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THURSDAY, 14 NOVEMBER 2002

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

CHARTER OF THE UNITED NATIONS AMENDMENT BILL 2002

First Reading
Bill presented by Mrs Gallus, for Mr Downer, and read a first time.

Second Reading
Mrs Gallus (Hindmarsh—Parliamentary Secretary to the Minister for Foreign Affairs) (9.31 a.m.)—I move:

That this bill be now read a second time.

In the post September 11 environment, we are all aware of the reality that terrorist groups are well organised and well financed. This reality was again brought home to us by the terrible events in Bali on 12 October this year. Australia has enacted a host of measures to counterterrorism and the financing of terrorism. One of these measures is the legislative regime which ensures that dealing with the assets of terrorists is a criminal offence.

On 28 June this year, the parliament passed the Suppression of the Financing of Terrorism Act. Australia ratified the International Convention on the Suppression of the Financing of Terrorism on 26 September and became a party to that treaty on 26 October. This determination to counterterrorist financing is not only to be found in government. Australia’s financial sector is also strongly committed to ensuring that terrorists cannot use its institutions for terrorist financing.

Officials from the Department of Foreign Affairs and Trade, the Australian Federal Police and other agencies have consulted extensively with representatives from the private sector in developing a comprehensive and workable asset freezing regime. A joint public/private working group has been developing the regulatory and operational framework which will accompany that part of the Suppression of the Financing of Terrorism Act which is to become the new part 4 of the Charter of the United Nations Act. This new regime will replace the existing regime contained in the Charter of the United Nations (Anti-Terrorism Measures) Regulations.

Part 4 creates offences of dealing with freezable assets and of giving an asset to a proscribed person or entity. A proscribed person or entity is one the Minister for Foreign Affairs is satisfied is a terrorist entity. The freezing of terrorist assets is a crucial part of international efforts to suppress terrorism.

Under part 4, the owner of a freezable asset can apply to the Minister for Foreign Affairs for permission to deal with the asset. The owner of an asset seeking to make the asset available to a proscribed person or entity can also apply in writing to the Minister for Foreign Affairs for permission to do so. The minister can give such authorisations by written notice. Under the existing regime, holders of assets have the same ability to apply for authorisations and the minister can grant such authorisations on his own motion.

The amendment contained in this bill will ensure that this discretion to grant authorisations is replicated under the new asset freezing regime. Private financial institutions have highlighted the need for holders of assets, as well as owners, to have the capacity to apply to the minister for permission to deal with freezable assets or give assets to proscribed persons in specific circumstances.

Under the updated regime, holders of assets such as banks and trustees can ask the Australian Federal Police (the AFP) for help in determining whether there is a likely match between a proscribed person and an owner or controller of an asset. Such a mechanism was recommended by the Senate Legal and Constitutional Legislation Committee in its report of its inquiry into the Security Legislation Amendment (Terrorism) Bill 2002 (recommendation 7(a)). For this mechanism to be effective, section 22 must be amended to give the holders of assets the same ability as the owners of assets to apply to the Minister for Foreign Affairs for permission to deal with an asset that may be a freezable asset, or make an asset available to a person or entity who may be proscribed, while they seek the assistance of the AFP.
Part 4 of the act will commence either on the making of regulations under section 22A, or on 6 January 2003, whichever is earlier. Passage of the bill through parliament is urgent, in order to prevent part 4 from commencing unamended.

This amendment bill is part of Australia’s ongoing commitment to combating terrorism and, in particular, terrorist financing.

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

Debate (on motion by Mr Albanese) adjourned.

TAXATION LAWS AMENDMENT (VENTURE CAPITAL) BILL 2002
First Reading
Bill presented by Mr Slipper, and read a first time.

Second Reading
Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (9.37 a.m.)—I move:

That this bill be now read a second time.

This bill, together with the Venture Capital Bill 2002, will establish an internationally competitive framework for venture capital investments. Establishing this framework will fulfil the government’s election commitment to provide Australia with a world’s best practice investment vehicle for venture capital. These measures form a crucial part of the government’s program to encourage new foreign investment into the Australian venture capital market and to further develop the venture capital industry.

The Australian venture capital market plays a significant role in providing patient equity capital to start-up and expanding companies. It also supports the rejuvenation of more mature companies through managed and leveraged buy-outs.

This market has experienced significant growth over the past decade, including through foreign investment. By unlocking the potential for more rapid growth of Australia’s venture capital market the measures in this bill will assist in realising Australia’s innovation potential, which this government has recognised as a key element to Australia’s future prosperity.

In recognition of this potential, this bill, together with the Venture Capital Bill 2002, contains measures to encourage additional foreign investment into the Australian venture capital market and to facilitate the development of the venture capital industry by encouraging leading international venture capital managers to locate in Australia.

The bill will amend the existing tax treatment of two types of limited partnership used to invest in Australian venture capital companies: venture capital limited partnerships and Australian venture capital funds of funds. These limited partnerships will be taxed as flowthrough entities in accordance with internationally recognised best practice for venture capital.

The bill also provides a tax exemption to eligible non-resident partners of these limited partnerships on the share of the profit or gain made when the partnership sells its interest in an eligible venture capital investment company. This tax exemption extends that currently available to certain foreign pension funds in similar circumstances.

Eligible non-residents that may qualify for the tax exemption are tax exempt residents of Canada, France, Germany, Japan, the United Kingdom and the United States; venture capital funds of funds established and managed in Canada, France, Germany, Japan, the United Kingdom and the United States; and taxable residents of Canada, Finland, France, Germany, Italy, Japan, the Netherlands (excluding the Netherlands Antilles) New Zealand, Norway, Sweden, Taiwan, the United Kingdom or the United States of America who hold less than 10 per cent of the committed capital in a venture capital limited partnership or an Australian venture capital fund of funds.

The bill further provides that other countries may be added to this list by regulation.

The bill also provides for the general partner’s share of gains made on eligible venture capital investments by the venture capital limited partnerships and Australian venture capital funds of funds they manage to be taxed as a capital gain to the individual fund managers. Unlike managers in the passive funds management industry, venture capital
managers are actively involved in the management of the companies in which the funds invest and typically share in capital gains on investments made by the fund after all the investors’ committed capital has been returned. This is referred to as the carried interest and is designed to strongly align the interests of the fund manager and investors. To ensure the capital gains treatment of such gains flows through to the individual fund managers, if the general partner is a limited partnership it will also be treated as a flowthrough entity for tax purposes.

The measures recognise that venture capital limited partnerships with flowthrough taxation treatment are the preferred investment vehicles internationally and that countries competing with Australia for capital offer exemption from taxation on gains from the sale of those investments. Taxing the carried interest of venture capital managers as capital is also consistent with the international tax treatment of these gains. An internationally consistent tax treatment is critical in attracting highly skilled international venture capital managers to Australia. Such managers will contribute to the expertise and competitiveness of Australia’s venture capital industry which, in turn, will attract venture capital funds by offshore investors.

These measures will therefore bring Australia into line with what is currently recognised as best practice within the international market. As a result, it is anticipated that there will be a strong increase in venture capital by non-residents over the medium term and that these measures will lay the foundations for greater participation by experienced venture capital fund managers in the Australian venture capital market.

I commend the bill to the House and present the explanatory memorandum. I also present the explanatory memorandum to the Venture Capital Bill 2002.

Debate (on motion by Mr Albanese) adjourned.

VENTURE CAPITAL BILL 2002
First Reading

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

Second Reading

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (9.44 a.m.)—I move:

That this bill be now read a second time.

This bill, together with the Taxation Laws Amendment (Venture Capital) Bill 2002, will establish an internationally competitive framework for venture capital investments. This framework is designed to encourage new foreign investment into the Australian venture capital market, particularly through increased support of tax exempt foreign investors. The measures will fulfil the government’s election commitment to provide Australia with a world’s best practice investment vehicle for venture capital.

The Venture Capital Bill 2002 establishes a registration and reporting process for venture capital limited partnerships, Australian venture capital funds of funds and eligible venture capital investors. The registration and reporting rules represent an important integrity aspect of the measures and ensure that compliance with the tax concession may be monitored. In addition, these integrity measures facilitate an assessment of the impact of the tax concession.

The PDF Registration Board (the board) which is established under the Pooled Development Funds Act 1992, will administer the registration of these limited partnerships and investors. The board will provide the public face and a first point of contact for the measure and will be supported by AusIndustry and the Australian Taxation Office.

