribe, the member for Hunter has, through the entire period, added nothing to this debate other than spite and hatred.

Mr Fitzgibbon—Through you, Mr Deputy Speaker, I ask whether the member for Paterson is prepared to take another question?

The DEPUTY SPEAKER—I ask the member for Paterson if he is prepared to take a question.

Mr BALDWIN—No, Mr Deputy Speaker.

The DEPUTY SPEAKER—Order! The honourable member for Paterson.

Mr BALDWIN—Thank you, Mr Deputy Speaker. The question was to the honour and credibility of the member for Hunter, who has come in here today with a great spray about credibility. I also point out that in the Herald this week we saw the report by the member for Hunter—not the university—in relation to his alleged—and I say alleged—impropriety—

The DEPUTY SPEAKER—Order! The honourable member will resume his seat.

Mr Gavan O’Connor—The previous speaker’s relationship with the university in his electorate has nothing to do with the Dairy Industry Legislation Amendment Bill 2002. I ask that you bring the member back to order.

The DEPUTY SPEAKER—Order! The honourable member for Paterson in continuation.

Mr BALDWIN—Thank you, Mr Deputy Speaker. I know you are a fair man and you will apply exactly the same latitude to me as you applied to the member for Hunter with his speaking notes. But it comes down to credibility. I am not saying whether he was innocent or guilty. That is for others to decide.

Mr Fitzgibbon—You shouted it around to the media.

Mr BALDWIN—I did not shout it around to the media.

Mr Fitzgibbon—Yes, you did.

Mr BALDWIN—No, that was a former staff review—a disgruntled staffer who, for his own reasons, went off in his own direction. This brings to attention the issue of credibility. Obviously the member for Hunter is lacking in credibility, and that has been proven in his debates and discussions on the dairy industry in total.
I would have thought that the member for Hunter would have supported the second part of this bill, which is the establishment of the Farm Help re-establishment grant scheme, which extends the process to June 2003. There are many people who have had to leave the farm or who intend to leave the farm. Some departures are not just due to the lack of financial ability and reduction of dairy herds. In fact, most people have had to increase their dairy herds to get their milk rates up. They have come through such things as age profiles, family problems, animal disease, adverse weather conditions such as the drought we are suffering at the moment, and fire and flood, all of which can cause undue hardship. I commend the government, and in particular the industry itself, for driving this with government to extend that date to June 2003 so that people can apply for a dairy exit package and, in particular, seek the $3,500 retraining grant.

The dairy industry is important in Paterson. I think it is terrible that I now have fewer dairy farmers than I had before. It was only through the increase in beef and veal prices as these people convert—

Mr Fitzgibbon—Mr Deputy Speaker, can I put another question to the member for Paterson?

The DEPUTY SPEAKER—Is the member for Paterson prepared to accept a question from the member for Hunter.

Mr Fitzgibbon—I simply want to ask the member for Paterson, for my own benefit and the benefit of the House, how many dairy farmers he did have and how many he now has.

Mr BALDWIN—That is a fair question. I do not have that figure in front of me at the moment. All I do know is that I have a considerable number less, due to the voting by the state Labor government to introduce the dairy deregulation. Had the New South Wales state government not voted in support or actually driven the bill through the state parliament in New South Wales we would not today have a deregulated dairy industry. That industry would have been as it was. The member for Hunter gets up here and trumpets Labor’s support for dairy deregulation. But there were effects on the farmers—dire effects. I do not deny that there are people who have committed suicide because of the effects of dairy deregulation. I find that absolutely unbearable. My heart goes out to those families. Some of the stories are just about financial hardship. People bought quotas as part of their superannuation package. What the state Labor government did, with the support of their Labor mates in this place, was to deny those people that superannuation. First and foremost, besides getting up here and giving generous sprays in an attempt to lift himself up, the member for Hunter, on behalf of the Labor Party, should go out to the dairy farmers—because Bob Carr and his mates in New South Wales have an inability to do it—and apologise to these people.

Mr Fitzgibbon—He still hasn’t answered the question.

Mr BALDWIN—The other thing that he may do if he is serious about supporting the dairy industry is go to Bob Carr and talk to him about the money that Bob Carr took under the national competition policy—money that he did not deliver to the dairy farmers in New South Wales. He pocketed the money in the New South Wales coffers and not one cent of it has gone to the dairy industry. I am glad to hear that both sides of parliament—

Mr Fitzgibbon—Mr Deputy Speaker—

The DEPUTY SPEAKER—Order! Is the member for Hunter seeking to ask a question?

Mr Fitzgibbon—Yes.

The DEPUTY SPEAKER—Will the member for Paterson allow a question?
Mr BALDWIN—I will not take a question from the member for Hunter.

I am glad that the Labor Party has agreed to endorse and support this bill because, at the end of the day, it is about supporting the dairy industry, taking the issue forward and giving the industry more direction and control over outcomes. For that we support the bill.

Mr GAVAN O’CONNOR (Corio) (11.06 a.m.)—I rise to speak on the Dairy Industry Legislation Amendment Bill 2002. Honourable members will be aware of my longstanding interest in this industry. I am the son of a dairy farmer and I am pleased to stand in this place and contest some of the points that have been made by members opposite—the stockbrokers, the lawyers and the merchant bankers in the National Party. I am quite happy to contest some of the views that have been expressed in this chamber today. I am a great supporter of the dairy industry. I am a conspicuous consumer of its products. I love to drink milk and I love to eat ice-cream. I suspect there would be quite a few members in this chamber today who are in the same boat as I am. I see the honourable member for Paterson scurrying out of the chamber. I noted on a couple of occasions he went weak at the knees in the chamber and would not take a question. Having scurried out, he will miss the benefits of my speech which will undoubtedly set the record straight for him on some of the points that he has made, simply because—and I am happy to help the member for Hunter out here—one of the important things in this chamber is credibility. Credibility is based on whether you tell the truth on the floor of the chamber.

I am going to correct the public record so that the member for Paterson can come back into this chamber at some stage with a greater knowledge, a better knowledge of the Australian dairy industry and does not make the same mistakes that he has made here this morning. The simple fact of the matter is that deregulation of the dairy industry was not introduced by the New South Wales state Labor government; it was introduced by a federal Liberal-National party government. Indeed, the minister said on the floor of the House of Representatives that unless state governments comply with the direction of the legislative framework and the assistance package that was being put in place by the federal government, not one dairy farmer anywhere in Australia would receive any assistance at all when the regulatory arrangements ran out. Those are the facts of the matter and the member for Paterson has deliberately misled this chamber and this House on that matter. If he would like to check—

Mr Randall—Mr Deputy Speaker, I rise on a point of order. The chair knows as well as I do that, if he makes an allegation like that, it must be put in writing and substantiated. It is deliberately misleading.

The DEPUTY SPEAKER (Hon. D.G.H. Adams)—Order! The honourable member for Corio will come back to the question.

Mr GAVAN O’CONNOR—I make a point of two things: one is that the honourable member for Paterson would not stay in this chamber—

Mr Randall—Under the standing orders, that allegation must either be withdrawn or substantiated.

The DEPUTY SPEAKER—You are asking for the matter to be withdrawn?

Mr Randall—He has accused the member for Paterson of deliberately misleading the House. It must be substantiated in writing and voted upon.
The DEPUTY SPEAKER—I did not quite pick up what the honourable member for Corio said about the honourable member for Paterson, but if he reflected on him I ask him to withdraw.

Mr GAVAN O’CONNOR—On the advice that I have received from you, Mr Deputy Speaker, and because of the high esteem in which I hold you and your office, I will withdraw any statement that the honourable member for Canning might find offensive. Let me put the actual facts on the public record. I suggest that the member for Paterson and the member for Canning, if they know anything about this, might like to check them out. The simple facts are that on the floor of the House of Representatives—I am quite happy to supply the information to you if you want it—the Minister for Agriculture, Fisheries and Forestry, Warren Truss, made the specific statement that unless all state governments were in the cart on the deregulatory arrangements—

Mr Katter—That is absolutely true.

Mr GAVAN O’CONNOR—The member for Kennedy has confirmed here today with his interjection how true that statement is—not one dairy farmer would get one cent from the Commonwealth government. This leads me to the second point of error as far as the member for Paterson is concerned. The Howard government contributed not one cent to the industry package.

We have this misinformation here again that the coalition attempt to spread on this matter, that somehow they were the saviours of dairy farmers, the saviours of the industry, and that they stepped into the breach in the face of the fact that state Labor governments and other governments had to introduce legislation into their parliaments to deregulate those industries. The facts of the matter are that unless those governments did that, as the minister said on the floor of the House of Representatives, not one cent would go to any dairy farmer. Then he had the gall to claim that the Howard government was supporting the industry when in fact it was the Australian consumers through a milk tax—that is all it is, a milk tax, and that is how the government raised this revenue off the budget. The Howard government delivered not one cent of support to the dairy industry yet claimed the credit.

At the same time, government members were going around rural Australia with the GST package and saying to dairy farmers, ‘Not only will we deregulate your industry, and you will be better off, but we are going to lower your costs. The GST is going to lower the costs of your fuel.’ What a betrayal of dairy farmers that promise was. We have not had a substantial lowering of costs and we have seen a further deceit perpetrated on dairy farmers by the government.

This industry is important to rural and regional Australia. It is a major employer and lines up with the car industry, one of the great manufacturing industries of Australia, as a key employer in rural and regional Australia. It is a very innovative industry which relies on heavy investment, both on farm and in the value adding chain. It is not an unsubstantial industry and it is very important that the industry structures and arrangements that are being proposed in this legislation today receive adequate debate and adequate scrutiny.

The industry faces significant threats. We have seen how foot-and-mouth disease and mad cow disease have decimated the cattle industry in the United Kingdom and Europe. Dairy farmers are no different from egg producers or others; they are pressured by the environmental lobby. Many dairy farmers operate in what could be termed ‘marginal’ physical environments. The industry must pay particular attention to its environmental performance. That is why we were disappointed when the package of assistance was announced by the govern-
ment—funded by Australian consumers and not by the federal government. There was no provision in those arrangements to address the environmental performance of the industry, nor was there any provision to address research and development and other issues that are important to the industry’s long-term survival.

There is the perennial threat of currency fluctuations. The government got off the hook with the measures it put in place simply because of what happened in the international currency marketplace. The dollar was devalued considerably and that put this export industry in a better position to sustain itself over this period of significant structural adjustment. Research and development will be absolutely critical to the industry’s future.

The industry has expressed its preference to merge the service activities of the Australian Dairy Corporation and the Dairy Research and Development Corporation. That is the substance of one aspect of this legislation. It gives the Australian Dairy Corporation the authority to begin the task of investigating the options for reform that have been suggested by the industry. I would presume we are going to see a levy funded entity that will provide the industry with better coordination of research, trade, promotion and marketing activities. The industry must engage in a significant and thorough debate with the government on what the government proposes concerning the development of this new structure.

Another element to this bill has already been alluded to, and that is the provision of access to exit assistance under the Farm Help Re-establishment Grant scheme to holders of entitlements under the Dairy Structural Adjustment Program or the Supplementary Dairy Assistance Scheme. That access will be provided on the same basis as that provided under the Dairy Exit Program. The honourable member for Hunter has alluded to the fact that this matter should have been addressed long before now and certainly before the cessation of the Dairy Exit Program on 30 June 2002. This has been the hallmark of the minister’s administration of many rural industries. There has been an absolute lack of attention to detail. The minister has been pushed by industries in particular directions without a whimper and without discharging his responsibilities to this parliament to ensure that the proposed structures have accountability mechanisms.

I was around when the pork industry and the horticultural industry came to the government with their proposals. We were lambasted by the government because as an opposition we insisted that the government discharge its responsibilities to taxpayers and ensure that the accountability mechanisms were ongoing. I note that the structures that are being developed are outside the normal parliamentary scrutiny. It is important that the parliament retain its scrutiny over these developments. I hope that occurs in regard to what is developed for the dairy industry. At this stage, we support the legislation before the House.

Mr KATTER (Kennedy) (11.20 a.m.)—I wish to talk not so much about what is in the Dairy Industry Legislation Amendment Bill 2002 as about what is not in the bill. I must reinforce what the last speaker said. Mind you, he did rather suitably leave out the fact that at the end of the day it was state government legislation. I remember two National Party senators saying at a meeting, ‘The deregulation of the dairy industry will be the greatest smash in Australian agricultural history.’ Then they proceeded to allow their minister to come out with his infamous statement—and I remember it vividly. When the minister put out his press release, one of my then National Party colleagues showed me the press release. There were five of us having lunch together and a National Party senator, who was of a very strong economic rationalist persuasion, came to join us at the table. I flicked the press release across to him and he released a string of obscenities. I said, ‘You’re the great deregulator; you should be happy with this outcome.’ He said, ‘Yes, but I didn’t want us to be blamed for it.’
The minister absolutely ensured that forever this government would bear the ignominy of having played an integral part in this. That was very unfair to the Prime Minister. I am well aware of what the Prime Minister’s views were at the time. It was very unfair that one of his ministers would act in such a thoroughly incompetent manner as to bring upon the federal government all of the blame, which, I hate to admit, was justified to a very large degree. The federal minister said that, if any state did not deregulate, they would deprive the dairy farmers of Australia of $100,000 each. Within hours, Mr Amery in New South Wales said, ‘We didn’t want to deregulate, but we couldn’t deprive our farmers of $100,000; so we’ll just have to deregulate.’ And then Mr Palaszczuk in Queensland made similar comments. So that is the history of dairy deregulation.

All policies must be judged by their outcomes. You cannot have some sort of vague political philosophy and not stand by the outcomes that result from the implementation of that policy. This government and the previous government have had policies of deregulation. It would seem to me that the Prime Minister is probably moving somewhat away from that but, all the same, the history books will read that, for the last 15 years, the federal governments of Australia have had policies of deregulation. Let us have a look at the outcomes of these brilliant and clever people. The price of milk in Victoria prior to deregulation was 105c to the consumers. In the four or five years after deregulation, it is 145c—a price rise to consumers of 40 per cent in the space of four or five years. In Sydney the price was 115c and then went to 135c in the space of three years—an absolutely indecent jacking-up of the prices to consumers almost overnight. In that same period, farmers’ incomes dropped by a third, from 59c to 39c, yet the price to consumers went up by a margin of 20, 30 or 40 per cent. That is an absolutely disastrous outcome.

Let us look at the egg industry in Queensland—the figures are similar for other states, but I have the figures for Queensland handy to me. Once again, I emphasise that the programs coming forward are all very interesting: they stand as monuments to the towering incompetence and absolutely disastrous decision making that has taken place in the last few years.

Mr Randall—Mr Deputy Speaker, I rise on a point of order. The member for Kennedy missed his slot on the egg industry bills but he should be addressing the dairy bill, not the egg industry.

The DEPUTY SPEAKER (Hon. D.G.H. Adams)—Order! The honourable member for Kennedy has only mentioned the egg industry in his debate once, so I think he is—

Mr KATTER—With all due respect to the interjector—and I do not blame him for wanting to shut me up; I would be doing the same thing if I were sitting on the government side of the House, I can assure you—

Mr Randall interjecting—

Mr KATTER—No, you have interjected, so I have to answer your interjection. You have said that the egg figures have nothing to do with this; we are saying that you are introducing regulatory provisions for the dairy industry and that those regulatory provisions should extend to regulating the marketplace. Without that, where you have an oligopolistic situation in which 80 per cent of food sales in Australia are controlled by just two people, the farmer is clearly going to get a terrible outcome. Oligopolistic pricing mechanisms are clearly flashing neon signs out of each of these things. I must use the egg industry, as I am also going to use the sugar industry, to demonstrate the absolute necessity of increasing the regulatory provisions in the food industry.
The government must be prepared to look at the retail sector and introduce competition. They have forced us to have competition, but they have not forced Woolworths and Coles to have competition—no way, Jose. Each of the major national parties, including the National Party and the Democrats, were represented in the inquiry into fair trading, and they all said, ‘We’d better hit Woolworths and Coles over the wrist with a piece of wet lettuce. We have to punish them severely.’ They consciously eschewed the proposals for capping and divestment to be imposed upon Woolworths and Coles by the Independent Grocers Association, and they consciously eschewed the United States antitrust legislation introduced by Theodore Roosevelt. If you are not going to go down that path, you must provide the farmers some protection against oligopolistic pricing and marketing practices. That is not being done in this bill. Returning to the case I am presenting here, the egg industry in Queensland was deregulated in 1993. According to the ABS, the price then was $1.30 a dozen for farmers and $1.90 to consumers. Post-deregulation——

Mr Brendan O’Connor interjecting——

Mr KATTER—No, just listen. Post-deregulation, we ended up with a price of 78c to farmers when these figures were taken. So farm incomes dropped by almost half, and the price to the consumer went up from $1.90 to $3.30.