The board will also have power to deregister venture capital limited partnerships and Australian venture capital funds of funds for failing to comply with eligibility requirements and not meeting registration or reporting requirements. However, a partnership’s registration will not be revoked until the general partner has been informed of the concern and allowed a set period to remedy the matter. The registration of a tax exempt non-resident investor may be revoked if it fails to lodge an annual return, but the board will allow the investor time to make submissions about the failure to lodge the return.
To qualify for registration, venture capital limited partnerships will need to be limited partnerships established under Australian law or the law in force in their respective jurisdictions. They will also need to remain in existence for between five years and 15 years and have committed capital of at least $20 million.

Australian venture capital funds of funds will need to be limited partnerships established under Australian law and to remain in existence for between five and 20 years. Their general partner must be resident in Australia.

Venture capital limited partnerships, Australian venture capital funds of funds and tax exempt non-resident investors will be able to invest in a wide range of eligible companies although some limitations will be placed on the nature of the investment and the types of companies in which they can invest. The investee companies must be valued at no more than $250 million, immediately before the investment is made. Also, for the first 12 months of the investment the investee company must be located in Australia unless the board determines a shorter period.

There are a number of activities that these companies cannot engage in as their principal activity. These include property development and land ownership, finance (to the extent that it is banking, providing capital to others, leasing, factoring or securitisation) insurance, construction or acquisition of certain infrastructure facilities or investments that directly derive income in the nature of interest, rents, dividends, royalties or lease payments. In addition, eligible investments may only be made in unlisted companies or in listed companies that will be delisted within 12 months of the investment being made.

Venture capital limited partnerships and Australian venture capital funds of funds will be able to invest through shares or non-transferable options including warrants. Australian venture capital funds of funds will only be able to invest in venture capital limited partnerships and in companies in which a venture capital limited partnership, in which it is a partner, holds one or more investments.

Both venture capital limited partnerships and Australian venture capital funds of funds may also make loans (including convertible notes) to eligible companies in which they hold at least 10 per cent of the equity and certain debt interests. If they do not hold this minimum interest, any loans will have to be repaid within six months.

I commend the bill to the House and I have already presented the explanatory memorandum jointly with the previous bill, the Taxation Laws Amendment (Venture Capital) Bill 2002.

Debate (on motion by Mr Albanese) adjourned.

AUSTRALIAN CRIME COMMISSION ESTABLISHMENT BILL 2002

Second Reading

Debate resumed from 13 November, on motion by Mr Williams:

That this bill be now read a second time.

Mr KERR (Denison) (9.49 a.m.)—Before the adjournment last night I mentioned that there were a number of important recommendations that the Joint Committee on the National Crime Authority made, which have been accepted by the government. I will refer to only two of those in detail. I believe the most important is recommendation 14. It states that the bill should be amended to explicitly provide that examiners have to satisfy themselves in each case, before they exercise the coercive powers under the act, that it is appropriate and reasonable to do so and that they must indicate in writing the grounds for their having such an opinion. This means that when a task force builds a case that somebody ought be compelled to provide testimony under the very significant but exceptional powers that are given, currently to the National Crime Authority and now to the Australian Crime Commission, that an independent examiner—that is, an experienced legal practitioner appointed to have independent discretion in relation to these matters—will have to be provided with information by the task force as to why it is appropriate to exercise those coercive powers. Those powers are extraordinary and override the normal right that every person
has to remain silent in their own self-interest in relation to any police investigation.

When an examiner forms the view that it is appropriate to exercise coercive powers, they must then record their reasons for having that view. This does three things. Firstly, it will concentrate the task force’s mind on the importance of building an appropriate case. Secondly, it means the examiner must assess the adequacy of those grounds. The act of committing those grounds and his reasons—albeit, I imagine, not in an extended form but in a form which at least sustains a record of his reasoning—will provide a safeguard because the act of expressing those grounds and reasons in writing means that there must be reflection and concentration on the task by the examiner.

Thirdly, another benefit is that there will be an audit trail. So if there are any later suggestions that these powers have been used too frivolously or in ways which are capricious, there will be a record which can be examined. That is probably, of all the recommendations, the one which will be key to the community having an assurance that the work of the parliamentary committee was premised on an attempt to get a secure balance between the rights of law enforcement broadly and of individuals, whose individual rights and interests can be so importantly affected by the work of the commission.

I also want to briefly address recommendation 7, although in doing so I want to say that the recommendations about the structure and the way in which the organisation will now be more effectively managed, by reason of the changes that have been recommended and accepted, should not be dismissed as unimportant. Recommendation 7 is that all complaints against staff of the ACC can be investigated by the Commonwealth Ombudsman. The latter words of that recommendation are ‘as a minimum’. The reason I draw attention to those words is that there is a body of opinion, which was expressed to the committee looking at this bill, that there needs to be a stronger and consistent integrity and complaints regime that would apply to those who will be working within the ACC. The government’s response indicates that it is happy to accept that the Ombudsman would have that role, but two issues then arise: firstly, the resources available to the Ombudsman to undertake that task and, secondly, the effectiveness of the existing integrity regime that applies within the Ombudsman’s office.

I have twice spoken in recent weeks about my concerns about the way in which the office of the Ombudsman appears to be structured so that apparent conflicts of interest exist between senior investigative staff—or at least the relationships that exist between those officers and those in internal investigations within the AFP may be seen to be too close. I have become aware of one particular matter, that in relation to Mr Wheeler, which appears to have been dealt with within the Ombudsman’s office in a way which gives rise to the profoundly disturbing inference that there was a determination within the office of the Ombudsman that that complaint not be fully and effectively examined in an independent and fully satisfactory way.

I have set out some of my concerns in those speeches and I do not wish to cover that ground again. In order to supplement what I said then, I should refer to two further matters. In those speeches I mentioned that there had been a series of less than easy exchanges in relation to Mr Wheeler’s attempts to obtain materials under FOI. Those materials go to his complaint that his matter had not been dealt with in an appropriate and impartial way and that there had been impropriety in the Ombudsman’s investigation. I have spoken to the Minister for Science, the member for Gippsland, who is at the table. I propose at the end of this speech to seek leave to table a piece of correspondence from Mr Wheeler to the Deputy Ombudsman, dated 11 November, in which he sets out his further request for FOI materials. In that letter, you will see what plainly appears to be buck-passing and evasion on the substance of that request.

The reason this is so important is that one of the documents I referred to earlier is a note already obtained by Mr Wheeler under FOI. That document appears to suggest—that a senior officer of the Ombudsman directed the investigating staff not to put allegations of
misconduct against a senior serving Australian Federal Police officer. Mr Wheeler’s further requests under the FOI Act are to obtain the balance of materials which Mr Wheeler suspects would support his view that in fact there was a substantial degree of misconduct in the way in which his complaint was investigated and there was impropriety within that office. Of course, until those documents are discovered to him those suspicions will remain very disturbing. I have drawn conclusions in relation to the materials already exposed which are adverse to the Ombudsman’s office and the staff involved. On their face they seem to justify those conclusions. The failure to produce the balance of the documents I think is quite disturbing.

I also mention that, as a result of the two speeches I gave in this House—the first on 23 October and the second on 11 November—the Commonwealth Ombudsman directed correspondence to me indicating that he intended to himself make a review of the office’s investigation of the complaint that Mr Wheeler had made. He refers to the criticisms that I have made and the damaging impact of my remarks on the reputation of his office and he seeks from me certain materials. I have responded to Mr McLeod, thanking him for that correspondence and indicating that I am pleased that he is instituting a review of those matters. With no want of respect, I also reasserted my view that an external examination of both the individual case I referred to and the institutional arrangements within the Ombudsman’s office is now necessary. I seek leave to table both Mr Wheeler’s letter and the exchange of correspondence between the Ombudsman and me. (Time expired.)

Leave granted.

Mr CIOBO (Moncrieff) (10.00 a.m.)—I rise this morning to speak to the Australian Crime Commission Establishment Bill 2002. This bill is being presented to this House at a time when Australia is facing a unique global environment—a global environment that has been forever stained by the threat of terrorism. It is a global environment that forevermore will have a tremendous impact on the way Australia and many Western democracies determine our course. We are, quite frankly, now operating in a new environment where terrorism is a major threat to our national security. In this new environment it is incumbent upon all of us, and especially upon those of us who stand here representing the people in our electorates, to ensure that we remain vigilant and that we, at all times where possible, remain focused on ensuring we minimise the threats posed by terrorists.