These are the outcomes under deregulation. Woolworths and Coles think this is the most magical thing that has ever happened in the history of the world. In relation to these two items, if you extrapolate the eggs at $400 million a year and the dairy industry at $700 million a year, you end up with over $1,000 million of extra profit being taken by the retail sector——and possibly by other middlemen, but I think we are really talking here about the retail sector. That was taken at the expense of the broken backs of the farmers.

The situation is similar with sugar. We need move no further than sugar. We were partially deregulated and had $115 in tariffs taken away from us. The net result of that was that the price to the farmers for sugar dropped almost in half but the price to the consumers, once again, rose some 24 per cent during the same period. Whether it is sugar, milk or eggs, it is all the same outcome.

If the minister and the government want to be remembered with affection and have their place in history, as we would hope they richly deserve, they must return to regulatory systems or they must introduce competition into the retail sector. It seems that no government would be game to take on Woolworths and Coles, so you cannot introduce competition into the retail sector. So you simply have to look at the marketing sector, and it has to be regulated. There is no other outcome here that could possibly be accepted by the Australian people.

For Mr Keating, the architect of deregulation, and for those people that have followed him in implementing these deregulatory policies, all I can say is that it is a great day of shame. There are the sugar figures, the dairy figures and the egg figures. They stand as a horrific monument to the imbeciles who introduced that policy without doing anything about introducing competition into the retail sector. Thank you.

Mr TRUSS (Wide Bay—Minister for Agriculture, Fisheries and Forestry) (11.32 a.m.)—in reply—I thank honourable members who have made a contribution to this debate on the Dairy Industry Legislation Amendment Bill 2002, although I wonder whether they were a rerun of debates we have heard several times before when dairy deregulation has been on the agenda. The bill is actually not about dairy deregulation, in case anybody had not noticed; but it does refer to the dairy industry and their moves to take steps in a different direction.
Frankly, I have heard what the member for Kennedy has said a hundred times. He throws figures around like confetti—figures that have very little relevance to the facts. There is plenty of criticism but there are never any practical solutions—not a single practical solution.

Mr Katter—Mr Deputy Speaker, I raise a point of order. Two denigrations have been made in relation to me. In one, it was said that I did not give any practical solutions. I just gave the solutions in the speech that I made. It is a pity the minister did not listen. As far as statistics go—

The DEPUTY SPEAKER (Mr Barresi)—The minister has the call.

Mr TRUSS—The member for Kennedy has left now, but, just in case anybody actually believed that there might have been some resemblance to the facts in the contribution from the honourable member for Kennedy, I should refer to what he considers to be his practical solution. I gather he wants us to regulate the stores. I know of one country that regulated the stores. You used to go to communist China and visit the friendship stores that were owned by the Communist Party. That was a pretty good regulated environment for the stores, but I notice that China seems to have leapt ahead since it decided to get rid of that high level of regulation and allow the commercial forces in that country to operate more effectively.

Frankly, the member for Kennedy’s contribution is a cruel hoax. It is disappointing that any member of this House would make the sorts of statements that he does about agriculture and the sort of issues which affect it, and it is even worse that he makes those out in public forums. It is a real tragedy that he identifies himself with fairy godmother solutions, with magic cures that have absolutely no basis whatever in fact. I understand he is about to participate in and organise a series of rallies, when he will, no doubt, espouse the same sort of ridiculous nonsense when speaking to struggling sugar farmers and suggest to them that there is some kind of easy cure to the problems that they are facing.

The idea that you should simply have massive government imposed levies on the cost of everything and then return those to the growers by way of permanent subsidies is just illogical economics. I am disappointed that anyone who is representing their constituents in this chamber would espouse those kinds of theories and once more then try to peddle the view that there is some kind of conspiracy and an endeavour to destroy the rural sector and that it can be simply resolved by governments intervening and regulating and demanding that each particular element of the trade is effectively price controlled. That would be completely unacceptable in a free society like Australia. It would kill innovation and destroy growth. It would certainly undermine the significant developments that are occurring in rural and regional Australia.

If you listened only to the member for Kennedy, you would believe that every Australian rural industry is doomed, that all farmers are ruined, that employment is declining and that there is no future for anybody who lives outside the capital cities. Frankly, I reject that—I reject that concept absolutely. Indeed, employment in rural industries is increasing. There are a large number of very successful rural industries that have been able to compete and to effectively market their product, even in very difficult environments. So I dismiss entirely the comments of the member for Kennedy. He is promoting a cruel hoax on the farmers of Australia with the kinds of solutions that he proposes in a forum such as this.

I must also comment on some of the remarks by the member for Corio, who again dragged out his dairy deregulation speeches to run the same rhetoric, including, unfortunately, the same inaccurate statements. Suggestions that somehow or other the Commonwealth imposed dairy deregulation on the states is one of his favourite lines. I do not think it is one he would
use in Victoria, his home state, where dairy deregulation was exceptionally popular, but it is rhetoric that he chooses to use in New South Wales and Queensland, where dairy farmers have faced greater difficulties in dealing with deregulation. It was the states that regulated the industry, it was the states that had control over the various systems that operated—they were different in each state—and it was the states that voted to deregulate their industry. No member of this House was ever asked to vote for dairy deregulation, because there were no regulations to repeal. The reality is that those were decisions that were made by the states and, in fairness to the states, at the request of the industry. The industry also, though, recognised that there would be significant pain and hardship associated with the change. It was inevitably going to occur in the industry, following dairy deregulation. They asked this Commonwealth to use its levying powers—its taxation powers, essentially—on a commodity to enable a major package to be put together to fund significant benefits for dairy farmers during this difficult phase.

I think that observers now would suggest that, in spite of all the difficulties and in spite of the pain that has inevitably resulted in some areas that have been less able to compete with the industries in states like Victoria, parts of South Australia—I see my colleague the member for Barker here; parts of his industry have done exceptionally well as a result of dairy deregulation—parts of New South Wales and, indeed, in the difficult areas in my own state of Queensland, there are farmers who have responded well to the challenge and who do see for themselves a constructive future in the industry. But they have all acknowledged that the nearly $2 billion worth of assistance that has been provided through the Dairy Structural Adjustment Program has been a mighty force for the good in helping them to meet these particular challenges.

The Dairy Regional Adjustment Program has helped to broaden the economies of many rural communities where dairy was an important part of their economic foundations. New industries and new job opportunities have been created in these towns, and they have provided really enormous benefits. I am sorry that the Dairy Regional Adjustment Program is coming to an end; after the announcement is made this week, we will only have one more round to run. There are many who would like it to be continued, but all good things have to come to an end at some stage. It has provided significant benefits to communities and has been a really useful part of this package.

The changes that are being proposed in the legislation today deal with the Farm Help scheme in particular. Farmers did have access to an exit scheme under the Dairy Structural Adjustment Program, but not many farmers exercised that option, because most farmers were financially better off taking the other elements of the package and, naturally, you could not have them all. So it was only small farmers or those with high levels of debt and very little equity that found the exit package attractive. We have come to the conclusion that there may be some farmers in the future in the dairy industry for whom other events have overtaken them and that they may well want to have the same access to the Farm Help program as do other farmers. For that reason, these amendments are being proposed today. Again, I do not think that many dairy farmers will access the option, but we felt there should not be discrimination against dairy farmers who may want to take advantage of those elements of the Farm Help program.

The bill also gives to the Australian Dairy Corporation an additional function of planning, facilitating and participating in the reform of the ADC and the Dairy Research and Development Corporation. There are proposals by the industry to reform its structures, and this bill will enable that process to proceed. This restructuring in the dairy industry will not be as easy
as has occurred in some other industries, but it is something that dairy farmers and their industry organisations want to tackle, and this bill will enable that progress to be achieved on those issues.

The dairy industry remains progressive and successful, and it is to be commended for its continuing conscientious examination of its future structures, which will no doubt assist in maintaining its relevance in the domestic and world markets. I commend the dairy industry, which has gone through particularly difficult times, for its vision and for its focus on the future. The passage of this legislation will have helped it to achieve some more of those objectives.

Question agreed to.

Bill read a second time.

Consideration in Detail

Bill—by leave—taken as a whole.

Mr FITZGIBBON (Hunter) (11.42 a.m.)—I am delighted the Minister for Agriculture, Fisheries and Forestry is here making a contribution to the debate on the Dairy Industry Legislation Amendment Bill 2002. I have enjoyed the contribution of all members, particularly the one by the member for Corio. I thought his case was very well put. I hope and trust the minister also tuned in to the contribution of the member for Paterson, because what the member for Paterson was doing was attacking the minister’s own plan—misrepresenting the minister’s own approach to the very important restructuring processes within this sector.

I am glad the minister raised the dairy RAP, because I want to ask him a couple of questions on that issue. How much of the $8 million has been spent in areas that are affected by dairy deregulation—I give as an example Dungog and Gloucester in the member for Paterson’s electorate and, of course, in my own electorate of Hunter—and what percentage of that funding has gone to not-for-profit organisations as opposed to private sector operations? Why was it that the economic development strategy proposed by Dungog Shire Council—again, in the member for Paterson’s electorate—was not supported? I would also like to ask him whether he has any comments about a $330,000 grant going to a brewery in my electorate—a proposal which has my wholehearted support. How does he see that grant sitting against the very good proposal put by Dungog Shire Council?

Mr TRUSS (Wide Bay—Minister for Agriculture, Fisheries and Forestry) (11.44 a.m.)—I am not sure that this exchange is in order because, as far as I am aware, there is no reference to the Dairy Regional Adjustment Program in the entire bill. Since we have allowed the question, I am happy to respond. Naturally, I do not have at my fingertips the detailed answers to some of the questions that the honourable member has raised, but I am more than happy to provide that sort of detail. From memory, he asked how much of the money has gone to private sector organisations and how much has gone to nonprofit organisations. My guess is that the overwhelming majority of it has gone to private organisations. Because we were endeavouring to foster new industry and to encourage innovative ideas, a very large proportion of the announcements have been in favour of local businesses and industry groups. But nonprofit organisations are not excluded, and there have been a number of grants to those bodies. They actually have slightly more favourable access conditions than for-profit organisations and are not required to meet some of the matching funding obligations that apply to for-profit organisations.

The priority has been to make the money available to the areas that were identified in the ABARE analysis as those most affected by dairy deregulation. Five local government areas
were identified as having had the largest impact, and they included Gloucester and Dungog; the other three, from memory, were Biggenden, Monto and Kilkivan. They have been priority areas, and we have endeavoured as much as possible to get funding to them. I have to say that I have been a bit disappointed with the applications that have come in, particularly from Dungog and Gloucester and, early in the piece, also from Biggenden and Kilkivan. We sent people to those areas to help them work through applications and a few more have come through in recent times. There will be some positive announcements about Dungog and Gloucester in the next few days that might please the honourable member. However, we are still working with those communities in relation to a number of the projects that are around. After the announcements to be made in the next few days, there will be only one more round of the program, which is scheduled for early next year. I have indicated that a priority will be given in this final round to areas that have not been funded perhaps as well as others and, again, to those priority areas that have been identified in relation to the ABARE study.

I think there is a clear obligation to spend the money in the areas which have been identified as having the greatest adjustment pressure. That is why a large proportion of the funding has gone to New South Wales and Queensland—rather than Victoria, for instance, where the industry has had less adjustment to make—and also to areas of South Australia, Western Australia and even Tasmania, where there has been a major adjustment task. So I have a particular desire to ensure that areas like Dungog and Gloucester are well treated. Frankly, the honourable member’s electorate, from memory, has done quite well out of this program, with a number of announcements for new projects in that region. I have an idea, without having the list in front of me, that he may be satisfied with some of the other things he hears in the next week or two.

Question agreed to.

Ordered that the bill be reported to the House without amendment.

TRANSPORT SAFETY INVESTIGATION BILL 2002

Cognate bill:

TRANSPORT SAFETY INVESTIGATION (CONSEQUENTIAL AMENDMENTS) BILL 2002

Second Reading

Debate resumed from 18 September, on motion by Mr Tuckey:

That this bill be now read a second time.

upon which Mr Martin Ferguson moved by way of amendment:

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

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

(1) condemns the Minister for Transport and Regional Services for botching the whole Auslink policy process which will clearly impact on the safety and efficiency of transport; and

(2) calls on the Government to bring more old fashioned honesty, integrity and leadership to the debate on how to provide transport and infrastructure needs for the safety, prosperity and well-being of this and future generations”.

Mr SECKER (Barker) (11.49 a.m.)—I rise today to join the debate on the Transport Safety Investigation Bill 2002 and the Transport Safety Investigation (Consequential Amendments) Bill 2002, which have been designed to streamline, maintain and improve transport safety in Australia. In joining this debate, I have to say that I have been quite surprised by the concerted campaign that Air Safety Australia has run against this legislation. I have been con-
tacted by a small number of my constituents expressing their concerns about this legislation after receiving material from Air Safety Australia.

I would like to take this opportunity to set a few things straight and hopefully allay some of my constituents’ fears. An urban myth has been put out by certain people that this piece of legislation has suddenly appeared in the House for debate. I want to make it very clear to my concerned constituents that that is just that—an urban myth. In September 2001—and we are talking about 12 months ago—an exposure draft of this bill was released. All major operators, organisations and associations in the aviation industry were invited to attend a multimodal consultation. Workshops were held on 21 September, only two days less than 12 months ago, and stakeholders, including those associations and Air Safety Australia, were invited. There was also an open invitation to meet separately for those stakeholders who wished to discuss further aspects of the bill and I understand that this resulted in further consultation.

Additionally, all stakeholders were provided with a copy of the bill, the explanatory memorandum and the second reading speech a few days after the bill was introduced into parliament on 20 June 2002, some three months ago. At the same time, we advised these groups that the bill would be scheduled for debate during the spring 2002 sittings which, of course, are the current sittings. The bill, and associated documentation, was put on the Australian Transport Safety Bureau Internet site shortly after that time. I take this opportunity to express my surprise at Air Safety Australia’s claims that this bill has suddenly appeared on the House list because that is clearly quite nonsensical.

My constituents also expressed their concern that this bill will change the ATSB from a cooperative agency to a combative one like CASA. I have to say that this bill contains provisions which are very little changed from current legislation. I am referring to part 2A of the Air Navigation Act 1920. I have sought a briefing with regard to this claim and I have been assured that the ATSB intends to continue to pursue a cooperative approach with the aviation industry, particularly with respect to investigating aviation accidents and incidents. The objects clause, along with several other provisions within this bill, specifically enshrines the practice of cooperation in legislation. The ATSB is only concerned with future safety and, as such, these powers are not able to be used against individuals or specific companies for any role that they play in safety in the transport industry.

I would also like to mention that many of the powers in this legislation would not need to be used routinely. However, these powers need to be available to the bureau to allow it to access information in a capacity which matches that of the potential for possible tampering of evidence in the event of a major transport disaster which involves loss of life and could result in the loss of millions of dollars. These provisions within the bill will also provide greater certainty with regard to the protection of information provided by persons to ATSB. I think it is very important that we provide that protection of information provided by those persons.

I have to say that the letter sent out on behalf of Air Safety Australia by Mr Boyd Munro has created quite a stir amongst the aviation community. It angers me to think that I now have to justify to my constituency why I want to support this piece of legislation purely because Mr Munro has incorrectly interpreted this bill and never to my knowledge sought to clarify his understanding of the bill or voice his concerns with the legislation to the ATSB. I think this is very irresponsible behaviour from someone who holds a very important position within the aviation community.

As I said previously, I have received a few phone calls from concerned constituents and, as of yesterday, six of those people have again contacted me voicing their concerns with the bill. I put it on record that I thank these people wholeheartedly for doing so. Without their input, I
may not have been aware of the incorrect information that is currently being circulated throughout the community. I do take their concerns on board; they are genuine concerns from people within the industry. However, I am sure that if they discuss the issue further with the ATSB their fears may very well subside. I might add that there are many pilots who are very happy to see changes being made to the current legislation and see this piece of legislation as a step forward.

I would now like to spend some time addressing the specific concerns which have been raised with me this morning. I am advised that there is a very real concern that this legislation will give the ATSB the power to enter any aircraft at any time. This is simply not true. The powers, as set out in clause 33, can only be exercised in relation to the investigation of an accident or incident, not at any time, as some people would believe. The power is also limited to special premises, such as accident sites and vehicles. The correspondence has also raised doubt as to the protection afforded to cockpit voice recordings. I received calls on that issue yesterday. It would appear that Air Safety Australia has incorrectly interpreted the provisions that relate to the treatment of cockpit voice recordings. The provisions that cover the confidentiality and the use of such recordings give more robust and less ambiguous protection in this bill than under current legislation. I also point out that it is not the ATSB’s role to regulate for mandatory installation of cockpit voice recorders. This role falls under CASA’s jurisdiction, and we all know this bill deals with only the ATSB. So that is another red herring that has been brought into this debate. However, were CASA to impose such a regulation, the TSI bill would afford operators with considerable protections, far better than they have now, as I mentioned.