It is not just terrorism, though, that the Australian Crime Commission Establishment Bill pertains to; the bill also relates to the highly organised criminal syndicates that are operating not only in Australia but internationally. In the world today there are many global criminal webs. These webs consist of men and women who are highly organised, who are in some cases highly trained and who in other cases use highly advanced technology to try to pervade all levels of society with organised crime. In this new environment, it is absolutely crucial that we work to ensure that the Australian Crime Commission, a new federal body, is successful.

It is the resolve of this government to ensure that we institute the very best possible framework to deal with the threats that now face our country. As part of this new framework, the Australian Crime Commission will be a new government agency designed to serve the very purposes that I have just been speaking about. The changes that are incorporated in this bill, in terms of the amendments that were put forward, are not, however, only cosmetic. This bill is the result of a complex process involving a great deal of consultation with various governments across Australia. The purpose of this bill is to make sure we incorporate the very best information, advice and cooperation that we can from the state governments and from the federal government. This bill is a result of that cooperation.

In April of this year, a leaders convention took place as a result of an initiative of the Prime Minister. The convention sought unanimous agreement from all state leaders and from the federal government to get behind the establishment of the Australian Crime Commission. I was delighted to see that unanimous agreement was reached.
There was, in addition to that, the police commissioners agreement that took place in August. It was in this August meeting that the entire framework was established for the future operation of the Australian Crime Commission. Further to that, it was put upon the parliamentary Joint Committee on the National Crime Authority to report on the establishment of the Australian Crime Commission and to make recommendations about its future operation and the way in which the Australian Crime Commission could adequately be empowered to tackle the threat of terrorism and also the threat of organised criminal activity. It is with delight that I note the excellent work the members for Cook and Dickson undertook in relation to the inquiry, and, of course, the excellent work by all members of the committee. I have to say any claims that the Australian Crime Commission has come about in some manner that has been without scrutiny, or in some way that has been without due deliberation, are quite simply unfounded.

The purpose of the bill before the House today is to coordinate Australia’s ability to deal with threats to our national security. It is, in short, the government acting in Australia’s national interest. What we have under this Australian Crime Commission Establishment Bill is a new Australian Crime Commission. It will replace the National Crime Authority, the Office of Strategic Crime Assessment and the Australian Bureau of Criminal Investigation. The ACC will be empowered to ensure that we have a better ability to blend the powers of intelligence collection with the powers of enforcement. It will ensure that we engage in an active way and that we have an agency in a position to ensure there is comprehensive investigation of threats to our national security. This, at all times, is contained within the parameters and oversight of a new board. The governance of the Australian Crime Commission will be incorporated and will operate in accordance with the role of the intergovernmental committee. The role of the board that will be established as part of the Australian Crime Commission will replace the role that was formerly carried out by the intergovernmental committee. However, the intergovernmental committee and the parliamentary joint committee will retain their oversight role.

The board of the ACC will comprise 13 people and the chief executive officer. All state and territory police chiefs will be represented on the board of the Australian Crime Commission. This is an important point to note because it truly represents the way in which the state, territory and federal governments are working together. If we are to be truly effective in combating organised criminal activity and if we are going to be truly effective in combating the threat posed to our national security by terrorists, we need to ensure all jurisdictions transcend the fights that often take place between jurisdictions. We need to cooperate through a whole-of-government approach that is targeted towards solving these problems and meeting the challenges that befall us, the challenges that are posed by organised crime.

Five Commonwealth department heads will also sit on the board, representing the agency heads who, as I said, were responsible for the previous agencies—for example, the NCA, the OSCA and the Australian Bureau of Criminal Investigation. The chairman of the board will be the Federal Police Commissioner. This is important too because it gives the authority of the overall federal framework to the ACC. The board is now the authorising body, not because we have any desire to centralise power but rather because we want to ensure that the Australian Crime Commission is a more efficient and more effective organisation, better able to respond promptly to the threats posed to Australia’s sovereignty.

I have stated that the board will still report to the intergovernmental committee and to the parliamentary joint committee, and this is worth noting. In addition, the IGC will continue to monitor the work and oversee the strategic direction of the Australian Crime Commission and its board. The board will still transmit reports to them and the government will still retain its representatives on the IGC that have an oversight role. I have been delighted to see the level of cooperation from the opposition, and I hope that cooperation continues so we can absolutely guarantee the Australian people that this govern-
ment is operating effectively to combat the threat posed by organised crime. It is important to note that the powers that are currently provided to the National Crime Authority are now transferred to the Australian Crime Commission. However, authorisation is still a requirement. Under this bill we do not provide carte blanche power to the ACC. We have made sure the ACC has powers available which will need to be authorised in the appropriate manner. Previously authorisation went through the IGC, but it will now take place through an independent arm of the executive—that is, the board of the ACC. That board will be the body that gives the go-ahead.

With the ACC focused on gathering intelligence on criminal activities—an example would be the importation and distribution of hand guns, but it could also be the importation and distribution of drugs—the ACC now has the ability that the NCA did not: the ability to use coercive powers with respect to intelligence operations. It is very important if we are going to be effective in combating those types of organised crime that we blend the skills of intelligence gathering with the powers of enforcement. It is not good enough to have a police force that simply walks into an area and mops up the mess afterwards. What is crucial is to blend that with the intelligence-gathering exercise so that intelligence gathering can hopefully prevent any kind of attack on Australian society, attacks that may be posed by terrorism, but also from the all pervasive problem of drugs. Drugs continue to be a major scourge on Australian society. I hope that the ACC will be better able to effectively respond to the threat that is posed by those who would seek to peddle drugs on our streets to attack Australian children and not care how they make a dollar, even if it involves manslaughter.

The checks and balances that will apply on the ACC are the same checks and balances that previously existed for the NCA but with some additional scrutiny. The ACC will be required to demonstrate to the board that there is merit in their use of coercive powers. They are not broad powers that operate unchecked. Rather, they are appropriate powers that can be used if there is an appropriate need. Those powers will be exercised through independent statutory officers—a very important safeguard. There will be a written determination and, under the new ACC legislation, the board must make reference to a number of key elements that the NCA did not have to make when authorising coercive powers. The board must consider whether non-coercive methods have been effective. The board must also determine whether federally relevant criminal activity is taking place and it must state, at least in very general terms, that the serious and organised crime involved incorporates offences against the laws of a state, a territory or of the Commonwealth. Further, the board must set out the purpose of the investigation. In short, all of these checks ensure that we promote transparency and independence through the intelligence-gathering process. That certainly should allay any reasonable fears harboured by those that may oppose this bill.

The establishment of the Australian Crime Commission is very timely. We have seen unprecedented levels of terrorist activity against Western democracies and we have seen organised crime continue to thumb its nose at governments. They seek to rot and erode the very foundations of decent civilised society, and it is important that we are truly effective in combating these threats. The Australian Crime Commission will be a very effective tool that all governments can use and that the Australian people can rely upon to ensure that we combat head-on those that would seek to erode those foundation pillars of Australian society. I commend this bill to the House.

Mr Byrne (Holt) (10.12 a.m.)—It is with a great deal of pleasure that I rise to speak on the Australian Crime Commission Establishment Bill 2002 which comes at a very interesting time, particularly given the front page of the Herald Sun today and the threat that has been posed to our country by those that would commit terrorist acts. Consequently, we need to make sure that a body such as the ACC and the manner in which it is set up is right. I would like to commend the member for Banks in particular for the work he has done and the negotiations he has
conducted with the government to ensure that we do get this right because, make no mistake about this, when a nation faces a crisis as we face at the present time, bipartisanship is essential. The public expect it and we have been delivering it. I will speak on this bill in that same spirit of bipartisanship.

The bill amalgamates some intelligence based organisations and other organisations into a body. I have some concerns in relation to an integrity regime and I want to amplify those concerns a bit later on. But, for those people listening to this debate at home, I want to discuss the bill itself first. The bill is the product of negotiations between state and territory police ministers and the federal government. The bill was referred to the parliamentary Joint Committee on the National Crime Authority on 26 September, and the committee reported to parliament out of session last Wednesday, 6 November. The committee made 15 recommendations to amend the legislation, while the majority of the Labor members made an additional three recommendations. The bill will merge the NCA, the Australian Bureau of Criminal Intelligence and the Office of Strategic Crime Assessments to form the ACC.

I will give a brief description of the bodies. The National Crime Authority was set up by the Hawke Labor government in 1983 to investigate complex organised crime on a national basis and to collect, analyse and disseminate relevant criminal information and intelligence. The NCA does not conduct prosecutions; it collects admissible evidence and provides it to the appropriate prosecuting authority, which then decides whether or not to proceed with prosecution. A defining feature and key component of the NCA is that it holds special powers similar to those of a royal commission. These are powers to obtain documents and other evidence and to summon a person to appear at a hearing to give evidence under oath. The powers can be exercised only in very defined circumstances, with the ultimate accountability lying with the ministerial level intergovernmental committee. The other bodies that are being incorporated within this are the Australian Bureau of Criminal Intelligence and the Office of Strategic Crime Assessments. The ABCI’s role is to facilitate the exchange of criminal intelligence between Australia’s law enforcement agencies, which includes maintaining the Australian criminal intelligence database. Its activities are overseen by a board of control, which is made up of all Australian police commissioners. The NCA is required to cooperate and consult with the ABCI in performing its functions. OSCA is located in the Criminal Justice Division of the Attorney-General’s Department. It assesses crime trends and threats to Australia and coordinates the assessment of intelligence within the Commonwealth law enforcement agencies.

One of the most significant issues raised in terms of the proposed amalgamation of these bodies through implementation of this bill is governance. The NCA is made up of a chair and at least two other members. An intergovernmental committee made up of a minister from each state and territory and chaired by the Minister for Justice and Customs oversees the work of the NCA. The IGC also issues references that in turn trigger use of the NCA’s special powers. A parliamentary joint committee monitors and reviews the NCA. The proposed ACC will replace this model with a chief executive officer and a 13-member board. Independence is compromised as the CEO may be suspended or terminated by the Minister for Justice and Customs for unsatisfactory performance—although that issue has been addressed. The board will consist of the commissioner of the Australian Federal Police, the Secretary to the Attorney-General’s Department, the CEO of Customs, the chair of the Australian Securities and Investment Commission, the Director-General of ASIO, and the police commissioners of each state and territory. The commission’s CEO is a non-voting member. Although the IGC and PJC will continue to have an oversight role, ministerial accountability for the ACC is, in a sense, removed. The board will have special powers. It will not only determine priorities but also have the power to press a button on the use of the ACC’s special coercive powers. These are royal commission powers that can compel people to attend private hearings and answer questions or produce documents, which, as I said, is a special power.
I want to talk about one of the concerns arising from the amalgamation of some of these bodies—in terms of abolishing the NCA and the ABCI and moving to the new Australian Crime Commission. A level of concern has been raised about integrity standards within this new body. The Prime Minister has stated that the NCA, either by reform or by replacement, must be fully equipped to deal with transnational crime. The response by the government has come about largely due to the heightened awareness of terrorism. This body, due to its high intelligence based nature, needs to be structured in such a manner as to be airtight regarding the integrity of the information and the people involved in its collection and handling. It is essential that this act not be regressive in the sense of professionalism or public expectations or perceptions.

Additionally, the ACC has created an opportunity for the Commonwealth to introduce consistent, high-level integrity standards across federal law enforcement bodies. Consistency has traditionally been a problem in Australia, and that is why the representatives of both federal and state law enforcement agencies, largely led by the Australian Federal Police Association, are working closely together to establish uniformity across the country. Fortunately, the current environment presents a rare opportunity for these state and federal bodies to agree. It is very much hoped that, due to its overarching nature, the Commonwealth government will move to initiate steps towards not only promoting but also reaping the rewards from this.

As there is a great desire to have the ACC established as soon as possible, it is essential that there be clarity in how it is to be established. Recommendation 6 of the report handed down by the PJC says that careful consideration should be given to the terms and conditions of employment. It is paramount in this environment that we get this right. Basically the ACC must be subjected to the highest levels of integrity and professionalism of any law enforcement body. Specifically, as the bill stands now it can be seen that the employment regime could present some level of difficulty. The movement of the ABCI employees could subject them to a standard different from that to which they are currently exposed. In effect—this is a representation that has been put to me—the government would be saying to the employees of the ABCI, ‘You’re currently working in a high-order professional standards regime in an important intelligence role.’ What could happen is that in moving to a different regime—which is what is being proposed—and an even more important intelligence role, we need to step back a bit from the high-order standards that the current legislation enforces. That, particularly in terms of the role that this organisation may play, could provide some level of difficulty. As I understand it at the moment, the staff of the ABCI do have some level of concern about this. It is their perception that they are at a certain standard of high-order integrity, and they perceive that they may move down.

If you look at the NCA, historically it can be seen that at the time the NCA was formed the environment was much less stringent. It has only been through constant pressure that the NCA complaint procedure has been modified. As a consequence the Ombudsman has been introduced as a minimum. To contrast this with the Australian Federal Police, who are the peak accountability and law enforcement area, it can be seen that for the NCA there exists no formal complaint mechanism. It is only recently that the Ombudsman has become involved. The reason for needing a higher level of accountability is simply that the public expect to see an organisation that is up to the task, particularly in prosecuting in relation to the war on terror. They want to see the greatest levels of general accountability not only for the organisation but also for individuals. In the end it comes back to maintaining public confidence.

In looking at the Federal Police, created in 1979, the report written by Sir Robert Mark outlined the powers that should be conferred to the AFP as well as the great need for accountability. I quote:

An Australian Federal Police cannot command public performance, confidence and respect without certain prerequisites. These are in brief: it should be seen to be administratively accountable
and willing to be accountable to government and public alike both by law and by a well publicised system for investigation of complaints against police.

He continues to explain the reasoning behind why it is of the utmost importance that an organisation of such high authority require comparable accountability. I quote again:

A police force discharging the duties assigned to the AFP—indeed, any police force in a genuinely democratic society—will not enjoy public confidence and trust unless it is accountable, and moreover, is seen to wish to be accountable. Accountability to the criminal law, the civil law and its own police authority, even though that be the government itself is not enough. Nor should the object be to satisfy complainants, some of whom will never in any circumstances be satisfied. The object should be to satisfy the public that every complaint is investigated thoroughly and impartially...

Sooner or later every police force ... must now show its willingness to accept such a system and a newly created force could hardly do better than embrace it at the outset.

And it did that. Not only is it essential that each body be held to a high level of accountability within itself, but it is important that, as every day of the week there are multi-agency task forces working together, they are working under the same conditions. At the moment the vast majority of organisations are working under substantially varying accountability and integrity regimes, making working collaboratively very difficult.

A classic example of this is that a joint operation under the ACC or the NCA could have an AFP intelligence analyst—a staff member—and a corporate support person working with an NCA analyst, and an NCA corporate support person working with a public service investigator with the NCA and a federal agent from the AFP, all working together. If there were an allegation of disclosure of information, straightway we are in two totally different regimes. The people who are subject to the AFP Act and the complaints act can be directed to answer questions, can go to jail for misleading an inquiry and can be subject to 24-hour scrutiny. So it is not just your behaviour while you are on duty; it is your behaviour off duty as well that is under the AFP Act and the commission order 6 in regard to allegations. In another regime, people on the same job in the circumstances that I outlined cannot be directed to do anything. Applying this to the organisation must be done for all those within its framework working in a law enforcement capacity. It would not be unrealistic for people in the office, not directly in contact with the case at hand—that is, a filing clerk—to be in contact with sensitive information. Ensuring that does not lead to a breach of security is a major concern, and hopefully it will be addressed in the amendments.

Recommendation 8 makes this point exceptionally clear. It notes that all staff within the commission must be held accountable to the same integrity and complaints regime across the board, be they operational, investigative or support staff. A possible solution—and I emphasise 'possible'—would be the implementation of a proposal suggested by the AFP industrial representatives, the Australian Federal Police Association, and agreed to by others giving evidence. The proposal is to place employees of the ACC under the AFP Act—or some equivalent act which has uniform standards—with its rigorous integrity regime, as opposed to the Public Service Act. I do not want to enter into a turf war debate here, but I emphasise that there should be one standard applied to all so that one group is not operating under one act and another group is operating under another act. I think that does present some level of difficulty. My proposition would be to minimise that and have one standard that applies to all people.