Another concern raised with me has been about the supposed powers to interrogate operators that the TSI bill provides to the ATSB and other groups. I feel that this is a rather extreme interpretation, given that this bill is consistent with current legislation which gives the ATSB the power to interview people. We must remember that the role of the ATSB is to provide recommendations on safety, and I am not sure how they can do this if they are unable to interview parties who are involved. It simply has to be. It is true that matters could be referred on to the police, CASA and other organisations if the ATSB thought it necessary. However, these agencies would then conduct their own investigations independently of the ATSB investigation. TSI clause 32 clearly states that any information gathered in an interview by the ATSB cannot be used for litigation or prosecution. I think that bears repeating: any information gathered in an interview by the ATSB cannot be used for litigation or prosecution. It is simply to be used for fact-gathering to ensure that ATSB collect the best evidence possible to provide those safety recommendations. Their interviews require interviewees to answer every question asked of them to ensure that ATSB collect the best evidence possible to provide those safety recommendations. As I have said previously, the interpretation that this legislation gives power to the ATSB to interrogate people is simply not correct. The points to remember are that this bill is consistent with current legislation and that any information gathered from any interviews at the ATSB cannot be used for the purpose of litigation or prosecution.

I am also concerned about the hysteria floating around about the so-called ‘imprisonment’ sections contained in the bill. I would like to make it clear that all penalties within the bill have been included on the advice of the Attorney-General’s Department and comply with Commonwealth criminal law policy. All of the six callers who rang me today had serious concerns about Mr Munro’s claims that to copy a draft report could result in two years imprisonment. I advise that in relation to this concern subclause 26(2) refers specifically to a draft investigation report produced by the ATSB. To use an analogy, we have the same sorts
of penalties in a coroner’s report. Obviously, we do not want those draft reports printed and circulated in the community before they are accepted.

Subclause 26(4) provides instances where you can copy or disclose the report where you need to prepare a submission on the draft report or take steps to remedy safety deficiencies that are identified in the draft report. So there are a number of areas where you can copy the report but we certainly need some sort of penalty where it may be misused. No-one would think that for some inadvertent reprinting of a draft report you would get two years imprisonment. But you have to have some sort of penalty. If you have it at two weeks, for example, instead of two years, obviously it is not going to be any sort of deterrent. Two years is a maximum amount, not a minimum amount. It is not a mandatory amount.

Under the bill, only individuals or organisations that are considered to be directly involved or who had a direct influence on the circumstances of the occurrence or those whose reputation could be affected by the public release of the report’s findings will be provided with a draft report. This is to ensure that those parties have an opportunity to ensure that the report is factually correct. It is necessary for us to indicate within this legislation just how important confidentiality of such a report is. That is why, in order to ensure that these reports are treated with the utmost sensitivity and confidentiality, the bill includes the necessary considerable penalties. Australia’s contracting to annex 13 to the Chicago Convention on International Civil Aviation provides the principles in relation to confidentiality which are adhered to by this bill.

 Constituents have also raised their concerns about the supposed ability of the executive director of the ATSB to seize an aircraft without the consent of the owner. I can certainly understand their concern. However, if we think a bit deeper about this assertion, we will determine that the only time this would ever happen would be in the event of an investigation into an accident or an incident. Clause 36 provides powers to the ATSB to seize a craft only in relation to an investigation into an accident or an incident. Clause 36(1)(g)(ii) indicates that these powers are to be used primarily to allow the retrieval of records and physical evidence at premises other than accident sites, and they apply only if it is not practicable to obtain the consent of the owner of the material to be collected as evidence. In addition, clause 36(3) indicates that these powers are limited to circumstances where important evidence for future safety may otherwise be concealed, lost, deteriorate or be destroyed. I am sure that even those who have contacted me with regard to these concerns would understand the necessity to be able to accurately assess what went wrong, with a view to recommending a safer transport future.

A lot of misinformation with regard to this bill has been put out to the community. This has unfairly created some concern with and distrust of what the government is trying to achieve. I hope that the previous part of my speech has served to address some of the concerns which my constituents have raised with me. However, other issues still need to be addressed. The independence of the ATSB has been questioned by Air Safety Australia and this serious issue now deserves some attention. The claim has been made that, if the ATSB were to be independent, the executive director would have to be appointed by someone outside the department for a fixed, non-renewable term. I am concerned with this claim and I want to take a few moments to address it.

This bill is simply concreting in law what is now current practice in operation. The ATSB is operationally independent—and I refer to clause 15 of the bill—and neither the minister nor the secretary can influence the executive director in respect of the manner or depth to which
an investigation is conducted nor the contents of the final report. This bill, therefore, reinforces the level of independence in current legislation.

Contrary to Airservices Australia’s suggestion, the term of board members of the USA’s NTSB may be renewed after a five-year term. In fact, some board members have shown an interest in not only extending their term but also being appointed to a higher office. It is only the judicial officers and the Auditor-General who have a fixed term of appointment unless the appointment is terminated by an agreement by both houses of parliament.

Air Safety Australia is also concerned that the extension to include rail investigations will create enormous potential for conflict because the ATSB is federally aligned and the state rail departments fall under state jurisdictions. I have to say that this extension is entirely constitutional and is consistent with government policy. We expect the relationship between the Commonwealth, states and territories on rail issues to be no different from the Commonwealth, states and territories relationship on marine issues where the ATSB currently investigates accidents and incidents.

The ATSB and the Rail Safety Consultative Forum recently progressed a memorandum of understanding between the ATSB and the state and territory rail regulators to address issues of cooperation, including the reduction or elimination of duplication of activities. This is a positive step towards ensuring that the relationship in the rail industry is as workable and amicable as the relationship in the marine industry.

The ATSB is totally, as it should be, impartial in respect of determining the underlying factors that contribute to an accident or incident. I have mentioned previously that the role of the ATSB is not to apportion blame but rather to discover what happened and to make recommendations to ensure safer transportation in the future. The role of the ATSB is about learning from mistakes and seeing that parties do not reproduce those mistakes in the future. It is the ATSB’s role to determine whether the regulator or the service provider contributed to the incident; its role is simply to report the facts of the incidents as they occur and to assess and recommend better and safer practices for future reference.

Previously, I have made it clear that whatever evidence the ATSB collects during interviews cannot be used to prosecute or litigate. These recommendations are then assessed by CASA, Airservices and the Department of Transport and Regional Services for decisions to be made regarding implementation. This is the exact process that has occurred with previous recommendations, such as safety recommendation R20000285—that the ATSB recommends that CASA consider widening its skill base within the compliance branch to ensure that CASA audit teams have expertise in all relevant areas, including human factors and management processes.

However, I spend today justifying to constituents why I want to support this bill. Earlier, they informed me in no uncertain terms of their displeasure regarding my support for this bill. I want to support this bill in the interests of safer travelling; safer travelling for all of those people who own planes and who contacted me today; safer travelling for their children, loved ones and friends; safer travelling for my staff who are required as part of their job to travel to Canberra; and safer travelling for all of us who fly, sail and travel by rail. I commend this bill to the House.

Ms GRIERSON (Newcastle) (12.09 p.m.)—I rise to support the Transport Safety Investigation Bill 2002 and the Transport Safety Investigation (Consequential Amendments) Bill 2002. I also support the second reading amendment moved by the member for Batman. The amendment condemns the Minister for Transport and Regional Services for failing to manage
the transport policy and the AusLink program. If the intention of AusLink was to strengthen a national transport industry, it in fact has been a dismal failure—a failure to provide important transport infrastructure and a failure to protect our shipping industry in particular.

I support this cognate legislation because it attempts to provide a standard uniform legal framework for the investigation of rail, shipping and aviation accidents and incidents. It also further clarifies the role, functions and procedures of the Australian Transport Safety Bureau. As transport safety is an area that affects every Australian and every overseas visitor who travels here, it is essential that we have a nationally integrated safety investigation system, a system that thoroughly investigates safety incidents and makes recommendations to ensure our transport safety standards and practices are of the highest quality. Through the passing of this legislation, that can now happen across the nation and across all major forms of transport.

This legislation reinforces and embodies three important principles for the operation of the Australian Transport Safety Bureau: independence, ‘no blame’ and openness. When investigating safety incidents that may have personal, economic and legal consequences for those involved, it is vital that the safety bureau is completely independent in its activities. The ATSB must be protected from any undue influence by state or Commonwealth authorities or private corporations, individuals and organisations. That the ATSB acts according to the principle of no blame means that it is not involved in ascribing blame for each incident that it investigates. Its express purpose is to find out what happened and what caused the incidents and accidents so that recommendations can be made to improve future safety practice. Such a policy encourages those involved in safety incidents and events to provide access and honest information. In this way, cover-ups and nondisclosures are hopefully avoided.

The principle of openness in safety investigation means consultation and reporting to all stakeholders. It also supports the accountability of the ATSB. Like the member for Barker, I must acknowledge the many representations from constituents in my electorate who participate in the aviation industry as private owner pilots or who run small commercial aviation services. Their concerns regarding widening the powers of the ATSB and their concern about the loss of privacy and citizens’ rights are ones that we can understand, given the fundamental mistrust that has arisen between the industry and CASA. Poor consultation and inconsistent application of regulations have led to this situation. However, I note their concerns and thank the member for Barker for his very detailed analysis of the issues that they have raised with me as well. I compliment them on their active representation for the interests of safety in their industry.

Having had a close personal association with the aviation industry throughout my life, I do understand their passion and concern for their industry and each other. I would share their concern that, should ATSB act outside the context of an investigation, we would expect strong disciplinary action to be taken against them. But legislation is often drafted with the worst-case scenario in mind. That means that, to protect us from major transport disasters, the powers given are frequently wide. However, responsible application of those powers is also demanded. The ATSB must understand that without confidence and trust their effectiveness will be compromised. I welcome further contact from the aviation industry, should they experience what they see as inappropriate application of the powers given in this legislation to the ATSB.

That said, the most welcome part of this legislation is the extension of Commonwealth safety investigation practices in aviation and shipping to our rail network. I am also particularly encouraged that in this legislation the government is adopting ALP policies and our longstanding call for a national rail safety body. The legislation also vindicates our call for national standards, uniform and consistent reporting, and data- and statistics-gathering on rail
safety. Data that identify trends or isolate continuing incidents or locations are major contributors to safety. While accepting this, I must register here my personal disappointment that data collection generally by Commonwealth government departments and by the Australian Bureau of Statistics gives too little attention to regional data, with collection focused on capital cities. I encourage the minister under his regional development responsibility to find ways of expanding regional data collection.

My region, Newcastle and the Hunter Valley, is a transport centre with a regional airport, a regional shipping port and major freight and passenger rail infrastructure. Transport safety is of paramount importance to us. Over the past few years we have had two major rail incidents. In 1998 two track maintenance workers in the Hunter Valley were killed. This year a passenger train crashed into a derailed freight train at Hexham, injuring nine people. Sadly, the people of New South Wales also remember well the tragedies of the Granville and Glenbrook train disasters. I commend the New South Wales government for committing $1½ billion over the next five years to improve the condition of country rail lines and for their further commitment to improving city lines. But those regrettable incidents reinforce the need for a Commonwealth oversight body, such as the Australian Transport Safety Bureau, to manage and monitor rail safety investigations.

The rail industry has historically developed on a state basis, but now private companies operate trains across the country. Standardising the codes of national practice will require adoption by each state. At this stage, there is no agreed national standard on rail safety incident investigation. While each state has been invited to utilise ATSB services, not all have done so. In view of the public interest in safe rail services, a national approach is warranted, and I urge support from our state and territory governments.

I am pleased to report to the House that our regional airport, Newcastle airport at Williamtown, has an excellent safety record with no major safety issues or incidents in the past year—vindicating the success of their environmental management plan. This is particularly noteworthy as our regional airport operates in cooperation with RAAF Base Williamtown. I praise the positive working relationship that exists between these two organisations. In particular, the emergency service support provided by RAAF Base Williamtown to Newcastle regional airports gives great confidence to travellers in our region.

Fortunately, I can also share with the House the excellent safety record of our port, managed by the Newcastle Port Corporation. As the largest and most efficient export port for coal in the world, we have an exemplary safety record. The Port of Newcastle’s recent handling of the entry and berthing of HMS Nottingham was further testament to that record and excellence in management of our port. To the port corporation staff and management: well done. In preparing for this speech, it was difficult to gain published data about our port. Again, I urge the collation of regional data by the Australian Bureau of Statistics and by DOTARS.

Although we in Newcastle strive for high safety standards, I remind the House of the 1992 Ships of shame report and its sequel of 1995, which drew attention to a lack of safety statistical data collection here in Australia. I commend to the House the work of a former member and Minister for Transport, Peter Morris, who was involved in the release of the 2000 report of the International Commission on Shipping. Ships, slaves and competition. It did include statistics on ship losses and accidents, and the Transport Safety Investigation Bill 2002 supports that statistical data collection by the ATSB.

These reports reinforce concern held by me and by my opposition colleagues that the government’s failure to protect the Australian shipping industry and the safety of those who work in it puts our ports at risk. I praise the continuing and determined efforts of the Maritime Un-
ion of Australia and the International Transport Workers Federation to keep our ports safe. Hopefully this legislation will strengthen the ATSB and make it easier for it to monitor safety recommendations arising from its investigations of safety incidents.

There are quite a few maritime incidents to investigate—too many, in fact. Unfortunately, many of those incidents occur on the flags of convenience ships that sail in our waters and visit our ports. Flags of convenience ships are notorious for being unsafe. Often crews are untrained and are put to work in the most hostile of environments, on ships that frequently are in very poor condition. There is no doubt that flags of convenience ships are the scourge of the international maritime industry; but, at a time when the USA moves towards almost outlawing them, it is alarming that the Australian government has adopted an opposite agenda—driven perhaps by its obsessive determination to destroy the maritime unions.

I draw the chamber’s attention to a situation in Newcastle that recently saw a coal company sell the ship the Wallarah. Now, of course, that has been replaced with coal trucks on our roads. In spite of council and state government protests, the Wallarah was flagged to the notorious Tongan flag, demonstrating that, even given the recent disasters under this flag, the federal government would rather have this ship on our coast than an Australian ship. After all, they issued the permit. The disasters that we have witnessed include an incident involving the Tongan flagged Monica, which was caught being involved in people smuggling, and the Tongan flagged Karine A was arrested for gun running. We hold our breath to see what the Ikuna, formerly the Wallarah, will become involved in.

There is a volume of accidents, fatalities and abuses of foreign seafarers but more recent examples include a fatality on the Panamanian ship Western Muse when a seafarer had his leg torn off while working on a winch wire in Port Kembla in June this year. There was a near fatality off Port Pirie on the CSL Pacific when a Ukrainian seafarer who took over Australian jobs was dragged through the conveyor belts on board and had to be medivaced back to shore and then spent months in hospital with serious spiral injuries. The Nego Kim off Dampier had seven fatalities when there was an explosion which blew the seafarers off the No. 1 hatch and into the water. Four were killed outright and three were lost at sea while the ship was at anchor. The XL, a Panamanian ship, experienced an engine-room fire just 40 kilometres off Port Hedland in Western Australia in November 2001. Two seafarers were incinerated and the traumatised crew were left on board a dead ship for weeks waiting for it be towed back to Hong Kong. I could go on, unfortunately.

Just recently—only a week ago—my colleague the member for Shortland and I visited a ship in our port, the Angel 3. It was sailing under a flag from Malta. Its officers were from Greece and its crew were from Borneo. We visited with representatives of the MUA, our trades hall council and the International Transport Workers Federation. We were denied access to any of the facilities or parts of the ship used by the crew. Although we prefer those crews to be Australian, we have a responsibility for human rights. I share great concern for the safety of foreign crews operating on these ships and urge all members of this House to visit them when they visit their ports. When a ship is being investigated by the ATSB no permit can be issued. So it is hoped that the ATSB will now be particularly vigilant in investigating these incidents and will bring forward recommendations that support the restoration of a safe Australian shipping industry.

In supporting the amendment moved by the member for Batman, I share his absolute disgust with this government’s failure to develop or implement a national transport infrastructure plan. The people paying the most for this policy of neglect are the people of regional Australia. Regions like the Hunter in Newcastle need a vision for regional development and regional
policies that boost economic growth and job creation. In Newcastle both our port and our airport have the capacity, skill and market potential to become regional transport hubs. As the member for Batman stated, it is not good enough to just eye off the lucrative coal freight lines of the Hunter for government gain and corporate greed; we want this government’s ‘grab for cash’ to deliver something back to regional Australia. We want the money from the sale of National Rail and the sale of Sydney airport to be given back to regional Australia, particularly for transport infrastructure development. By helping to establish transport hubs in Newcastle, at our port and at our airport, the spin-offs for regional Australia would be massive. I encourage the minister to visit our region and to meet with our transport industry stakeholders and learn more of their wonderful vision.

I also thank the member for Batman for his two visits to Newcastle over the past 12 months and his active and dedicated support of regional Australia. I commend my local civic leaders and industry representatives who are always willing to consult and to brief government and public representatives in a bipartisan way. Their professionalism is outstanding.