This is very similar to the changes that occurred within the AFP itself. In 1991 all sworn members of the police were transferred from the Public Service Act to the AFP Act. This has assisted in putting the AFP at the forefront of integrity and accountability. However, it is true that the AFP is not perfect and should be constantly re-evaluated, but it remains today, as I understand it, the best example on which other organisations should be based. In 1996 the Australian Law Reform Commission produced a report into the integrity of the AFP and the NCA. The report’s recommendations
included that the NCA should have a formal complaints system established in legislation and that there should be a uniform standard applied to all its members and staff. The core position identified by the Australian Law Reform Commission was that the NCA should be brought into common alignment with the AFP as to the handling of integrity matters. The AFP has now moved beyond the old 26E provisions of the AFP Act, while still recognising the need for the loss of confidence provisions within the powers of the AFP Commissioner and the operation of the AFP integrity regime. It would seem that where deficiencies were previously identified by a range of bodies as to the operational integrity of the NCA its replacement organisation, the ACC, should not replicate such oversights or failures.

In addition, a more recent position of the Australian Law Reform Commission is examined in the following section. In 1998, the third review of the NCA by the PJC indicated an overwhelming consensus that the NCA Act was lacking an external mechanism with teeth. The 1999-2000 annual report of the NCA stated that the Ombudsman had inspection powers under the Telecommunications Interception Act which relate to the transparency of the reporting by the NCA. This had no real impact on the investigating of individuals and only seemed to be paying lip service to the notion of reviewing the activities of the commission. The most recent annual report from the NCA, 2000-01, shows the recognition of the need for a complaints mechanism. The NCA Legislation Amendment Act 2001 now enables the Ombudsman to investigate complaints raised against the NCA.

To make matters worse, one of the important issues is that, if you lined up the functions that the NCA perform in regard to investigations into organised crime, narcotics and so forth and lined up the functions of the AFP, there is very little difference with regard to what they are doing. One focuses in internal boundaries, to some extent, and one focuses on transnational crime, but even that overlaps now. If you look at their functions, responsibilities and powers, as they stand at present, the AFP and the NCA are almost identical, except that the NCA has coercive powers. The Crimes Act 1914 has been amended to include the NCA as a law enforcement agency consistent with the AFP. The Measures to Combat Serious and Organised Crime Act also identifies the NCA and the AFP as one in regard to their powers. It is the same situation with the Telecommunications Interception Act. It merges the two organisations with regard to law enforcement powers, but one has those powers, plus extra, and a lower integrity regime than the other. This does not make sense, and we have to make sure that that is not replicated in this proposed new body.

The AFPA has been consistent in promoting the need for common standards of accountability for federal law enforcement employees for several years. The AFP, the ABCI and their workforces enjoy a world’s best reputation for their integrity and their anticorruption standards. Within the Australian context, as I understand it, they certainly have a lead over many of the other jurisdictions in this regard. Again, the public demand and should expect nothing less. This position has been widely publicly supported in more recent times with debate in regard to the expansion of the Commonwealth’s antiterrorism efforts—which, of course, we support. It seems only fitting that the federal government lead by example in regard to these particular integrity standards.

I now move to the other recommendations of the report, which I will talk about very briefly in the time permitted. It can be seen that recommendation 4 is essential. This says that the CEO of the commission must be responsible for the management of the ACC and for ensuring that the minister responsible can be held accountable. As has already been outlined—and I have outlined this several times—there is a great need for accountability within these organisations and this should be extended all the way to the top, ending with the minister. This is not only consistent with the other arguments; it is part of the basic principles of good government.

I think, given I am aware that another member is about to speak, that I will leave it at that. In summary, the essence of the concerns which I have amplified is that, par-
particularly with this organisation, we need to get it right. There is some level of concern about common standards of integrity in this new organisation and I certainly hope that the concerns I have raised will be taken into account when the amendments are brought in later on.

Mr DUTTON (Dickson) (10.30 a.m.)—It gives me great pleasure to speak today on the Australian Crime Commission Establishment Bill 2002. In my role as a member of the parliamentary Joint Committee on the National Crime Authority, I have been fortunate to have played a role in the review of this bill and I am a strong advocate of this progressive step by a federal government committed to providing for a safer community. I acknowledge the contribution of those committee members who attended the hearings and the many private meetings and, in particular, the positive contributions from the chair, the member for Cook; the member for Blair; Senators Ferris and McGauran; and, of course, Senator Steve Hutchins, who I will come back to later.

I would also like to mention the significant work of the secretariat, particularly Maureen Weeks, Anne O'Connell and Rosalind McMahon. I also acknowledge the contribution of the staff of the NCA and offer my thanks to the staff—both present and past—of the NCA, the Australian Bureau of Criminal Intelligence and the Office of Strategic Crime Assessments. I acknowledge the transitional difficulties that they have experienced as we progress forward into this new body. I offer my congratulations to Senator Ellison, the minister responsible, his staff and the staff from the Attorney-General's office for their considerable effort in bringing to fruition this important piece of legislation.

The initial meeting between state, territory and federal leaders took place this year on 5 April. The PJC have taken evidence from many parties and organisations with an interest in this development following that meeting, and I thank them for their input. In particular, I acknowledge not only the constructive contribution from Mr Tim Priest and Mr Bob Bottom but also the input from the operational police officers and their representatives from around the country who have also provided to me valuable information. These people had the sole aim of achieving a practical and positive outcome for law enforcement to enable the fight to be taken up to the criminals, who so often in the past have just laughed at our system.

The rationale of this bill is very simple: to provide safety on our streets and in our neighbourhoods so our children can grow up and be part of a community that is not ravaged by the evils of criminal activity and the scourge it attracts. In today's Australia, very few people have a real understanding of the callous disregard many modern criminals have for the greater community. Organised crime is an attack on the Australian way of life. It is commercial in nature and is perpetrated by criminals prepared to kill, maim, assault, steal and operate in a spirit not different to that we have seen in terrorists in recent times. Criminals party to organised and serious crime know no boundaries. They operate on a national and, in many cases, international basis. They import heroin, hand guns and other weapons. They are part of a network that distributes heroin and other illicit drugs to defenceless children in schools and to drug addicts. All of this results in the destruction and loss of thousands of lives every year.

They are involved in people-smuggling where women and children die in transit, pornography, the sexual assault of children and Internet fraud. They sell hand guns to criminals prepared to shoot service station attendants or bank tellers. They are involved in corporate fraud responsible for defrauding the Australian community and families of millions of dollars every year. The clients of organised criminals are those people who break into our homes and who steal, rob and assault to support a drug habit or some other form of illegal activity. Organised crime affects our lives every day. For this very reason, the ACC has been awarded strong powers. We need to be able to empower police to meet organised crime head-on, and this agency will do just that. As we are well aware, this bill will see the coming together of the National Crime Authority, the Australian Bureau of Criminal Intelligence and the
Office of Strategic Crime Assessments into a single and more focused agency.

The Australian Crime Commission will be formed with the cooperation of the state and territory governments. We thank them for their constructive approach of working with the Howard government’s aim of securing our nation. The process of forming the Australian Crime Commission began as an initiative of the federal government to ensure that the relevant agencies could work closely together in enforcing our nation’s laws without the problems associated with geographical borders and interagency rivalries. The communique released by the Prime Minister, premiers and chief ministers after the 5 April summit describes very clearly the intention of the ACC. It says:

7. To strengthen the fight against organised crime it is agreed to replace the National Crime Authority (NCA) with an Australian Crime Commission (ACC) that builds on the important features of the NCA for effective national law enforcement operation in partnerships with State and Territory police forces whilst removing the current barriers to its effectiveness.

The ACC will also utilise the resources of other Commonwealth agencies and departments such as the ATO, the AFP, ASIO, and Customs. Task forces will be formed as needed, either as a pre-emptive action or as a response to acts of serious and organised crime, and will carry out all investigations and intelligence operations undertaken by the ACC. Coercive powers that will allow for thorough investigative processes to be pursued will be maintained. This will ensure that the commission can properly investigate all crimes of federal relevance.

The ACC will be operated by a board of members and chaired by the Commissioner of the Australian Federal Police—currently Mr Mick Keelty. All states and territories will be represented on the board and all police commissioners and the Chief Police Officer of the ACT will play a vital role in linking the commission to the state forces. ASIC, ASIO, Customs and the Attorney-General’s Department will also be members of the board. This will ensure that a broad range of the nation’s specialist agencies will work as one in the investigation of nationally significant crime. The key objective of the ACC will be to determine, from time to time, exactly what the priorities are in terms of investigations and intelligence-gathering operations.

The board will also have the responsibility for establishing task forces and determining which operations and investigations will be special operations or investigations, invoking the coercive powers currently possessed by the NCA. The chair of the board will have responsibility for ensuring that it meets at least twice in each calendar year, will preside at board meetings, and will keep the relevant Commonwealth and state ministers informed about specific matters if requested to do so and will report to the PJC and the intergovernmental committee on the operations and performance of the ACC.

As I have just illustrated to the House, the ACC will consist of a number of high-quality and specialist organisations now working under the same roof. The major benefit to the people of Australia is that, from 1 January next year, our nation has a truly federally based law enforcement organisation to complement not only the state police forces but also the Australian Federal Police. Organised crime will be heavily targeted by the ACC, whether it be through hand gun control, drug importation and distribution or any other criminal activity perpetrated against our society on a large scale.

I spoke at the commencement of this speech about the role of the PJC in this matter. It is fair to say that, in the main, the deliberations of the committee were positive and productive. However, in the end, the Left of the Labor Party could not help but drive an ideological argument based on their belief that they could not empower a law enforcement based agency to possess the ability to invoke coercive powers. The sad element to that particular debate is that it is an ideologically driven debate. It does not take into consideration the fact that the ACC board will not only be made up of professional police commissioners from across the country but also include several federal agencies and representatives from the Attorney-General’s Department. In effect, this ideological debate would rely upon some sort of complicity
between each of the states, the Commonwealth and the Attorney-General’s office to engage in some sort of corrupt practice, which I suppose is what the Labor Party are suggesting.

Driving this ridiculous ideological debate does not take into consideration the fact that we are now living in the year 2002. We are not living in the 1960s and 1970s, when there may have been some question over the integrity of certain bodies. The real loser in this is the Australian people, because the issue now for the Australian Senate, if they decide to pass amendments from the Labor Party, is that they will be taking away a great opportunity for the Australian people to be protected by a body that will be very strong, have quite deliberative powers driven by law enforcement people and be focused on outcomes.

I also mentioned Senator Hutchins at the commencement of my speech, to whom I pay credit because he broke the shackles of the Left of the Labor Party. He sided with us in the deliberations of the PJC. I give him credit; he will cop some flak for that. I think he was representing the views in the main that were agreed to by the states and the Commonwealth as part of the negotiations that took place prior to the commencement of the drafting of this bill. He attended many of the hearings and private meetings that we conducted and, as I say, I pay credit to him. If I were Michael Costa or if I were a police minister in the state of Victoria with an election around the corner, I would be very angry at the federal Labor Party for abandoning their stance in relation to this issue.

The bill we are now debating is yet another example of this government taking the necessary precautions and measures to fight and prevent crime and criminal activity in the 21st century. Not only is the bill the result of solid negotiations with the states and territories but it is also reflective of their genuine desire to contribute to the solution, and I commend them all on this. The level of proposed oversight of this commission is exemplary and will permit a high level of transparency for the wider community. The intergovernmental committee is retained and will monitor and oversee the strategic direction of the ACC and its board. The existing parliamentary joint committee will also be retained, but it will be renamed, by a consequential amendment, the parliamentary Joint Committee on the Australian Crime Commission. The presentation of an annual report will also be required through legislation, as it has been for the NCA. Amendments to the bill will also see a legislated independent review of the act, which must take place as soon as practicable after 1 January 2006, after its first three years of operation.

The Australian Crime Commission Establishment Bill 2002 represents a genuine improvement on the nation’s organised crime-fighting capabilities through the amalgamation of the agencies previously mentioned. The Australian Crime Commission must be given the powers it requires to complete its tasks and provide a level of safety in our cities and neighbourhoods that more closely reflects the true nature and beliefs of all Australians. In this day and age, police need to be provided with modern powers and support mechanisms to enable them to combat a modern and sophisticated enemy in organised crime. It is also appropriate to take this opportunity to call on the judiciary in this country to start getting serious in the sentencing of organised criminals. I became involved in this process because the Australian Crime Commission Establishment Bill 2002 is of great importance to the people in my electorate of Dickson and indeed to the whole country. It will ultimately provide a safer and more secure community for every one of us. We intend to do just that; the onus is now on the Labor Party in the Senate to do the same. I commend the bill to the House.

Mr SERCOMBE (Maribyrnong) (10.43 a.m.)—Perhaps I could start off by saying to the member for Dickson that, in the short time that I have come to know him, I have come to admire some qualities about him—but one is not his sense of political judgment in relation to the way in which parliamentary committees operate. I have been accused of many things, but I have rarely been accused of being a member of the Left of the Labor Party. I am sure that the member for Cook and Senator Ferris of South Australia, both of whom played a very constructive role in
wanting to iron out some of the bugs in the legislation which the member for Dickson, amongst others, seemed very anxious to defend, would also not particularly appreciate being regarded as lackeys of the Left of the Labor Party. I take him to modest task in that respect.

The second reading debate of the Australian Crime Commission Establishment Bill 2002 is the culmination of quite intense activity over recent weeks in achieving appropriate balances in what will undoubtedly be a key part of Australia’s law enforcement structure and criminal justice system—that is, the establishment of this Australian Crime Commission. Underlying some of the very significant amendments that will be introduced is an attempt to achieve the compromises necessary to ensure that differing approaches to law enforcement and criminal justice operation in this country are taken account of.

Unlike the interpretation the member for Dickson seems to be giving to the process that is now unfolding, it is my understanding that presumably during the consideration in detail stage of the debate on this bill the government will be introducing a significant raft of amendments. Further, I understand the amendments will include some matters which are subject to ongoing negotiation about picking up, in a compromise way, some of the points that have been made by three Labor members of the parliamentary Joint Committee on the National Crime Authority in the supplement to the committee’s advisory report, which was tabled on Monday. I understand those negotiations have been proceeding satisfactorily and that the bill is likely to pass through this chamber with the support of all major parties and possibly the whole House and, I would imagine, an overwhelming majority of the Senate. That is a positive reflection on the work of the PJC and others, including the shadow minister for justice, Mr Melham, in achieving compromises and, I would argue, very significant improvements to the arrangements which have been put in place.

I have not been persuaded that the NCA in its present form, particularly in recent times, has not been performing satisfactorily. I believe it has been performing reasonably satisfactorily and that its present structure is okay. Certainly since the amendments to the NCA legislation in 2001, legitimate concerns about the NCA’s effectiveness have been adequately addressed. Nonetheless, despite the defence I would put for the NCA in its present form, the government has negotiated with the states and territories on a raft of changes and those changes are not going to be opposed by the opposition in this place. Some of the motivations for the government proceeding down this track are not necessarily terribly lofty. Certainly the evidence that came before our committee suggested that there were significant elements of petulance in what was driving the government’s agenda, particularly petulance on the part of the Prime Minister, who seems deeply aggrieved by comments made in the context of drug law reform debates by a former chairman of the NCA. Prime ministerial petulance does not seem to me to be a particularly noble principle on which to advance changes in relation to a fundamentally important organisation in our society such as the National Crime Authority.

We are dealing with a fundamentally important area of life and protection for the Australian community and, because there is substantial agreement between the states and territories and the Commonwealth on this matter, the opposition has proceeded in a very constructive way, I believe, to advance the reform agenda that the government has outlined. More importantly, through the committee process, the opposition, the member for Cook and Senator Ferris from South Australia have substantially improved on the proposed organisation. I and probably a majority of members of the committee were not confident, when the draft legislation came out, that we were not going to end up with what a former distinguished Chairman of the National Crime Authority, Mr John Broome, described fairly colourfully as a ‘five-legged camel’. In my view and probably in the view of the majority of committee members there were serious concerns that, particularly in relation to the structure, governance and accountability arrangements of the proposed organisation, there were significant problems. The recommendations of the commit-
ree, most of which the government has adopted, will seek to advance that.

I come back to my fundamental point: some of us doubt the need for the changes at all. Senator Ellison, in February last year, said the following about the NCA:
The cooperative efforts of law enforcement agencies such as the National Crime Authority, Customs and the AFP has never been so high. I commend the excellent work that these world class law enforcement agencies are doing.

We do have some doubts about why the government are proceeding. However, they are and our task has been to iron out some of the bugs. We were operating on the basis of wanting to avoid some of the errors that may have occurred in the past. The committee took evidence about a former organisation called SCOCCI, which was a model that sought to bring together a whole raft of agencies, apparently with minimal success. We wanted to see whether this new organisation could avoid some of those problems.