This legislation before the House recognises that in transport safety the best outcomes for our nation will arise from cooperation and consultation across the nation and across all transport sectors. I urge the government to move on from blame and cost shifting and to concentrate on getting state agreement and a national integrated policy of safety investigation. Fortunately, this legislation does give some hope that the government, after seven years in office, is willing to provide some national leadership, at least in transport safety and investigation in Australia. I urge support for the bill and for the amendments.

Mr HUNT (Flinders) (12.24 p.m.)—I am very pleased to speak in support of the Transport Safety Investigation Bill 2002. My speech has four parts. The first is to discuss issues of transport and safety within my electorate of Flinders. The second is to discuss the importance of the Transport Safety Investigation Bill and some of the concerns which have been raised by constituents of mine. The third is to discuss the provisions of the Transport Safety Investigation Bill and the fourth is to discuss the provisions of the Transport Safety Investigation (Consequential Amendments) Bill 2002, its cognate partner.

I turn first to issues of safety and transport infrastructure within my electorate. I would like to begin with road infrastructure. Five principal projects are inclusive, but not exhaustive, of transport safety questions that constituents within Flinders face. The first is completion of the Bass Highway project. It is very important for transport safety, given that it is a principal arterial between Melbourne and South Gippsland. The second is completion of duplication of the Western Port Highway through to Hastings. That is a very important project, both in terms of safety and in terms of the capacity of a major arterial road to carry the full array of transport and goods necessary to supply economic health to the southern peninsula.

The third is inclusion of the peninsula in the metropolitan transport system. Again, this is an issue of extreme importance. It will take pressure off our roads by allowing and encouraging greater use of the public transport system. The fourth is upgrading and improving the condition of Red Hill Road, which is an issue of considerable significance to those who use it and know the dangers of it. The fifth is completion and improvement of the South Gippsland Highway and Baxter-Tooradin Road intersection. That is an intersection with all the characteristics of a major black spot danger and it is one we are working on to achieve greater safety and significant change.

Within the non-roads section of transport issues in Flinders there are four projects I think are important. The first is the completion of the cruise ship docking pier at Phillip Island, which would encourage greater and safer use of Western Port Bay. The second is to encourage
the trans-Tasman ferry to dock in Western Port Bay. The third is preparation of an environmental impact statement for the port of Hastings. This is an important precursor to determining whether it would be a safe and desirable option. The fourth of the major non-roads transport projects for Flinders is a long-term vision of the completion of a second Melbourne airport at Monomeith, a site which was a landing strip for B-52 bombers during the Second World War. That would allow for extraordinary development opportunities for south-eastern Melbourne.

I move from my electorate to the importance of this bill. There are three elements within the bill. Firstly, it is designed to improve safety in aviation, marine and rail transport by ensuring safety investigation best practice. Secondly, it would extend the Australian Transport Safety Bureau’s jurisdiction to interstate railways. Thirdly, it seeks to ensure consistency with international and national standards. All these are important goals.

In pursuing these, I note that it is very important that we maintain full protection of the rights of individual transport operators. I am very pleased to see Mr Boyd Munro in here today; I have had some connection with him and with other members of the aviation community. The important point here is that I have had six members of my constituency—Mr Alan Royston, Mr Sandy Reith, Mr Brian Sprigg, Mr Brian Jones, Mr Peter Cutting and Ms Claudia Jones—raise four principal concerns which they would like addressed during this debate. They are all aviators who operate privately and they have concerns which they would like addressed. First, they have a question about the power of the Australian Transport Safety Bureau to enter an aircraft at any time, even if it is not involved in an accident. It would be valuable if the minister and his office were able to address that.

The second concern they have raised is the power of the ATSB to host any negotiation attended by the Civil Aviation Authority, police or insurance company representatives. A third issue they raised with me is whether voice recordings to a pilot should be able to be forcibly handed over in any situation. Having looked at the legislation I do believe that there are adequate safeguards on this issue, but it is a genuine issue of concern to constituents and it would be valuable if the minister could address that in his summation. The fourth issue raised by constituents is whether the penalties are appropriate or excessive in relation to the criminal offences in this bill. Their concern is that the penalty is imprisonment if one refuses to answer questions in a case when one is without a lawyer or not legally represented. I raise all of those concerns as being matters of interest to aviators within my constituency of Flinders.

This bill addresses the question of safety investigation best practice. It attempts to implement the model of Professor James Reason of the University of Manchester. He argues that errors, omissions or external threats are an inevitable part of modern transportation, but they do not always translate into accidents. The reason why is that there are layers of safeguards built in. As each one of those layers is shored up, then it is more likely that no accident will occur. If one of those layers suffers any derogation then it is more likely that an accident will occur when one of the minor errors—either human or mechanical—unforeseeable events or events of malice occur. The argument there is that multiple redundant layers, each of which is strong, are necessary in order to protect transport safety—and that is what this bill seeks to do. It seeks to adopt and to apply those provisions within the context of the Australian Transport Safety Bureau.

The second thing this bill does is to extend the Australian Transport Safety Bureau’s jurisdiction to the railways. This bill extends the power of the ATSB to interstate rail transport. In the past, the ATSB has only conducted rail investigations at the request of the states and territories—so that is an important step forward. The third thing the bill does is ensure consis-
tency with international and national standards. So the bill is designed to bring Australia into line with international agreements on safety investigation best practice. It does that by embracing annex 13 to the Chicago convention, bringing Australian transport safety into line with the International Maritime Organisation resolutions and other international provisions. How does the bill achieve these aims?

The first part of this speech focused on Flinders; the second part focused on the prevailing safety regime; and the third part will focus on the operation of the bill itself. This bill provides a legislative framework for the ATSB to operate by extending its jurisdiction to interstate railways and by replacing the Air Navigation Act and the Navigation (Marine Casualty) Regulations. In relation to the reporting of transport safety incidents, this bill provides a more rigorous regime but one which must take into account the concerns I have just raised—and I would be grateful for a response to those concerns.

It also affects, through clause 10 of the bill, the conduct of safety investigations by the ATSB. It provides for cooperation and a division of powers in relation to other agencies, so that gives an important overarching authority to the ATSB. Those are the key elements. In addition, this bill allows for the publication of investigation results in accordance with a 'no blame' approach. This is an important step forward in allowing for an understanding of the causal factors which might be replicated in other cases, by looking at either the cause itself or any failure in a defence mechanism.

The fourth thing I wish to focus on today is the consequential amendments. Looking briefly at those, there are amendments to freedom of information provisions. Currently, under the Freedom of Information Act, the Commonwealth parliament and royal commissions are not bound by information restrictions in this bill. The amendments would alter the Freedom of Information Act to exempt on-board recording information and restricted information gathered in an ATSB investigation for freedom of information purposes.

Those are the elements of the bill. Overall, it is an important step forward in ensuring safety in our skies, on our railways and in our ports. However, there are important concerns which have been raised and which I have enunciated. I am sure we can address those; I will take them up directly with the minister and his office. I commend the bill to the House.

Mr WINDSOR (New England) (12.35 p.m.)—Mr Deputy Speaker, thank you for the opportunity to speak on the Transport Safety Investigation Bill 2002. I foreshadow that I will be moving an amendment on behalf of the member for Calare, Mr Andren, who unfortunately cannot be here at this time because he is busy with another matter. There are a number of issues that I will raise before I deal with the amendment.

Listening to the debate—even though I was not in the chamber, I was listening in my office—I was particularly interested to hear the member for Barker earlier refute some of the claims made by Air Safety Australia and almost attack some of the people involved with Air Safety Australia in relation to scaremongering and other things. Like most other speakers, I have been approached by a number of people within my electorate who have displayed some concern about some of the clauses in this legislation. I wrote to the Minister for Transport and Regional Services some weeks ago now and enclosed a number of letters from my constituents. I would like to read into Hansard my letter to the minister, written on 4 September 2002:

Dear Mr Anderson

I enclose herewith a letter of 3 September, 2002 from Ms Gina Dawson, Air Safety Australia, PO Box 172, Unley, SA, 5061, with which she has forwarded several letters from constituents within my Electorate concerning the Transport Safety Investigation Bill.
I would highlight the requests which have been made that debate on this Bill be deferred until there has been genuine consultation with those affected as well as Air Safety Australia’s request that the Bill be amended to address the concerns which have been raised in respect of this proposed legislation.

I would be grateful for your urgent consideration of this matter and for your advices at your earliest convenience.

The minister’s office wrote back to me on 11 September:

Dear Mr Windsor

Thank you for your letter of 4 September 2002 to the Deputy Prime Minister and Minister for Transport and Regional Services, the Hon John Anderson MP, on behalf of Mrs Gina Dawson of Air Safety Australia regarding the Transport Safety Investigation Bill.

The key point is:

The matters raised are receiving attention and a response will be forwarded shortly.

It was signed off by the appropriate officer.

Most of the debate today has been around the concerns that Air Safety Australia has. A lot of those issues, that were raised by the member for Barker, might well never have come into this chamber if there had been consultation with the appropriate people and had that taken place prior to the legislation coming into this place. It is unfortunate that one of the major players within the airline industry has not been consulted to the extent to which they would have presumed, and as a consequence I think we have wasted quite a bit of time in here today defending issues that could well have been alleviated if, in fact, there had been more consultation at the appropriate time.

As I said, constituents of mine have contacted me to raise certain concerns that they have in relation to the Transport Safety Investigation Bill 2002. Firstly, they asked why it has become necessary to criminalise the normal and very widespread office practice of copying documents, as specified in section 26(2)(a) of this bill. This provision was not mentioned, according to my constituents, in the second reading speech and it is not mentioned in the explanatory memorandum. Section 26(2)(b) covers the offence of disclosing a draft report, which is quite a different matter. Under section 26(2)(a) a person who makes a copy of a draft report from the executive director of the Australian Transport Safety Bureau, for his or her own records or as part of normal office procedure, could find themselves imprisoned for up to two years. Two years for making a copy of a document, I suggest, is Orwellian in the extreme. I foreshadow that I will be moving the following amendment on behalf of the member for Calare:

(1) Insert after section 26(2)(a) ‘make a copy of the whole or any part of the report;’

Maximum penalty: 20 penalty units.

This amendment leaves section 26(2)(b) intact with a penalty of two years imprisonment. Although we do have some reservations about the severity of this, we are prepared to accept it at this stage. I ask the minister, the members of the government and the departmental people who are present to take on board those concerns. They are very real concerns because many people, particularly people involved in aviation, may be involved in a whole range of other businesses and depend on staff in relation to their daily activities. Obviously directions may be given about documents that come into an office—it would be good office management, in a sense, for copies to be made of all documents—and the legislation as proposed could be breached inadvertently. That could lead to a maximum penalty of two years. I suggest that the department and the minister look a little more closely at that particular area.

There are other areas of concern that I would like to put on the public record. One area centres on the list of organisations consulted in relation to this bill and how these organisa-
tions were selected. We note, in particular, that Air Safety Australia was not consulted, even though the member for Barker made some comments earlier about various documents that were circulated something like 12 months ago. We note that Air Safety Australia was not consulted and that there were pilots across the country who were completely unaware of this bill until informed by Air Safety Australia.

I have also been asked whether any changes were made to the draft bill as a result of consultation with some of those pilots or with members of Air Safety Australia. If there were any changes, the minister might indicate what they were in his reply. Another question that has been asked by my constituents is why answers given by a person being questioned by the executive director of the Australian Transport Safety Bureau, under section 32, are not protected from being used for disciplinary purposes by the person’s employer or as grounds for cancellation of the person’s pilot license by CASA.

My constituents also note that, under section 32(1)(a), CASA officers or an employer may take part in an interrogation and that under section 7(2) the ATSB should cooperate with CASA. Has consideration been given to the fact that CASA may request that ATSB require a person to attend for interrogation by a CASA officer? Has consideration been given to the possibility that this might have an adverse effect on the future free flow of information and perhaps prejudice the person who is forced to answer questions even though the answers might be incriminating? Is the parliament aware of allegations that ATSB’s predecessor, BASI, interrogated people in the presence of an insurer? Has consideration been given to how a section 32 interrogation conducted in the presence of an insurer could be used by an insurer to avoid a claim? These are some of the questions that the minister may like to address in his reply.

The extremely broad wording of section 24 seems to allow the possibility that a person who refuses to attend an interrogation under section 23 might be charged with an offence under section 24, with its much higher penalty of six months imprisonment. Further, I am advised, a person’s legal adviser could also be charged under section 24 for providing legal advice to a person being interrogated.

Last week, the coroner of Western Australia released his findings into the ghost flight of September 2000, which took off from Perth and crashed near Burketown in the electorate of Kennedy. The coroner said:

I am mindful of the fact that the Transport Safety Investigation Bill 2002 was introduced into the Commonwealth Parliament on 20 June, 2002 and it is to be hoped that the lessons which can be learned from the present case will be reflected in amendments to that Bill ...

I am told that in no way does the legislation reflect the lessons from that case. The Western Australian coroner was strongly critical of the investigation of the crash and the conduct of several ATSB personnel, including the director himself, of whom the coroner says:

... it was, at least, improper to attempt to influence the future course of the hearing directly.

Many of Australia’s pilots are strongly opposed, not to the general intent of the bill as a whole, but to several of its provisions, as I have raised. There have been allegations of no open consultation and Airservices Australia are strongly of the view that if consultation had taken place there would have been a better outcome with this bill. In the absence of a House bills reference process, I urge the Senate to consider a brief inquiry into the bill to study the concerns that I have raised. At the very least, it needs the amendment that will be moved on behalf of the member for Calare.
Mr BAIRD (Cook) (12.47 p.m.)—Mr Deputy Speaker Causley, it is very good to have you in the chair because you would be well aware of my role in relation to transport safety. I am sure that nothing focused our minds more than the time when we were advised of the very significant bus crashes that occurred on the New South Wales coast, close to your electorate, if not in it. As I recall, there were two bus crashes in two consecutive months and then two months after that there was a very serious rail crash at Berowra. Transport safety remains pre-eminent in my mind, as I am sure it does in yours, Mr Deputy Speaker. The provisions in the Transport Safety Investigation Bill 2002 are very welcome and I congratulate those who put it together.

The Australian Transport Safety Bureau was formed in 1999 and plays a vital role in transport safety in the country. It had a very important role following the Whyalla Airlines crash, which occurred on the evening of 31 May 2000. The bureau assigns on a non-cause and non-blame basis, which is significant and important. It pieces together what occurred, looks at the problems and at the recommendations that were made. Further, the examination by the New South Wales government body into the Glenbrook rail disaster is a further demonstration of how important these transport safety investigations are viewed by the community. Obviously, a tight legislative framework is important so that we continue to have a safe transport environment. We only have to look at recent events in India where some 500 people were killed in a rail crash to realise what happens unless you have a very tight regime.

The mechanics of the Transport Safety Investigation Bill 2002 are basically involved in the reporting of transport safety matters. The bill creates an obligation on responsible persons to immediately report matters when a safety breach has occurred. Secondly, it now includes rail investigations, which is a widening of the bureau’s role. In the past, it focused mainly on air safety and air crashes. The inclusion of rail investigations is important in terms of an independent body going in and looking at the causation behind some serious rail crashes. That avoids some of the cover-ups that we may have seen relating to particular state government administrations. It was announced by the minister in April 2000.

The advantages of the legislation are that it ensures that one piece of government legislation governs transport safety investigations, the ATSB’s role is clarified, investigation procedures are all updated and standardised, consistency is ensured in investigation procedures—particularly in the treatment of sensitive information arising during an investigation—cooperation with other government bodies is clarified and facilitated, and our international obligations in the area are met. There has been wide consultation. I believe that this is a significant move forward in coordinating air and in rail safety. It is about ensuring that we have a first-rate, safe environment in transport in Australia. I commend the bill to the House.

Mr KATTER (Kennedy) (12.51 p.m.)—I will be very brief, with time pressing. P.J. O’Rourke, the famous American humorist, in a very humorous manner referred to the ‘safety Nazis’. They have been at work in the Transport Safety Investigation Bill 2002—there is no doubt about that. Proposed subsection 26(2) provides for two years imprisonment for copying a bill! This is really extraordinary stuff. Two years in jail—in a steel cage, like an animal—for making a copy of a bill! There is another provision—it is probably less provocative—which allows for the search of any vehicle without a search warrant. Even in the case of murder, it is difficult to get the right to invade a person’s privacy. Very sadly, for a lot of people in Australia today, their motor vehicle is their home. We have all run into those sorts of situations. A number of aspects of the bill are deeply disturbing. In my 10 or 12 years—whatever it was—on the back bench in the state house in Queensland, not on one single occasion did we allow through a provision such as proposed subsection 26(2). We were supposed to be a bit of a
right-wing, redneck government in Queensland, yet for 12 years not one single clause of that nature got through that parliament. I do not have time to go into the details of that.