The first recommendation of the committee, which the government has not proceeded with, is that the bill be amended to provide that AUSTRAC be included as a member of the board. AUSTRAC is Australia's world-class organisation that specialises in financial intelligence. The committee believe that AUSTRAC's inclusion on the board of this new body would represent a significant enhancement. Nonetheless, the government is of the view that that is not the case. Despite the fact that the government has emphasised the intelligence focus of this new body, it does not want a world-class intelligence agency on the board for reasons which, frankly, do not seem to me to be very credible. I suspect the real reason is that the government does not want to get involved in a barney with some of the states about proportional representation on the board. It is disappointing that the government is not picking up that suggestion. Nonetheless, that is hardly sufficient for us to reconsider our position and broad support for the bill.

The second recommendation by the PJC is that the bill be amended to restore the entitlement for the ACC to develop cooperative relationships with corresponding overseas law enforcement agencies—a very sensible proposal, which the government has agreed to. In the context of the international dimensions of criminal activity, it is an important one. Further, the government has agreed with the recommendation that the bill be amended to ensure that the relevant states are informed of any operation or investigations proposed to take place within their boundaries. Once again, that is a straightforward, sensible recommendation which had not been adequately picked up in the initial drafts.

The government has also agreed to the fourth PJC recommendation that the bill be explicitly amended to provide that the CEO should be responsible for the overall management of the ACC, that the CEO appoint heads of task forces and that the heads of task forces be responsible to the ACC through the CEO. The fifth recommendation by the PJC in relation to the same sort of matter is that the bill be amended to provide:

... that the suspension of the CEO can only take place on the initiative of the Minister until the meeting of the full Board to consider the matter and that the CEO can only be removed for cause ...

These two recommendations that the government is picking up are premised on the principle of trying to avoid what Mr Broome was describing as the five-legged camel model of an organisation. We thought—correctly, I think—that they were creating an organisation which would be doomed to extraordinary internal conflicts if it was not made abundantly clear very early on what the CEO's responsibilities were and what the lines of accountability were. Frankly, I think the way in which the organisation had been set up until the committee had a good look at it and made some recommendations was a recipe for that five-legged camel model.

The committee also recommended—and the government agreed to—the following:

... that the Government give careful consideration to the terms and conditions of ongoing staff to be employed.

Certainly, this process of change and speculation over a long period of time has had some significant negative impacts on the staff of the existing organisation, and there are some additional issues that the government agrees need to be worked through. I
heard the tail end of the contribution by my colleague the member for Holt on some of those staffing issues. The government has also agreed to the recommendations:

... that the Bill be amended to provide that complaints against all staff of the ACC be investigated by the Commonwealth Ombudsman ...

... that the Government, once the ACC has been established, gives urgent attention to ensuring that operational, investigative and support staff work under the same integrity and complaints regime.

... that the bill be amended to provide that the ACC is obliged to provide the Parliamentary Committee overseeing its operation with any information sought by the Committee except where that information would identify any particular individual suspected of criminal conduct ... or would, in the opinion of the CEO, risk prejudicing a current inquiry.

The government has not agreed to the recommendation by the committee that the bill be amended to establish the ACC as a legal entity, but it has agreed that there should be no blanket immunity from suit for the ACC.

Overall, I think that is a reasonable set of compromises and initiatives that will make for a substantially better organisation than that which we were originally confronted with.

The more difficult issue in the committee’s deliberation was the question of the use of coercive powers. We are talking in effect about the powers of a standing royal commission—powers that have never previously been given to an organisation in Australia that is explicitly a law enforcement or police-led organisation. The reason this is so important, in the context of getting the balance right between the rights of Australians to have an adequate regime of protection in a criminal justice sense and the rights of Australians to have adequate protection for their hard won civil liberties, was put by a number of people giving evidence to the committee. It was put very eloquently indeed by former Senator Chris Puplick—certainly not a member of the Labor Left—who is presently the New South Wales Privacy Commissioner. He said:

... the exercise of such powers—

that is, the special powers—challenges received assumptions about a right to privacy, which underlie the way our legal system operates as well as the right against self-incrimination and a presumption of innocence. There is a danger that the mere invocation of a broadly defined public interest will override these legitimate interests of individuals, and that coercive intelligence gathering powers once established will be extended to a wider range of activities than those where they are justified by special circumstances.

I think that is quite a good summary of the concerns and of the need for balance. Those concerns were also amplified by the fact that, as I said a moment ago, we are dealing with an organisation that is law-enforcement led. As the present Commissioner of the Australian Federal Police testified before the Senate Legal and Constitutional References Committee in March 2001:

The AFP enjoys a close strategic partnership within the NCA ... The AFP believes it is appropriate for the NCA to exist as an independent agency. It is inappropriate for any police organisation to have the special powers conferred upon the NCA.

A week or so later, Mr Keelty told the parliamentary Joint Committee on the National Crime Authority:

In response to [an article which appeared in the Canberra Times] I wrote a letter to the editor in which I expressed in clear terms that the relationship between the AFP and the NCA had never been better and that we enjoyed a number of recent successes in targeting organised crime groups. I would like to reiterate those comments to the committee today ... I repeat that it would not be appropriate to invest those powers into a police agency ...

Nonetheless, the government is in effect doing that. It is vesting the coercive powers in an organisation that is certainly police led. In those circumstances, the committee generally—but particularly the majority of the Labor members—believed very strongly that appropriate checks and balances needed to be put in place. The committee very substantially took the view that in our Westminster style of government the buck ultimately has to stop with the ministers who are accountable to this parliament and to state parliaments, as appropriate.
The committee’s recommendations were framed very much on the basis of wanting—consistent with recognising that the government’s objective, and apparently that of the states, is to create a law enforcement-led organisation, and consistent with efficient operation and getting quick action on the use of the special powers when they were required—the ministerial accountability to stay in place. As I said earlier in this speech, I understand negotiations have been proceeding between the Minister for Justice and Customs and the shadow minister. We are very likely to end up with a compromise position that will not be entirely satisfactory to anyone, but a compromise position that at least has some vestige of ministerial accountability and responsibility as a built-in protection. I certainly hope that that is the case because, if it is not, I suspect we are going to continue to have some problems here. But I am optimistic on the basis of advice that progress is being made.

The committee was very anxious to ensure that the position of the independent statutory officers, the examiners, who are charged with exercising the special powers, is protected. The government has agreed to the PJC’s recommendation that: 

... the Bill be amended to provide that no part-time examiners can be engaged on a per-hour or per-diem basis.

Similarly, the committee recommended that:

... the Bill be amended to explicitly provide that examiners must satisfy themselves in each case that before they exercise special powers under the Act that it is appropriate and reasonable to do so and that they indicate in writing the grounds for having such an opinion.

I note that my colleague the member for Denison spoke in some detail on the importance of that so, in the limited time available to me, I will not dwell on it as well. Those two crucial recommendations, which fortunately the government has agreed to, have the effect of boosting significantly the independence of the people who will operate these special powers. Therefore, the community can have greater confidence in their independence. Fortunately, the government agreed to another protection that the committee as a whole recommended, that: 

... the Bill be amended to provide explicitly that any decision by a committee of the Board to authorise an operation/investigation as a “special operation/investigation” requires ratification by the full Board.

The committee felt very strongly about that recommendation and it was agreed to by all members of the committee—including the very left wing member for Dickson—on the basis that it was an important protection against the possibility initially presented in the legislation that a subcommittee of as few as two members, provided it included two Commonwealth officers, would have access to the full range of royal commission type powers. We believe that we have made significant progress in the area of coercive powers.