When travelling, I would do $30,000 worth of charter work a year, at $200 an hour. In an hour, you can do 200 or 300 kilometres, so I do very many millions of kilometres a year in light aircraft—more than anyone else in this place. Four of the six aircraft that I used regularly over a two-year period went down, with everyone on board being killed, and they were all people that I knew. So I am probably more conscious of light aircraft safety and far more at risk than anyone else in this place.

I am absolutely appalled at two of the provisions in the bill. One is the right to search without a search warrant. Without any clause in the criminal codes in each of the states, they do have a right to search, but there is an onus upon the person exercising that right to have a reasonable belief that a very serious crime—a murder—is about to be committed. Yet in this draft, it is after the event; what has happened has happened. In most cases where this body goes in, it is not authorised to go in until afterwards. Enormously unfettered powers are allowed. I strongly back up my Independent colleague in expressing very grave reservations about a couple of clauses in this bill. The rest of the bill seems reasonable in its content.

I conclude by referring to the famous raconteur and thinker, Malcolm Muggeridge, who was the editor of Punch for about 20 years. Malcolm Muggeridge said that the giant armadillo, with each successive wave of evolution, covered itself in more and more protective armour plate until eventually it became impervious to attack from any other creature on earth. However, it was so heavy it could not forage for food and it rapidly became extinct. That is the sort of phenomenon that we are seeing here today.

Mr TUCKEY (O’Connor—Minister for Regional Services, Territories and Local Government) (12.55 p.m.)—In summing up on these transport safety bills as speedily as possible in the circumstances, I would like to respond to some of the questions put to Minister Anderson by the member for Batman. He raised questions relating to criticisms of the WA coroner’s recent report, as detailed in the Adelaide Advertiser, concerning the ATSB investigation into Whyalla Airlines and funding of the ATSB. The government does recognise that such an institution must be properly funded and it will ensure that that occurs in the future.

In regard to the other matters, Mr Anderson asked the ATSB to carefully examine the WA coroner’s 75-page report and to respond frankly to the criticisms therein. The minister’s request was conveyed by his office to the Executive Director of the ATSB shortly after the report was released on 12 September. The ATSB has provided a copy of its detailed responses and they are being reviewed by the minister’s office. A senior lawyer from the Australian Government Solicitor is also reviewing the coroner’s report and has advised orally that many of the criticisms of ATSB are unfair and are not supported by the evidence. The minister will consider possible release of this material after the reviews are concluded.

Despite the negative tone of his report, the coroner’s findings are very similar to those made in the ATSB report. The coroner has also supported the safety recommendations and submissions made by the ATSB, including for aural cabin altitude pressure warnings, but without acknowledging the ATSB source. Coroner Hope clearly does not support the ATSB’s no-blame safety investigations based on annex 13 of the Chicago convention. It is inappropriate for the coroner to criticise the ATSB for doing its job under Commonwealth legislation because he dislikes the law.

The main reason for the delay in the ATSB finalising its report on this tragic accident is that it did not obtain important autopsy and pathology results from Brisbane until the second
Coroners, not the ATSB, have powers to undertake pathology testing, and Coroner Hope has wrongly suggested that the ATSB had control over all evidence, including the remains of the deceased. The ATSB has held very positive discussions with other senior coroners from around Australia about a proposed memorandum of understanding linked to the legal framework governing both parties. The minister strongly encourages this as a mechanism to improve future understanding, cooperation and mutual respect.

The inquest in Adelaide into the deaths on Whyalla Airlines VH-MZK is ongoing and it is not appropriate to comment in any detail. While the ATSB undertook a very thorough 18-month investigation, the investigators did not have the benefit of survivors, flight data or cockpit voice recordings to assist them in what was a very complex investigation. It is possible that significant new information will emerge during the inquest, and if it does the ATSB will carefully consider and recommend any further action required. This is legislation to reinforce the no-blame principles of this type of investigation. It is an attempt to clean up all the various legislative problems of the past, and the government are firmly committed to it. We would ask that it be supported without amendment.

Finally, some comment was made about AusLink by the member for Batman. The AusLink proposal is for a green paper. A green paper is a consultation paper, and my submission to Minister Anderson is that it should be as wide ranging as possible and give as many options as possible in respect of all factors. I am not sure whether the Commonwealth wants to proceed that far but, personally, I would be quite happy to give a bit of advice to the states on how they might fund and operate some of their own transport responsibilities.

Mr Martin Ferguson—You have just confirmed that it is cost shifting.

Mr Tuckey—No, to the contrary. That issue will arise as a consequence of the green paper. The Commonwealth is concerned that the cost shifting might be, as it typically is, from state to Commonwealth. However, it is a green paper and it should be understood that it is a consultation paper; it is not an announcement of policy—that is called a white paper. I am delighted that we are going to take a visionary look at the future of transport in all its facets and put that to the people, to the opposition and to anybody else who wants to make a submission. That is good policy and good consultation. Nobody can say that announcements regarding a green paper have some ulterior motive. I commend the bill to the Main Committee.

The Deputy Speaker (Hon. I.R. Causley)—The original question was that this bill be now read a second time. To this the honourable member for Batman has moved as an amendment that all words after ‘That’ be omitted with a view to substituting other words. The question now is that the words proposed do be omitted stand part of the question.

Question agreed to.

Original question agreed to.

Bill read a second time.

Consideration in Detail

Bill—by leave—taken as a whole.

Debate (on motion by Mr Neville) adjourned.

ADJOURNMENT

Motion (by Mr Neville) proposed:

That the Main Committee do now adjourn.
Mr MARTIN FERGUSON (Batman) (1.02 p.m.)—Today I wish to talk about the tail on the Liberal Party dog—a shambles that calls itself the National Party. As we all know—and as you, Mr Deputy Speaker Causley, know better than me—the so-called party for the bush is in dire straits all across the country and it is finding itself increasingly irrelevant in the Liberal-National Party coalition.

As the member for Hinkler would appreciate, in Queensland the Liberals just do not want to know them and the same goes for my home state of Victoria. Talk of the National Party in the Northern Territory brings looks of bewilderment from the locals. The same is the case in Tasmania. Here in Canberra, the Leader of the National Party, the member for Gwydir, is struggling, as we all appreciate, to keep the Liberal Party from engulfing grassroots bush seats—just look at the outcome of the last federal election. That is ironic because, when the National Party is supposed to be the party of the bush, it is becoming more and more irrelevant.

We should also understand that the National Party leader is struggling to keep the troops in line. Let us take the issue of the full sale of Telstra. Day in and day out, we hear the rumblings from the four National Party state branches. They know that selling Telstra will be a disaster for service providers. What is the National Party leader’s response? I am sure the member for Hinkler is aware of this quote. The leader of the National Party has said:

... running a modern political party we always take serious note of what our organisation says, but the final say clearly always belongs with the party room.

I suggest to the House this afternoon that clearly the leader of the National Party cannot take the pressure from his so-called cabinet partner, the Liberal Party, and will roll over no matter what the cost. I contend that this speaks volumes about the commitment the National Party’s parliamentary members have to serving their constituents. However, the National Party leader’s parliamentary colleagues are turning to a new leader to guide them along the way. Who could look past the member for Dawson’s recent worship of the Prime Minister at the National Party federal council, no less, over the weekend—a very good friend, I appreciate, of the member for Hinkler. Why are they losing faith in the member for Gwydir? The answer is simple: it is about leadership. Mr Deputy Speaker Causley, you have a history of being able to count the numbers. Why else would you be occupying that high office at the moment—

The DEPUTY SPEAKER (Hon. I.R. Causley)—I remind the member for Batman that the chair does not—

Mr MARTIN FERGUSON—A strong party needs a strong and committed leader, a leader who will fight for what they believe in and serve the people who elected them to the best of their ability. I do not believe the Deputy Prime Minister is fighting for what he believes in. His constant failings in the Transport and Regional Services portfolio are further proof that the wind has gone out of his sails. I suggest to the House that the National Party leader has had enough. He is tired; he has said it on a number of occasions in his public murmurings. He wants to go back to the farm, to go home and rest. It is my belief, Mr Deputy Speaker—and I am not asking you to endorse my comments today because I know about solidarity in the party room: you can have your private and your public positions—that a position as esteemed as that of Deputy Prime Minister should be filled by someone committed to serving the people of Australia. Even you would like to put your hand up if the position became vacant, Mr Deputy Speaker Causley. The Deputy Prime Minister should not be someone
whose apathy is reflected time and time again in his failings as a party leader and as a cabinet minister.

I believe that in essence we ought to consider this: if you are holding the reins, then ride the horse; if you are not going to ride the horse, then get off. In essence, the real challenge to the National Party at this point in time is whether it is going to allow itself to continue to be the tail on the Liberal Party dog or whether it is going to stand up for its traditional constituency—a job that it once did proudly, some time ago. Unfortunately, I have come to the conclusion that the tail on the Liberal Party dog is going to continue to get cut shorter and shorter at successive federal elections as we move further into the 21st century.

It is time for the member for Gwydir to head to the backbench and make way for someone committed to the job. We all know that the numbers are being counted—and not just in the Liberal Party. The Minister for Trade has his eyes on the Deputy Prime Minister’s seat. (Time expired)

Roads: F6 Link Road

Miss JACKIE KELLY (Lindsey—Parliamentary Secretary to the Prime Minister) (1.07 p.m.)—I rise today to talk about an issue which I raised some weeks back and which the member for Cook raised in the House earlier this week. This is the New South Wales government’s inability to put the good of the people of Sydney ahead of politics in the lead-up to the New South Wales election next year, and I mean through good, long-term, sound planning. The New South Wales Minister for Roads, Carl Scully, made a very short-sighted and politically motivated decision to completely abandon the F6 road corridor to Sydney’s southern suburbs, for a study of options, including light rail.

I would have to agree with the member for Cook that light rail will not provide an adequate solution to the shire’s transport needs into the future. There is no doubt that this decision was made in a lame attempt to win votes in marginal seats in Sydney’s southern suburbs in the lead-up to the New South Wales elections in March next year. The member for Cook was not on his own in disagreeing with this myopic decision of the Carr government. NRMA board member and former St George Rugby League great, Mark Coyne, called on the government to produce transport studies to prove that the abandonment of the F6 corridor would not disadvantage the travelling public. The Carr government has abandoned this road corridor without any thought for future generations of people living in Sydney’s southern suburbs.

This is not the first time that a New South Wales Labor government has made such a poorly thought out planning decision in regard to road corridors in Sydney. Former Premier Neville Wran, in all his wisdom, sold off the M4 extension road corridor in the late seventies. Most of this land was sold for housing, with the odd bit left as green space in strategic electorates, as the state was coming up to an election. The $350,000 study commissioned by Carl Scully is basically looking for land to sell and revenue to fill the state coffers. Once houses are put upon the land, any attempt in the future to buy that land back for road use is simply uneconomical.

It would have been obvious to the Wran government in the seventies that the M4 extension was going to be required. Sydney’s western suburbs were growing at an alarming rate, and they continue to do so today. What this means for the people of my electorate and others in Western Sydney is that when they get off the M4 they have to struggle along Parramatta Road, undeniably the worst road in Sydney. This means that some people who live in my electorate spend hours each day in a ‘car park’ on Parramatta Road, just getting to and from work.
What the New South Wales government have done in an attempt to soothe the anger of the motorists and commuters of Western Sydney is announce some very expensive transport projects. Sometimes they announce them on several occasions. The Parramatta to Chatswood railway is one such project: I have lost count of the number of times that Carl Scully has announced that one, but it is not likely that work on that project will start until 2008, if at all. In fact, they are still waiting for the bridge over the rail station at Auburn which was promised in the recent by-election.

In an attempt to make up for the pathetic, short-sighted, ad hoc decision made by the Wran government to sell off the M4 road corridor, Mr Scully is now talking about a $1 billion tunnel under Parramatta Road. This tunnel is going to be financed privately, and that basically means that the people of my electorate are going to be hit with another toll. If New South Wales Labor are true to form, in order to win the election they will promise to take the toll off and after the election they will decide that it is not economically possible and will leave it in place. The people of my electorate and others in Western Sydney are sick of the hollow promises of the Carr government. They want better roads and a better public transport system that is both safe and cost-effective.

When I raised similar issues previously—I spoke of a lifestyle ministry a few weeks back—Bob Carr’s team were sent into a spin. They did not know where they stood, and I think that is part of the problem. In February next year there is going to be a national transport summit. I will do my very best to ensure that the transport issues of my electorate and outer metropolitan areas across the country are given the attention that they deserve. I urge the New South Wales Minister for Transport to attend the summit with something more constructive than cheap shots at the federal government. He may want to explain why suburbs like Mosman and Neutral Bay have more State Transit Authority bus services than any other area in Sydney. When you think of it in terms of the per capita income in the suburbs, surely a submission detailing the costs per head and income in that area, so as to provide a fair share of State Transit Authority funding, is a good model that he should be bringing forward to the summit. This adhocery of ‘red roads’ down George Street, where lights do nothing to enhance the speed of bus transport, is also evidence of his ad hoc approach to this very important issue.

(Hour expired)

Housing: Supported Accommodation

Ms Jackson (Hasluck) (1.12 p.m.)—Over the last year, under the banner of the Time to Care campaign, people with disabilities, families and agencies in Western Australia have come together to take a stand for the provision of accommodation support funding, needed urgently by people with disabilities. A report released by the Western Australian Minister for Community Development, Sheila McHale, and called Identifying the need stated that there are currently 263 families who have applied for accommodation funding and have been knocked back. Of these, almost half—131—have been classified as being priority 1; that is, in critical need. These figures pale into insignificance against estimates by the Australian Institute of Health and Welfare of 21,000 people nationally whose need for supported accommodation has not been met. The Time to Care campaign is calling for urgent support for those in crisis, and a plan to address the medium- to long-term accommodation needs of people with disabilities. State and Commonwealth governments must work together to resolve this crisis. The Commonwealth must honour the wording and intent of the current Commonwealth-state disability agreement and accept its responsibility to share in the funding of accommodation.

Just how much would it cost us to address this problem? Minister McHale’s report stated that supported accommodation would require, at a bare minimum, $50,000 for each family.
meet only those classified as priority 1 would cost $6.55 million—given the current debate on Iraq, that is just two cruise missiles at $3 million each. To meet the needs of all of the 263 families would cost $13.5 million. Let us get our priorities right. The government was forced earlier this year to admit that it has paid more than $31 million to operate a maintenance facility for Seasprite helicopters that do not exist. That $31 million would have met the cost of supported accommodation for all those in need in Western Australia, not just those in crisis.

I have been working with this wonderful group of people. As a community, we rely on them to cope without any proper support. Frankly, it is now crunch time. Federal parliamentarians would have received this information and would know of the need. The responsible minister and the government are aware of the need. We have the funds to pay for things such as maintenance on non-existent helicopters. We can and must find the funds to support the vulnerable and disadvantaged. There is no excuse and there can be no further excuses for delay. We must act before there is a tragedy.

The current Commonwealth-state disability agreement will expire at the end of October. It must be extended with a commitment to meeting the unmet accommodation needs that have clearly been identified. If this does not happen, hundreds of Western Australian families will continue to live in crisis with stress and despair, not being able to plan for the needs of their disabled children. This is particularly so for those parents who are ageing and concerned about the future and what will happen to their children after they have gone.

The campaign group has said to me that it sometimes seems that the human element of the Commonwealth-state disability agreement is lost in the political wrangling about who funds what and where the money goes. The Australians with disability served by the Commonwealth-state disability agreement are among the most vulnerable in our community. Their disabilities are mostly lifelong and severe. Their ongoing support needs place continuous strains on their families, which are unsustainable.

These people are relying on state and Commonwealth governments to set aside political differences and make a meaningful and positive difference to their lives. This has been achieved before—and it can be again—with goodwill, bipartisanship and commitment. This is an urgent call for action to the current government and minister. As I said, it is crunch time with the extension of the current Commonwealth-state disability agreement due to expire at the end of October. By all accounts, the highest likelihood is that the Commonwealth-state disability agreement will be finalised with no funding commitment towards addressing existing unmet needs. I say to the responsible minister and to the rest of the government: it is time you cared.

Makin Electorate: Tee Tree Gully Community Services Forum

Mrs DRAPER (Makin) (1.17 p.m.)—I wish to bring to the attention of the parliament some important work that has recently been produced by the Tee Tree Gully Community Services Forum Inc. within my Makin electorate. The forum membership is made up of representatives from community and church groups as well as local, state and federal government agencies. Its stated objectives are to provide contact between the various service providers in the north-eastern area of metropolitan Adelaide for information exchange and cooperation wherever possible. Chaired by Mrs Gail Lloyd, the forum also provides for discussion of important issues within our local community.

As a member of the forum, I have been able to see how beneficial it is when a group of people, who are dedicated to improving the lives of those most disadvantaged in our commu-
nity, meet on a regular basis to exchange ideas and find new and better ways of providing much needed services.

For submission to the social development committee of the South Australian parliament, the forum has recently produced a paper on poverty in the north-eastern region of Adelaide. Rather than focusing on the statistics alone to demonstrate its case, the forum decided to provide several case studies which vividly highlight the situation as it exists in some areas of our community.

The forum's central proposition is that family breakdown was the most significant cause of poverty and led to a whole range of social problems. It found that family breakdown was a significant factor in causing intergenerational poverty, physical and emotional abuse, addictive behaviours, unemployment, low individual self-esteem and, in some cases, criminal behaviour.

The paper then focuses on some of the causes of family breakdown, including the inability to cope with financial pressures, unemployment and mental illness. Importantly, the forum chose to highlight the problem of what it describes as 'the working poor'. On this, the forum states:

Working families are now experiencing financial strain as incomes fluctuate depending on the availability of contracts or full/part-time.

At this juncture I would like to add a few comments regarding the casualisation of the work force over the past 10 years or so. We all know that the introduction of unfair dismissal laws by the Labor government is responsible for the reluctance of employers to take on permanent employees as opposed to employing people on a casual basis. Though the coalition government has tried once again to pass legislation to help employers and employees regarding unfair dismissal laws, the Labor Party once again has not agreed to support the bill.

Therefore, as I have just stated, working families are now experiencing financial strain as incomes fluctuate, depending on availability of contracts and whether it is full- or part-time work. This can contribute to poverty amongst employed people and a greater sense of anxiety, which can put pressure on family relationships. Consequently, a new class of poverty, the working poor, has expanded the nature of disadvantaged from poverty and unemployment to poverty amongst the employed.

The growing pressure on families was also noted by the Tea Tree Gully Salvation Army, which has noticed an increase in the number of families requiring financial assistance. The paper has been presented to the South Australian parliament and, as the local federal member, I undertook to bring it to the attention of this parliament. I believe it to be a work of considerable importance because it addresses issues which go to the heart of what makes a successful community. The forum has recognised the need for ongoing lifetime education and training opportunities so that people continue to have skills necessary for them to hold down jobs. In addition, it recognised that we live in a new global environment where the decisions we make must be realistic and affordable.

Deinstitutionalisation of mental health patients has often failed those patients and placed further pressures on community services. Governments in the past have failed to heed the warnings of many and failed to learn the lessons of international experience. The core conclusion is, however, that we all need to do more to help families stay healthy because a healthy family makes a healthy community. On that note, I congratulate the initiatives of the Howard coalition government.
Mr SIDEBOTTOM (Braddon) (1.22 p.m.)—As opposition parliamentary secretary with the responsibility for processed foods and exports, I wish to raise my concerns about the government’s handling of the crisis in the sugar industry. The sugar industry is a $1.3 billion industry. The industry is rich in its history and is mainly situated in regional, coastal Queensland, northern New South Wales as well as the Ord River irrigation areas. Over the last four years the industry has struggled due to problems associated with: world markets; low commodity prices; climatic conditions, such as floods and droughts; pest infestations, including cane grubs; and the devastating orange rust. The Labor Party supports assistance for the sugar industry, as there is a dire need for some sort of well structured and targeted, self-sustaining package of support.

Businesses, families and communities involved within the sugar industry are in serious trouble, and it is necessary for the federal government to provide the sort of assistance it has provided to other industries. The problem is that the Howard government has this unerring instinct to impose unfair taxes. Give the federal government a problem and it will fix it by slapping an unfair tax or levy, whatever one wants to call a tax, on the Australian people.

The federal government takes the stand of hitting all families equally, not taking into account their capacity to pay. Should Mr Packer pay the same tax as Mr Smith from down the road pays? Previous tax systems were brought about to take into account the capacity of the individual to pay. It is a fair and fundamental right for the average Australian to expect to pay less tax if they earn less—and I will return to this in a moment.

The sugar industry relies primarily on overseas exports for its market. Australia produces 3.7 per cent of the world’s raw sugar production, averaging around four million tonnes per annum. Our major export destinations are Japan, South Korea, Malaysia and Canada, with Iran, China, Indonesia, northern Africa and the USA also purchasing our raw sugar. Around 75 per cent of our raw sugar production is exported and, as such, the industry needs to be cost competitive on a world market. The price of raw sugar gained on the world market has been consistently low for 10 years.

To understand the extent of the price drop in the world market, in 1975 the sugar industry was getting US$57c per pound for raw sugar. Now, in 2002, I understand it is getting around US$7c per pound. The sugar industry needs help and reform to cope with this drastic decrease. We provide assistance to industries such as the car, textile, clothing, footwear, insurance, medical, air travel and stevedoring industries. These industries did not incur a levy. The sugar industry is no different. If the federal government gets it wrong, then this could negatively affect the lives of thousands of Australians and an important industry, especially affecting Australian exports.

The role for the government in a modern economy is to assist industries to reform themselves through crises and to reform and restructure themselves, whether it is a drought affected industry, an industry affected by unfair competition or an industry that we want to restructure because we are lowering tariffs. In all those instances, they are entitled to our assistance. But, as I have previously stated, it is unfair to continue to hit families with unfair levies that make the poorest pay just as much as the richest. This government and its minister have been slow to react to the release of the Hildebrand report. Labour and industry groups have previously called on Minister Truss to reconsider the introduction of interim support for the sugar industry until the Hildebrand report can be assessed and implemented.
I would like to bring to your attention, with one example, the effects that a levy on the sugar industry would have in my electorate of Braddon. Classic Foods has a UHT food processing factory based in beautiful Edith Creek in the far north-west coast. It is a large milk product manufacturing company producing milk, flavoured milk and soft serve product. Classic Foods expressed to me extreme concern about the prospect of this government placing a levy on sugar. Classic Foods marketing manager, Trevor Schwarz, made it clear that his business would be struggling to get the increases in cost back from the marketplace. He predicted that, if the levy was introduced now, it would take until mid next year to start recovering from the increases. Classic Foods is a classic example of a food processing business belted with federal government industry levies. For example, Classic Foods has recently been hit with a milk levy, and now the sugar levy would create a double whammy. Where does this stop—a levy on packaging?

The government has finally recognised the importance of research into ethanol production. It recently announced a grant towards the Sugar Research Institute. I hope this is not too late or too little as the reforms for the sugar industry are needed now, not in the future. (Time expired)

Kalgoorlie Electorate: GMF Health

Mr HAASE (Kalgoorlie) (1.27 p.m.)—I rise today to speak on GMF Health. GMF Health has become what has been described as an icon of the goldfields. It is one of those rare entities that has the ability of bonding an entire community together in order to ensure its survival. Fifty-four years ago, it started off as Goldfields Medical Fund, a regional health fund based in Kalgoorlie, WA, but it fell into decline late last year when the Private Health Insurance Administration Council stepped in amidst alleged breaches of the National Health Act and appointed an administrator. These claims are to be referred to the Commonwealth Director of Public Prosecutions to investigate and take whatever action is deemed appropriate. The announcement this week that approval would be sought for GMF to merge with a subsidiary of Western Australia’s biggest private health insurer, HBF, will bring some stability for this embattled health fund and its members, which are largely scattered in Victoria, Queensland and the Goldfields. Although there has been sorrow expressed at the loss of local control, the reality is that this health fund ceased to be a regional health fund long ago, with the majority of numbers located outside the Goldfields.

The administrator, Peter Hedge, had the difficult task of determining whether the fund should be wound up completely, merged with another or was capable of operating as a viable stand-alone fund in the long term. Both Mr Hedge and PHIAC chief executive Gayle Ginnane have faced intense local scrutiny and criticism of the length of term of administration and the costs involved. Ms Ginnane, however, is confident that, had the final decision been brought forward, the decision would have been to shut the fund down permanently and completely. This would have been a sad day for the Goldfielders and would have resulted in job losses, disruption for members and a flow-on effect to all of the community. I am told that, since Mr Hedge took the reins at GMF, the management and administration costs have halved and the skill level of staff has been raised to a level necessary to cope in a busy private health insurance environment.

I am pleased that the proposal to merge with HBF Healthguard has been made. If approved, it will result in GMF retaining its name and logo and will ensure Goldfield’s membership on the Healthguard board. The well-known names of Ron Yuryevich and Alan Pendal have been mentioned for possible inclusion on the board. The intention of Healthguard to relocate its office to Kalgoorlie-Boulder is an absolute coup for the city and will ensure continued em-
ployment for the existing staff and increased employment opportunities for the Goldfields community. Most importantly, the decision will bring some stability for staff and members and allow them to look forward to a secure and confident future. GMF has gone down a tough road in recent months, but I am confident that this newly streamlined organisation, with the backing of a major private health insurer and the loyalty of staff, members and the community, has a bright future ahead. It may no longer be a small Goldfields entity but it still carries the proud spirit of the Goldfields and as a result can only prosper.

Sitting suspended from 1.31 p.m. to 4.00 p.m.

TRANSPORT SAFETY INVESTIGATION BILL 2002
Cognate bill:
TRANSPORT SAFETY INVESTIGATION (CONSEQUENTIAL AMENDMENTS) BILL 2002
Consideration in Detail
Consideration resumed.

Mr ANDREN (Calare) (4.00 p.m.)—I move:
(1) Insert after section 26(2)(a) ‘make a copy of the whole or any part of the report;’
Maximum penalty: 20 penalty units.

This is a very minimal amendment that pertains to the penalty that accrues for the copying of various documents. As the member for New England said, imprisonment is an Orwellian—indeed, outrageous—penalty for a person who copies a draft report. Subsection 26(2) states that a person must not ‘make a copy of the whole or any part of the report or disclose any of the contents of the report to any other person or to a court’ and the maximum penalty that it applies is imprisonment for two years. That is a draconian penalty, by any judgment. My amendment seeks to remove that penalty of imprisonment and substitute a fine. The other part of that subsection does not apply. In fact, I have restricted the amendment to insert after section 26(2)(a)—which states ‘make a copy of the whole or any part of the report’—‘Maximum penalty: 20 penalty units.’

There are other things in the bill as it stands that the member for New England has very cogently covered. I certainly think there are areas that need to be the subject of some form of parliamentary inquiry. Of course, as so often happens, we defer legislative inquiries to the other place. That is another area that is seriously lacking—we do not have a legislative reference process of any serious degree within the House of Representatives. That being the case, I will certainly be drawing this to the attention of all parties in the Senate in the hope that they will see fit to refer this to a brief inquiry to take some information from those parties that have been, it would appear, excluded from the process. I urge the House to support this very minor amendment. I commend the amendment to the House.

Question unresolved.

The DEPUTY SPEAKER (Ms Corcoran)—As the question is unresolved, in accordance with standing order 276, the question will be included in the report on the bill to the House.
Bill agreed to with an unresolved question.
Ordered that the bill be reported to the House with an amendment and an unresolved question.
TRANSPORT SAFETY INVESTIGATION (CONSEQUENTIAL AMENDMENTS)
BILL 2002
Second Reading
Debate resumed from 20 June, on motion by Mr Tuckey:
That this bill be now read a second time.
Question agreed to.
Bill read a second time.
Ordered that the bill be reported to the House without amendment.

MEMBERS OF PARLIAMENT (LIFE GOLD PASS) BILL 2002
Second Reading
Debate resumed from 26 June, on motion by Mr Slipper:
That this bill be now read a second time.

Mr MELHAM (Banks) (4.06 p.m.)—The Members of Parliament (Life Gold Pass) Bill 2002 establishes a uniform set of arrangements for all life gold pass holders, their spouses, the widows or widowers of deceased pass holders, and spouses of sitting members who have qualified for a life gold pass. The bill proposes annual limits to travel entitlements for all eligible pass holders for the first time. The bill also includes a forfeiture provision linked to the forfeiture of superannuation benefits in the case of a conviction for a ‘corruption offence’ as defined in the Crimes (Superannuation Benefits) Act 1989. This provision will apply to all life gold pass holders and former parliamentarians who qualify for severance travel benefits.

The limits imposed by the bill on travel entitlements are as follows: for eligible former Prime Ministers and their spouses, up to 40 return trips per annum; for widows and widowers of eligible former Prime Ministers, up to 10 trips per annum for the first five years commencing on the death of the former Prime Minister and five trips per annum thereafter; for all eligible former members and their spouses, up to 25 return trips per annum; for spouses of eligible sitting members, spouses of the Prime Minister are entitled to 40 domestic return trips per annum and all other members’ spouses are entitled to 25 domestic return trips per annum to join or accompany their spouses; and for widows and widowers of eligible former members who died after the commencement of the act, up to 10 domestic return trips in the first year following the member’s death and up to five domestic return trips in the next year, after which the entitlement ceases.

The bill also includes a range of provisions aimed at clarifying and enhancing the arrangements relating to life gold pass travel. These include clear statements concerning: the type of travel that may be undertaken; definitions—for example, definition of a return trip—how to treat stopovers; and what constitutes a commercial purpose. The measures setting limits to entitlements were foreshadowed in the Prime Minister’s statement on parliamentary entitlements of 27 September 2001 and flowed from the findings of the Auditor-General’s report on parliamentarians’ entitlements No. 5 of 2001-02.

The opposition concur with the government’s view that the current life gold pass entitlements are overly generous and out of step with community views. The new limits proposed by this bill are justified and have the opposition’s support. One concern the opposition do have with the bill is its use of the antiquated definition of spouse as ‘legally married’. We consider it more appropriate that the definition of spouse include de facto spouses and note that this has been the accepted definition in the Parliamentary Entitlements Act since its passage in 1990. I foreshadow that the opposition will be either supporting an appropriate government amend-
ment to this effect, should one be forthcoming, or moving an amendment ourselves when the bill is dealt with in the Senate.

Having expressed the opposition’s position in relation to this bill, I would like to conclude my remarks with some personal observations. The life gold pass entitlement began as long ago as 1918. Over the decades that followed the introduction of this arrangement, the qualification periods for this unique privilege were progressively lowered and the entitlement broadened. Prior to 1993, the life gold pass entitled pass holders to unlimited travel at government expense for noncommercial purposes. Following criticism of the open-ended nature of the entitlements, the Remuneration Tribunal reduced the entitlement to a maximum of 25 per annum, effective from 1 January 1994. The bill further tightens the entitlement, and this is a welcome measure.

But the truth is the life gold pass is something that belongs to a bygone age—an age when our national legislature sat on the comfortable leather couches of Old Parliament House. This form of entitlement is now inappropriate. Retention of a life gold pass is something that contributes to the low esteem in which our constituents so often hold members of this parliament. This parliament would be well advised to dispense with this anachronistic privilege; the sooner we do so, the better.

Mrs GASH (Gilmore) (4.11 p.m.)—I rise to speak in support of the Members of Parliament (Life Gold Pass) Bill 2002, a measure which I feel is long overdue. The bill seeks to contain the entitlements of former members of parliament, their spouses, and widows or widowers by codifying entitlements where they are eligible to hold a life gold pass. It also disqualifies from entitlement former members who are convicted of a corruption offence.

Government members occupy one of the highest and most responsible positions in our community and are rightly entitled to be remunerated at a level befitting that position. But it can be equally argued that, if a position is accepted on the basis of an individual’s desire to serve the community, remuneration is not an issue. The parliamentarian serves the community out of a sense of duty, not as a commercial proposition. Politicians have always promoted the proposition that they are there to serve the community and, as such, are acting from a sense of duty. At the same time nobody has denied the repeated claims through the media that politicians are amongst the best rewarded in the land. Rather sadly, there is a perception out there that politicians as a whole are generally not well regarded.

I was reading an article on the Internet by Paul Raffaele writing for the Reader’s Digest, August 1999, on this very matter. I have not bothered to validate the figures he used; rather, I was more interested in the language he used and the underlying tone of his article. The article was titled “Politicians’ Outrageous Perks”. It went on to list numerous examples of so-called excesses found in all parliaments in Australia and stated:

In two months following his election loss in 1996, Paul Keating billed the taxpayer close to $94,000 for perks to aid his transition into private life. According to a government document released under the Freedom of Information Act, in the 68 days following his election defeat, Keating, a millionaire business consultant, spent $47,855 on travel for himself, his wife and staff.

Of course there are always two sides to a story, and no explanation was offered as to why these alleged excesses might have occurred. The point is that the perception has been encouraged, and it is never helpful to remind people how much someone gets, whether it be in the government or private sector, because it can never be justified in people’s minds. Everyone has a view of what is fair and equitable and, generally, they use themselves as a benchmark. But, given the diversity of opinions over what politicians should get, it is clear that we as rep-
representatives of the community need to be in tune with community standards. As leaders in the community, we need to set standards, show the way and set an example.

Based on the performance of just a handful of individuals over the years, it is no wonder that people see our leaders as some sort of privileged class, demanding tribute from the very people who elected them. I have personally heard very little in the way of what is an apt reward; all I hear is that politicians get too much and, more than that, they give it to themselves. There is definitely an air of resentment out there, and I think it is due as much to the publicity over questionable antics of some members as it is to the fact that we want to believe we are an egalitarian society.

Playing in the background are several recent corporate collapses and their high flying executives. These people are seen as putting themselves beyond the level of the ordinary person, voting themselves huge pay rises shortly before the final demise of their company. We are reminded of the widening gap between rich and poor. It is little wonder that the average man in the street has become disillusioned. There is no doubt in my mind that the constituency sees politicians as privileged, particularly in terms of entitlements. The media too makes a practice of reminding their readers of the so-called perks of office. This bill calls for a change to the eligibility criteria for life gold passes, restricting access.

Given the degree of debate in the community over this issue, I believe this initiative to be a step in the right direction. I welcome particularly the provision relating to the loss of entitlement following conviction for corruption offences. Sadly there have been some notable cases of this occurring and the disgust expressed by constituents serves only to lessen the respect in which parliament is held. The value of this bill is in being seen to be doing something, in contrast to the perception of self-serving behaviour. There have been a number of improvements in accountability since 1996 under this government and these initiatives demonstrate a commitment that encourages transparency and the will to make the decisions necessary to ensure the integrity of members of parliament is upheld.

However, ultimately, it is in the practice rather than in the written word that matters are judged, so it is beholden on individual members to be conscious of their actions. This bill should be supported because it does reflect what the community is saying to us. Regardless of what might have been acceptable in the past, times do change and we have to move with the times. For my part, I can now point to a reasonable response to the charge that we politicians are feathering our own nests. We are not but at the same time we should be comfortable with defending our entitlements.

Mr PRICE (Chifley) (4.17 p.m.)—The honourable member for Banks has indicated that the opposition is supporting this measure, and I certainly rise to support it. I guess I should be a tad careful given that at the end of this parliament I would appear to become eligible for the very thing that we are debating. I thought the honourable member for Gilmore made some very interesting points. It is really unfortunate that over a period of time the standing of members of parliament has reduced quite considerably. I am fond of reminding members of this House that Ben Chifley, when he was Prime Minister, felt so strongly about the role of commissioners of the arbitration commission that he said that they should be remunerated at the same level as members of parliament. Of course there is now quite a discrepancy.

In fact, members of parliament do not set their own salaries. It used to be the Remuneration Tribunal, an independent body, that made those determinations, but our salaries are now tied to a level in the public service. As those salaries in the public service rise, so do those of members of parliament. I might say that the state legislatures have in the main piggybacked on that, paying themselves $500 less.
This bill is called the Members of Parliament (Life Gold Pass) Bill 2002, but the reality is of course that few, if I could say ordinary, members of parliament become entitled to it because you need to serve 20 years or the life of seven parliaments. It more accurately should be called the former ministers and leaders gold pass because it is they in the main who become eligible for it. As I say, if you look at the average term of a member of the House of Representatives, it is but 7½ years. So it is very much the exception that backbenchers become eligible for this pass.

I did see a minister at the table and I did want to put to whoever is going to sum up the debate a concern that I have about the unlimited entitlement that some pass holders presently enjoy. I understand the government obtained a legal opinion some time ago that indicated that it could not be capped. I wonder whether there has been any more recent legal opinion and whether that legal opinion is consistent.

Honourable members interjecting—

Mr PRICE—Sorry, I did not see the Minister for Ageing. I apologise to him. I also ask him whether or not we can fiscally set an effective cap on those pass holders who have an unlimited entitlement. Is it possible to vote a sum of money each year and then when that money is expended would not be able to use the entitlement? It does seem to me to be absurd that we have one group of people who can spend—as I think was reported in the papers not so long ago—up to $100,000 on trips and we have this other limitation.

The other issue is that we are now saying that, like superannuation, members of parliament who are convicted for a corruption offence will cease to be eligible for a life pass. I do not think there is anyone in this House who would quibble with that issue. But there is an outstanding inconsistency in all that—I see the honourable member for Lowe is in the House—and I refer to former Senator Mal Colston. With respect to former Senator Mal Colston, the DPP made a decision that he had a life-threatening disease which was likely to reach a climax in a matter of months, not years as it has turned out to be. I am happy to concede to the government that this presents a difficult position, because the DPP is an independent office holder. But I would sincerely hope that the parliamentary secretary might convey to the Attorney-General the disquiet about this particular situation not only on the opposition side but also in the wider public at large. If the parliamentary secretary is able to use his good offices to have the DPP review the situation, all the better. Here we have a situation of, in this case, a former senator who would ordinarily have been facing, I think, 20- or 26-odd charges—

Mr Murphy—Twenty-eight.

Mr PRICE—I am corrected by the honourable member for Lowe, who has become somewhat of an expert on the subject matter—and I defer to him of course. He would have been facing 28 charges. We must make a presumption of innocence, but these charges have never been tested—that is the point. The senator’s name has never been cleared; yet, had he been found guilty, he not only would not be entitled to his superannuation but also, under this legislation, would not be entitled to a gold pass. So you can have what might be described as a considerable cloud over a former member or senator who, although that cloud exists, will continue to enjoy to the fullest possible extent the benefits that a life gold pass conveys them. But, no matter who we are talking about in society, people are asking for greater accountability and higher standards, and as members of this House we cannot avoid that. Increasingly we are told that we must conform to community standards.

I support the member for Gilmore in these remarks. I do not know of a member of parliament who joined this House to enrich themselves or as a way of earning further money. I ac-
cept that all members, even those whose views I might strongly disagree with, joined this place to make a contribution on behalf of the people—in the highest possible sense that that can be conveyed. So, in a sense, we did not join it. But increasingly we are being told otherwise. For example, new members now have changed superannuation arrangements which in the end may force them to seek a continuation of their career as a member of parliament for much longer than they had originally intended.

I say to those who argue about community standards that, if we actually put together the whole package that members of parliament receive by way of salary and other allowances, I suspect that the parliament would be reluctant to implement what would be the outcome—because I think that they would need to pay parliamentarians considerably more. For those who are sceptical about the point I am making, look at the remuneration in the UK for comparison—and I am not arguing the point that the UK reflects such a community standard package.

I note the member for Banks gave a personal view. Let me give a couple of personal views that are not shared by my party. One is that we should make greater use of former prime ministers, whether they be conservative or Labor. I think it is a blight on our system of government that we do not do that. I have no quibbles with the offices and entitlements that former prime ministers have. I am less convinced that ministers should get the leg up in terms of this particular entitlement, because, again, the effect of it is to make it almost overwhelmingly an entitlement for former ministers.

Last but not least, we do need to look at the impact of this bill, particularly the anomaly the member for Lowe points out. I do not know how we will overcome it, but, again, I implore the minister at the table, who I have a high regard for, to raise the situation of Mal Colston with the Attorney-General. Whatever we may think about the situation and its reasons, the people believe that the full arm of justice is not being equally applied to him. I think it is absurd that, given a failure to prosecute on the basis of illness, we can still extend a life gold pass, which has been utilised since the entitlement was given. It does not reflect well on anyone, least of all this House.

Mr ANDREN (Calare) (4.27 p.m.)—It is interesting to see the Members of Parliament (Life Gold Pass) Bill 2002 debated in the Main Committee, which is usually the place where non-contentious matters are debated. I would suggest that this matter, along with parliamentary entitlements in general, is certainly not a non-contentious issue, and it is a pity that the debate is not being held in the main chamber.

The member for Banks made a courageous call, I believe, calling for the abolishment of this anachronism of the parliament life gold pass—

Mr Price—It was a personal view.

Mr ANDREN—Whether it be personal or otherwise, he made the call. I hope he will not be added to those accused of maligning their colleagues in this place, as others have been accused over the years when they have raised issues such as this.

Whatever we think of the Mal Colston situation—and I, like most of the public, am absolutely appalled by the situation where there is no prosecution of those charges in the absence of any continuing evidence of a near-death experience—the public believes that these post-retirement lurks and perks amount to a rorting of the system in a similar sort of fashion. They believe that it should not exist at a time when most people are battling to cobble together a collection of part-time or casual portfolios of work, if they are lucky enough to have three or four part-time jobs, let alone being provided with super and having taxpayer-provided travel on retirement. They say, ‘Why—when all our elected representatives are volunteers—should...
they enjoy excessively generous superannuation as well as these sorts of extra privileges?’ I would call them ‘privileges’ rather than ‘entitlements’, as they are so cutely described. I want to read into Hansard part of my submission to the inquiry into this bill by the Senate Finance and Public Administration Legislation Committee:

This Bill, and its accompanying outline and notes on clauses, illustrates all that is wrong with the entitlements system for existing and past MPs. It reeks of self-indulgence, and I can only surmise that the public servant charged with drafting the provisions would have almost choked on the task of detailing the excesses this Bill represents. There has been far more time and detail put into preparing this legislation than for other far more important bills (e.g. the Border Protection (Tampa) Bill of August 2001).

My basic argument, which is one supported by the vast majority of the electorate, is that such entitlements (better retitled privileges to put them in correct perspective) are unnecessary and an indulgence, and should be phased out.

Not unlike the personal position expressed by the member for Banks. It continues:

The Bill’s outline details the Prime Minister’s announcement on 27 September 2001 that the ‘unlimited’ access to travel for Life Gold Pass holders (who qualified prior to 1994) was beyond community standards and that the Government would legislate to limit the entitlements. It is a pity he didn’t say he would abolish the entitlements, because they are an anachronism and a ‘perk of office’ completely indefensible in modern Australia. I have detailed much of this argument previously—

in public statements and here on the parliamentary superannuation scheme—

This argument ... undermines the credibility of our representatives in the eyes of those they represent.

One can go anywhere in the legislation to find almost laughable contradictions.

Forgetting the bill for the moment. It continues:

Why do we adhere to the quaint ‘spouse’ definition as de jure spouse? Surely in this day and age, a partner should be included. To not do so is a sad joke and further underlines how far out of touch this system is with reality.

By detailing the reasons for such travel and defining ‘commercial purpose’ again the Bill further underscores the fact that travel is simply a taxpayer-funded luxury. It will inevitably be of a purely recreational or personal pleasure nature. If such free travel were justified, surely it should always be for public duty? But as the notes point out a ‘sitting fee’ is paid for such public duties post-parliament anyway.

Similarly ‘charity’ appearances, to be truly classified as ‘charity’ should surely entail the ex-MP ‘contributing’ from his or her own pocket to the cause, or is there another definition of charity that I haven’t heard of?

I believe there is ample room for manipulating these entitlements (privileges). A former Minister might fly from Sydney to Brisbane for ostensibly legitimate reasons, but then could also attend a board meeting of a company s/he may be a director of, check out some business details over four or five days and then fly home. The Pass therefore covers travel for what would obviously be commercial purposes.

Severance Travel for retired members is a junior version of the Gold Pass—
a bronze pass, perhaps—

and is equally indefensible. Why should a former MP enjoy such privileges at public expense? What special service has he or she given the community that a policeman, a doctor or any other committed person hasn’t also given?

The Notes on the Clauses of the Act provide further fuel for the legitimate protests about Parliamentary and Ex-Parliamentary Privileges that continue to bubble along in the Australian community. In Clause 11 Item 5 the term ‘under very longstanding arrangements’ is used. This is the sort of terminology that riddles our system of entitlements and exposes them for the deceit they are. ‘Conventions’ regarding use of entitlements during election campaigns, ‘conventions’ regarding Travel Allowances and ‘arrangements’ involving unlimited travel by widows/ers are all loosely applied terms with no authority and are part of a set of ‘rules’ drawn up by the ‘club’ members to which they apply.
Similarly, the ‘pro-rata’ adjustments are a device to ensure that every possible advantage down to the last dollar of taxpayer-funded value is squeezed out of the system. One would be excused for thinking that our Ex-PMs, MPs and their ‘spouses’ had served Australia in war so exceptionally generous are these provisions.

Not even frequent flyer points are obliged to be used. Part 8 Clause 29 provides a ‘mechanism for treating travel’ under the Government’s policy regarding the use of such points. But the ex-MP using the Life Gold Pass or Severance Travel is, according to this clause able to ‘choose’ to use frequent flyer points. The regulations state that ‘where possible’ a Life Gold Pass holder ‘should ensure’ frequent flyer points are used to cover the cost of further ‘official travel’. It does not state: ‘must ensure’.

There is perhaps an argument for ex-Prime Ministers to retain some of their privileges, but these need review.

Indeed there have been some reviews; I acknowledge that. My submission continues:

The lack of differentiation between commercial and public duties is nowhere near clear enough. To what degree are the activities of our surviving ex-PMs commercial or public and how can they be differentiated when they are conducted from the same taxpayer funded office and facilities?

Australians have a healthy disrespect for politicians. If we wish to bridge the divide and earn respect we could begin by considering how self-indulgent are the privileges this Bill invests in retired MPs ... We should be talking about extending the Gold Health Card entitlements to those over 70 who both volunteered and were conscripted to a far nobler course—military service on behalf of their country.

I will talk about some of the points that were raised in the bills digests on this. One of them is this three times table rort—I will put it that way—for serving ministers who retire:

... a person who has served as Prime Minister for less than one year, or a Minister, presiding officer or Leader of the Opposition who has held office for less than six years, shall have that period trebled ...

just like that—

... in determining their eligibility for a Life Gold Pass by way of 20 years service as a senator or member ...

That is a three times table one. It is the Mr Reith and Dr Wooldridge clause. The Bills Digest on the Members of Parliament (Life Gold Pass) Bill 2002 states:

In Audit report No. 5 2001-02: Parliamentarians’ Entitlements: 1999-2000, the Auditor-General made 28 recommendations ... Gold Pass holders could travel for any non-commercial purpose, for example holidays, while sitting MPs entitlement to travel was restricted to reasons connected with their position.

Spouses issued with a Gold Pass prior to 1976 are also entitled to unlimited travel.

The legality of the use of Comcar and similar services was doubtful.

These have been attended to to some degree but the Auditor-General said that the entitlements for ex-MPs exceeded those for sitting members in many circumstances. I do not see overall that these have been attended to in any significant way. Concerning changes, the Bills Digest continues:

Life Gold Card holders, excluding former Prime Ministers, to be limited to 25 domestic trips annually—

instead of unlimited—

Future former Prime Ministers to be limited to 40 domestic trips annually.

That is okay. I say ‘okay’ meaning that there has been some change. The whole thing should not even be here for debate. It continues:

Travel expenditure by Life Gold Pass holders ... will be publicly disclosed.
That is a bit like the TA that was put on the desk after the Colston episode back in 1997 when I was accused of smearing my colleagues because I dared to ask the PM why we were not tabling them in the House and why we were allowed to change them, for heaven’s sake, when they had been sent in. To my mind, that is as good as a statutory declaration. They had been sent in and then it was said, ‘Here you go: just adjust them to what you think it really should have been, because these things are going to be tabled.’ That is the thing that really got up the nose of the public. I was given the flick from the parliament for an hour for daring to challenge those slurs on me—not on my colleagues—and because I dared to raise those issues in the parliament, as a newcomer to that place who could see them standing out like the proverbial light on the hill. Apparently, no-one here could see them—or chose not to. The Bills Digest continues:

Currently, legislation exists for a former parliamentarian to lose entitlement to employer superannuation—

and the gold pass now—

if they are convicted of ‘corrupt offences’.

It is okay to fill in five minutes talking about that, but it is an obvious change. It does not warrant excessive comment. In the concluding comments, the Bills Digest says:

The Bill does not prohibit the ‘double dipping’ of entitlements. In a situation where a person would be entitled to Gold Pass benefits as both a former MP and as a spouse/widow/widower of a former holder the Bill contains no provision restricting their entitlement to the greatest available entitlement. There would appear to be no reason why a person would not be able to take advantage of both entitlements. I presume that is the sort of circumstance—and I am not being personally critical—of the former Minister for Family and Community Services, whose late husband also served as a minister in this place. And I am sure there are other examples over the years, and no doubt there will be more in the future. That is unbelievably overgenerous. We are out there trying to explain to people who come in and want to access their super early because they want to put a ramp beside the house, because their old lady cannot get up the stairs, that they are not handicapped, so they do not really qualify. They cannot go and try to get their super released, but there is a legitimate reason—or they may be struggling with their mortgages or they may have a car payment they cannot afford. One chap came to see me whose son had died as a result of drugs. The son had debts and the father could not get access to the superannuation, as far as I remember, to pay those debts. Yet here I am, party to a system that has not only that super scheme but this available at the end of the day. In the Audit Office’s submission to the inquiry into members’ entitlements, Warren Cochrane says:

... the Bill proposes, for the first time, annual trip limits ...

The audit found the cost of retirement travel entitlements in 1999-2000 was at least $2 million but that it was not publicly reported.

It seems it is going to be. The submission continues:

The Bill does not address the issue of requiring Life Gold Pass holders to certify that their use of the pass is within entitlement.

It talks about how they have been chasing up people who have not reported in recent years. The submission continues:

However, the Bill does specify that when a person has accrued frequent flyer points as a result of travel at the expense of the Commonwealth, and by choice uses the points to undertake travel that would otherwise have been available under their Life Gold Pass entitlement, then that trip is counted against their annual trip limit.
Who is going to voluntarily sacrifice frequent flyer points on a taxpayer funded flight when this is the smorgasbord that is available? I could stand here all day talking about this, and I could also submit some amendments, but we would be here until after Christmas. It is beyond amending. It should be abolished.

Mr MARTIN FERGUSON (Batman) (4.42 p.m.)—I support the changes to entitlements for former senators and members proposed in the Members of Parliament (Life Gold Pass) Bill 2002. In speaking to the bill, I intend to not only support the party’s position but also express some personal views about the changes not going far enough. The changes are correctly designed to improve the integrity of the scheme—if anything, trying to wind back the entitlements to be more in tune with community expectations. At present, life gold pass entitlement, including the entitlement for widows and widowers, to travel at Commonwealth expense is provided under different authorities including under different determinations of the Remuneration Tribunal. As a result, differing arrangements apply depending on when the person retired from the parliament or when they first met the qualifying periods to establish eligibility for the pass. Let us be honest: initially entitlements were far too generous. They have been, correctly, successively reduced; however, previous entitlements continued to carry over. This bill, sensibly in my view, brings them all back into line. All gold pass holders, their spouses and their widows or widowers will now be treated equally.

The bill also contains a range of provisions aimed at clarifying and improving the integrity of the arrangements. These include clear statements of the type of travel that may be undertaken, a definition of a return trip, how to treat stopovers and what constitutes a commercial purpose. By clarifying these arrangements, all gold pass holders will clearly know their entitlements and be required to act accordingly.

The bill also contains a new provision that disqualifies a person from life gold pass travel and severance travel if a superannuation order is made under the Crimes (Superannuation Benefits) Act 1989 in relation to a person convicted of a corruption offence. I totally support this provision. The Australian taxpayers, ordinary people in the suburbs and regions of Australia, should not be required to fund travel benefits for people who have had the parliamentary superannuation benefit withdrawn because of corrupt practices. I have no sympathy for these people. They have let the Australian community down. They have let their respective political parties down. They have cheated all Australians. They have demonstrated a clear lack of respect for this important institution, the Commonwealth parliament, and they have undermined its credibility and the trust in elected office. I believe that elected office is a fundamental element of our democratic system. Through the actions of some people that have sought personal advantage through impropriety, the office and the people who hold such an office are besmirched. In the eyes of the public, a corrupt politician tarnishes the image of all institutions and tarnishes the image of all politicians.

Representing any electorate on any side of the parliament—that is, the people of Australia—is something which I believe is a great privilege. I am proud that my family has represented Australians in state and federal parliaments and in trade unions. It is public office; it is serving the Australian community. I am proud that we have honestly upheld the traditions of those places. However, I am very disappointed when an elected representative of this place, entrusted by the people of Australia, is convicted of a ‘corruption offence’. These people do not deserve the privileges provided by a life gold pass or by severance travel, and I am therefore pleased to support the changes embodied in the bill. However, I have one concern—the changes do not go far enough. For example, in a more thorough review I would like to see those privileges withdrawn for members who voluntarily choose not to see out their elected
term, and especially those senators who resign within days of commencing a new term. Those members whose calculated actions lead to taxpayer funded by-elections should not be eligible for privileges such as these.

The Labor Party has started to act on this front. There is now a very clear responsibility on anyone seeking to leave elected office to give, in accordance with the decision-making processes of our party, a proper and full explanation. In some circumstances, as in ill health, I am of the view that such permission should be given. But I do not accept that it is the right of members, for example, to have a by-election such as the one we saw recently in the electoral division of Ryan. In March last year, a by-election was conducted in essence because of a decision by the Prime Minister in order to resolve a problem that he had after allowing a minister to create a vacancy which suited his short-term electoral needs, and the end result was a by-election.

I refer to the answer to my question No. 121 on the Notice Paper. It states the following facts with respect to the cost of the Ryan by-election:

The costs incurred by the Australian Electoral Commission for the by-election for the Electoral Division of Ryan on 17 March 2001 were:

- To conduct the ballot $253,995
- For election funding payments to political parties $123,870
- Giving a total cost of $377,685 (excluding GST).

I think the facts speak for themselves. You should not have the right to walk away from this parliament with a gold pass and then impose on Australian taxpayers the cost of an unnecessary by-election. Clearly, there is a requirement to further review this act. There is a requirement to undertake a greater consideration of potential changes to the operation of this act.

On that point of principle, I also have concerns about those who are elected on a particular platform and then choose to rat on their respective political parties. This quite often happens in the Senate. Whilst I do not support those Senate changes which recently occurred in the state of Queensland, the principles supported and put in place by the Labor Party when Senator Kernot resigned and joined the Labor Party ought to be the principles adopted by all political parties for the Senate. If you choose to leave your political party, having been elected on a particular platform, especially in the Senate when you are elected on the basis of that platform right across a state—and people often tend to vote differently for the lower house as against the Senate—you should leave without any special benefits and the seat should be returned to the political party for which you were elected. That is also about maintaining integrity in the electoral process in the same way as the changes to this act are about maintaining integrity and propriety with respect to the benefits available to politicians.

It is correct that we embrace these changes, but I also want to specifically raise some concerns relating to people like former Senator Colston, who unfortunately was once a member of the Labor Party I am so proud to represent. I want a clear explanation as to why the government has failed, despite the original reasons being given for not proceeding with legal action, to pursue former Senator Colston through the courts in the same way ordinary citizens are pursued for fraud. Just think about the government’s campaign at the moment with respect to overpayment and ordinary people and their entitlements through Centrelink. Why is it right to pursue—and I support pursuing such people—people who have clearly obtained through fraud entitlements they were not entitled to, when the same principles do not apply for former Senator Colston? We have a government that is not pursuing him rigorously; so he maintains...
his right to a gold pass—a further weakness with this bill. It is a disgrace and a shame on the
government processes that exist in Australia.

It is time that we as a group of politicians faced up to the fact that we are entitled to a fair
day’s pay for a fair day’s work. We are also entitled to proper entitlements whilst in this par-
liament to enable us to do our work on behalf of our constituents and to conduct ourselves in a
way which enables us to represent the parliament—be it as ministers, parliamentary secretar-
ies, shadow ministers or shadow parliamentary secretaries. But there is a hell of a difference
between making sure that we have those entitlements to enable us to do our job and pursuing
and supporting a system which enables us to line our pockets after we leave this parliament.
As far as I am concerned, the gold pass is a luxury and is beyond community expectations. It
is going not only to ministers but also to a range of backbenchers. It is a privilege to serve in
the parliament; we do not need further rewards such as the gold pass after we leave the par-
liament.

Perhaps a more thorough examination might correctly give proper consideration to how
former Prime Ministers can still carry on public office on behalf of the Australian community.
But, beyond that, I would have serious questions in my own mind about any other entitle-
ments. It also reminds me of what I still regard as a luxury. Ordinary Australian taxpayers do
not have their funerals paid for by the Australian community at large, so why should former
members of the executive of any Commonwealth or state parliament in Australia? This is a bit
of an issue for me at the moment. I am pleased to say that on Monday next week when I bury
my father, who would have been entitled to a state funeral, the Ferguson family will pay for
our father’s funeral because he was proud to be elected by ordinary people to the New South
Wales parliament. He never had the view that they should look after him in retirement by ex-
tending to him such benefits as a gold pass or, worse still, by paying for him to be buried.

For the reasons I have outlined, it is a pleasure to speak in support of the changes that have
been pursued by the government. But I simply say in conclusion that it is about time that we
as a group of politicians fronted up to the fact that there are excesses in the system. They are
gradually being wound up, but there is further work to be done. It is the responsibility of both
sides of the parliament to do something so as to maintain the integrity of the parliamentary
system, the high standard of the great democracy that we operate in and, if anything, over-
come some of the criticism that has existed in more recent times—which in many ways, I
think, is unjustified with respect to the normal operations of our parliament—merely because
of the excesses of a few crooks and spivs who are not worthy to represent any political party
in this great parliament.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Admini-
stration) (4.54 p.m.)—in reply—At the outset I would like to publicly express my sympathy to
the member for Batman and the member for Reid on the recent sad loss of their father.

The Members of Parliament (Life Gold Pass) Bill 2002 is designed to recognise commu-
nity standards and limit the life gold pass entitlement, standardise the entitlement via a single
legislative instrument, enhance the integrity of the arrangements and require forfeiture of the
pass if a person is found guilty of a corruption offence or is the subject of a superannuation
order withdrawing the employer’s contribution to the parliamentary superannuation scheme. It
doess this by recognising the requirements of accountability, flexibility and transparency. This
is an area which does excite quite a lot of passion in the parliament and, indeed, quite a lot of
passion in the wider Australian community. From the course of the debate I think it is fair to
say that honourable members share the government’s objectives in putting the bill forward,
but there is a range of views as to where the right balance should be struck.
At this stage I would like to comment on a number of the points made by some of the speakers in the parliament. The member for Calare made a contribution in which he called for the abolition of the life gold pass. I want to put the facts on the record. The Remuneration Tribunal established the eligibility criteria for the life gold pass—that is, it is under the Remuneration Tribunal determination that the pass is provided; the bill sets out the benefit once the pass is indeed provided. There are two main purposes of the bill. The first purpose is to limit the entitlement to travel for persons who qualified for the pass prior to 1 January 1994; that is, to cap what has been an unlimited entitlement at the same level as the Remuneration Tribunal, an independent body, determined for post 1 January 1994 retirement. That amounts to 25 return trips per annum and 40 trips for former prime ministers. The second purpose provides a forfeiture provision so that if a person loses the employer contribution to their superannuation payment he or she automatically loses the life gold pass or severance travel entitlement. The bill does other things: it considerably enhances the integrity of the arrangements, it standardises arrangements for all entitlees, it sets out clear definitions and it sets out clear processes for pro rata payments when eligibility is established midway through a year.

The member for Calare also referred to a situation where a person could travel on the pass for legitimate reasons but could undertake commercial activities as well. The situation is that the Remuneration Tribunal has recognised that a sitting senator or member may travel for parliamentary or electorate purposes and, incidentally to the purpose for travel, undertake other activities. The same principle would apply to life gold pass holders; that is, if having travelled for non-commercial purposes a commercial matter arose at the destination—for example, unexpectedly—it would be reasonable to undertake that activity. The honourable member also referred to the matter of pro rata adjustments and he claimed that the pro rata adjustments are a device to squeeze every last dollar from the system.

A division having been called in the House of Representatives—

Sitting suspended from 4.59 p.m. to 5.15 p.m.

Mr SLIPPER—Before I was so rudely interrupted by the division in the main chamber, I was referring to the contribution made by the honourable member for Calare and, in particular, his claim that the pro rata adjustments are a device to squeeze every last dollar from the system. I want to point out to the honourable member that the pro rata adjustments are inserted to cater for a person who became eligible for the entitlement during a financial year. The formula applied is that which has been in place since the Parliamentary Entitlements Act was passed in 1990; that is, the benefit is assessed as the same proportion of the annual benefit as the ratio of the remaining part of the year is to a full year. I think most honourable members, and most members of the general community, would agree that it would be inequitable to provide a full year’s benefit for part of a year or to provide no benefit until the new financial year commences. The pro rata section of the bill is simply an outline of how the calculation should be made.

The last part of the speech made by the member for Calare which I wish to refer to in this summing up is his remark that frequent flyer points should be obligatory. The facts are that the Remuneration Tribunal has determined the same arrangements for former members and senators as for sitting senators and members. The policy of the government is clear: frequent flyer points awarded as a result of travel at Commonwealth expense should be used to reduce the cost of travel within entitlements in the future. The honourable member for Chifley referred to a past legal opinion on the ability of the Remuneration Tribunal to change the travel conditions for former MPs—that is, that the Remuneration Tribunal could not make a retrospective determination for those who had already
left parliament. That legal opinion referred to the powers and abilities of the Remuneration Tribunal to make determinations. However, the legislation before the House is not a determination of the Remuneration Tribunal and there can be no doubt whatsoever that legislation by the parliament can set travel limits for those who were previously awarded a life gold pass. I want to reassure the honourable member on that matter.

The member for Batman criticised the government in his speech for the situation involving former Senator Colston and the failure of the Director of Public Prosecutions to proceed with a prosecution against him. The member for Batman was enthusiastically supported by the member for Lowe. I want to clarify that matter and the actual situation. I find it absolutely bizarre that the member for Batman is asking the government to intervene in a DPP decision not to prosecute. Is the honourable member for Batman seriously suggesting that the government should intervene and place pressure on the Director of Public Prosecutions to seek a prosecution? Is he suggesting that, because of his hatred, I suppose, of former Senator Colston, the principle of an independent DPP should be abandoned? I do not know what he is trying to suggest, but at the end of the day this is a decision made not by the government but by the Director of Public Prosecutions. He is an independent person and he objectively determines what is going to happen. The government, quite frankly, does not have any ability to overrule the independent DPP.

In the brief amount of time available to me I would like to say that there are some in the community who see the past as a carryover from a different time and who would like to see the pass withdrawn altogether, while there are others who believe it should be expanded to include a wider range of people—for example, the de facto partners of a retired senator or member as well as legally married spouses. It has also been suggested that no limitation be placed on those who had an unlimited entitlement—that is, persons who qualified for the entitlement prior to 1 January 1994.

The bill takes as its reference point the determination that the Remuneration Tribunal first made in 1993, and continued in subsequent determinations, of setting the upper limit for the number of trips per year at 25. That is the basic standard entitlement under the bill, with the unlimited entitlement for former prime ministers being scaled back to 40 trips per year. The arrangements for widows have also been scaled back and, on the basis of experience, should meet their needs. In this context, the government considers that expanding the entitlement—for example, to persons in a de facto relationship—would be neither appropriate nor in accordance with the basic intention of the bill, which, as mentioned earlier, is actually to place a limit on the entitlement. The bill also establishes a clear automatic mechanism for the forfeiture of the pass if a person is found guilty of a corruption offence or is required by a court to forgo his or her parliamentary superannuation entitlement, and I think that every member would agree with that particular proposal.

The bill has been brought forward in recognition of community concerns about the entitlements provided to senators and members and to former senators and members. In keeping with those concerns, it standardises and limits the entitlements and significantly enhances the integrity of the arrangements. The government has already commenced a process of increased transparency by tabling details of the usage of the entitlement each six months. This was done administratively. Completion of the process requires legislation, and I commend this bill to the chamber.

Question agreed to.

Bill read a second time.
Message from the Governor-General recommending appropriation announced.
Ordered that the bill be reported to the House without amendment.

HEALTH LEGISLATION AMENDMENT (PRIVATE HEALTH INDUSTRY MEASURES) BILL 2002

Debate resumed from 22 August.

Second Reading

Mr ANDREWS (Menzies—Minister for Ageing) (5.22 p.m.)—I move:

That this bill be now read a second time.

The government is committed to the ongoing viability and value of private health insurance and the private health industry. The government’s initiatives in private health are designed to:

• encourage a sustainable balance between public and private health care;
• support the viability of the private health sector; and
• increase consumer choice.

This bill makes a range of minor and technical amendments to the National Health Act 1953 and to the Health Insurance Act 1973 which will further streamline and enhance elements of the private health industry.

The first change will remove the application of state or territory duties or charges for benefits paid by health funds or Medicare benefits assigned to a health fund under an approved gap cover scheme.

The second change will require health funds to provide information to medical practitioners, on request of a patient, to enable that medical practitioner to comply with the requirement to provide the patient with written information on the expected costs of treatment under a gap cover scheme.

Thirdly, health funds will be required to comply with any request by the Health Insurance Commission for access to documents that relate to payment of Medicare benefits to the fund under a gap cover scheme.

The amendments will transfer two of the conditions imposed on health funds from schedule A to schedule 1 of the National Health Act 1953. This rationalises and clarifies the operation of the National Health Act 1953.

The bill will also increase the range of parties who are able to access health fund lists of contracted hospitals, day hospitals and doctors by allowing the Department of Health and Ageing and members of the public to access the lists on request.

The bill will also ensure that the Department of Health and Ageing is able to access copies of health fund hospital purchaser provider agreements, medical purchaser provider agreements, and practitioner agreements attached to its hospital purchaser provider agreements.

The bill will amend private health insurance discounting arrangements by allowing discounts for payments made three months in advance. Currently, payments are limited to payments made at least six months in advance. The bill will also remove an anachronism which currently prevents employers from contributing directly towards health expenses incurred by employees who have an agreement under part VIB of the Industrial Relations Act 1988. This will be beneficial to contributors and to private health insurance generally.

Finally, the bill amends the Health Insurance Act 1973 to transfer responsibility for the registration of billing agents from the Private Health Insurance Administration Council to the
Health Insurance Commission. This will remove one layer of regulation for billing agents, improve efficiency and eradicate the risk of error in data transfer between the Private Health Insurance Administration Council and the Health Insurance Commission.

These changes will improve the administration of private health insurance. I commend the bill to the chamber and I present the explanatory memorandum to the bill.

Debate (on motion by Mr Murphy) adjourned.

Main Committee adjourned at 5.26 p.m.