As with all compromises, probably no-one is entirely happy. However, we have been consistent with the desire of the government to have this organisation in place by 1 January, been consistent with the Australian community in the value it quite rightly puts on important law enforcement considerations but equally been consistent with the value it puts on the protection of hard fought for and hard won liberties and been consistent with the agreement the Commonwealth made with the states. We think what we have outlined is sufficient to go forward with. No doubt it will need to be changed in the future in the light of experience, but at least we have something more reasonable to go forward with. I finish by congratulating those involved in the negotiations and the work on this, particularly the member for Cook, who—despite his undoubted left wing leanings—did an excellent job as chairman, and people like the former Minister for Justice, Mr Kerr. I think we have ended up with a reasonable set of compromises. (Time expired)

Mr WAKELIN (Grey) (11.03 a.m.)—I rise to speak briefly on the Australian Crime Commission Establishment Bill 2002. It has had a long gestation in terms of the history of the former bodies—the National Crime Authority, the Australian Bureau of Criminal Intelligence and the Office of Strategic Crime Assessment—and the distinguished service they have offered the country in
dealing with these difficult issues. I simply offer my support for the Commonwealth, the states and the territories in their efforts in this area. Clearly, it is a cooperative and very much equal partnership because the states and territories end up doing the practical implementation on the ground. When the Prime Minister, the Premiers and the Chief Ministers met on 5 April to discuss the transnational crime and terrorism, their communiqué mentioned, amongst many other things:

In relation to Organised Crime, Leaders agreed:

7. To strengthen the fight against organised crime it is agreed to replace the National Crime Authority (NCA) with an Australian Crime Commission (ACC) that builds on the important features of the NCA for effective national law enforcement operation ... 

8. The ACC to be focussed on criminal intelligence collection and establishment of national intelligence priorities.

9. The ACC to have access to taskforce investigative capability to give effect to its intelligence functions and to support its overall operations ...

10. The Board of the ACC to include representatives from all States and Territories. Ministerial oversight will be retained by having the Board report to an Intergovernmental Committee of State and Commonwealth Ministers.

11. To streamline the process for obtaining investigation references.

12. The ACC will retain the capacity to use coercive powers and to investigate criminal activity of national significance ...

Therein lies, from the Bills Digest, the general summary of the final decisions and the basis at a political level, in a bipartisan spirit, that we have the very best intelligence and the best people available to make key assessments about our future direction. I wish the Australian Crime Commission well. We have a significant history in this regard, which should give us the basis of a reasonable outcome. Let us hope that those lessons of the past are well learnt and that the commission, in combination with our states and territories, who are working in partnership with the federal government, delivers to the Australian people that which it must.

Mr BRENDAN O’CONNOR (Burke) (11.09 a.m.)—The manner in which the government and the opposition have dealt with this matter is instructive, as it underlines the benefits of the parliament focusing on policy rather than playing politics. As a number of members have already indicated, the Australian Crime Commission Establishment Bill 2002 is now acceptable to Labor because of the significant amendments we have sought, which were accepted by the government and will be made to the original bill. As the shadow minister for justice has indicated, the Australian Crime Commission model proposed by this bill raised fundamental points of principle for the Labor Party.

The opposition recognises that the mechanism for referring matters to the National Crime Authority for investigation can be inflexible and lengthy. Therefore, it is important that every effort is made to remove these inefficient processes without undermining the principles of accountable government. Further, particularly in light of the recent terrorist events in the USA and, more recently and closer to home, in Bali, there is
a heightened need to scrutinise our current institutions in order to ensure that we have the best-equipped mechanisms to deal with organised crime. I think it is fair to say that this bill has gone some way towards ensuring that this will be done.

It is in the light of these legitimate concerns that the Labor Party is prepared to support this bill, subject to the amendments that have been agreed between the government and the opposition. Labor seeks to properly balance the need to be vigilant in combating crime—particularly organised crime—with its genuine concern that the important Westminster principles of responsibility and accountability within our parliamentary system of government are upheld. This dual aim is at the heart of our amendments to this bill, and we have focused upon two significant areas. It is fair to say that Labor and all members of the parliamentary committee established to inquire into this bill had particular concerns about the bill in its original form.

The first area of concern was the proposed governance structure, and the second was the system that enabled the use of coercive powers. A Hawke Labor government initiative, the NCA was established to investigate organised crime on a national basis and to collect and distribute relevant criminal information and intelligence. But let us be clear: the authority has never been in the business of conducting prosecutions and was never established for that purpose. It has collected admissible evidence and referred such evidence to the appropriate prosecuting authority, which then decided whether to proceed with a prosecution. As the shadow minister has already said, the NCA is made up of a chair, who is required to be a lawyer or former judge, and at least two other members.

The proposed Australian Crime Commission will replace this structure with a CEO and a 13-member board. As a result of this change, the independence of the authority—or at least the perceived independence of the authority—would have been diminished because, under the bill as originally proposed, the CEO may be suspended or terminated by the Minister for Justice and Customs for what would be termed unsatisfactory performance. It was proposed that the board be made up of the Commissioner of Police of the Australian Federal Police, the Secretary of the Attorney-General’s Department, the CEO of the Australian Customs Service, the Chairman of the Australian Securities and Investments Commission, the Director-General of Security of ASIO, and the police commissioners of each state and territory. The commission’s CEO would be a participating but non-voting member. Although the intergovernmental committee and the parliamentary joint committee would continue to oversee matters, the result would have been to remove direct ministerial accountability and effectively insert a board consisting of police and public servants. Quite frankly, this was of concern to the opposition.

With respect to special powers, a defining feature of the NCA is that it holds coercive powers similar to those of a royal commission. At the time the NCA was set up the then government paid particular attention to the nature and exercise of those coercive powers. It was the deliberate and conscious intention that no government would allow such powers to be solely in the hands of unelected public servants or the police. Under the proposed new model for the Australian Crime Commission that was introduced into the House about two months ago, the board would comprise police commissioners and public servants. It would be able to prioritise for the organisation and, indeed, it would be able to apply those coercive powers. For example, the board could delegate the decision on the use of the powers to a subcommittee, so long as the committee was made up of at least two Commonwealth members.

This new model is certainly a major departure from the current arrangements. This proposal was contradicted by evidence before the parliamentary committee. Indeed, the Commissioner of the Australian Federal Police, Mr Mick Keelty, told the Senate Legal and Constitutional References Committee last year that it is not appropriate for the police to hold coercive powers. But I am happy to say that amendments have been sought by the opposition, as a result of the recommendations of the parliamentary committee, and
they have been accepted by the government. I think it is fair to say that the concerns that we had were shared by expert witnesses who appeared before the parliamentary joint committee’s inquiry into the bill.

As said earlier, the joint committee tabled its report to parliament out of session last week. It made 15 recommendations to amend the legislation, and the majority of the Labor members on the committee made three additional recommendations. It is very important to note, therefore, the efforts that the committee members put in to ensure that this bill could be saved and could be drafted in a way that would properly balance those competing interests. As has already been acknowledged in this place, the government has now accepted 13 of the 15 unanimous recommendations of the joint committee and has now at least given some reasons as to why it has concerns about some of the other recommendations that it is unwilling to support. We understand that the government intends to introduce a range of amendments in response to the recommendations and, as a result of this, it has the opposition’s support.

The changes sought will provide for a more efficient and expeditious process of approving the use of coercive powers. Furthermore, they will uphold the Westminster principles of responsible government and will ensure ministerial accountability for the special powers. In particular, we support the amendments that will make the CEO responsible for the overall management of the Australian Crime Commission and will ensure the Minister for Justice and Customs is accountable to the parliament for the work of the Australian Crime Commission. We also support amendments to provide that the suspension of the CEO can only take place on the initiative of the minister after consulting the full board, and that the removal of the CEO for ‘unsatisfactory performance’ will be a ‘for cause’ provision, attracting general administrative law protections.

Other amendments that have been sought and accepted include ensuring that complaints against all staff of the ACC may be investigated by the Commonwealth Ombudsman, as a minimum. Given the powers that this authority will have, it would seem appropriate at the very least that that should be able to be undertaken. The amendments will ensure that the ACC is obliged to provide the parliamentary committee overseeing its operations with any information sought by the committee, except where that information would identify any particular individual suspected of criminal conduct or would, in the opinion of the CEO, risk prejudicing a current inquiry. Further amendments will ensure that there is no blanket immunity from suit for the ACC and will require examiners to satisfy themselves in each case, before they exercise special powers under the act, that it is appropriate and reasonable to do so and to indicate in writing the grounds for having such an opinion.

As I said, Labor has supported the additional recommendations made by the majority of Labor parliamentary committee members, which relate to the system for approving the exercise of coercive powers. We must also recognise that this bill is the product of negotiations between the federal government and all state and territory governments. The additional recommendations, in our view, are within that construct—that is, they ensure that the new authority will have the proper powers required but that there will be sufficient accountability and responsibility and, indeed, that ultimately the responsibility will be at a ministerial level. We await, of course, the detail of the amendments. We need to see that the drafting reflects the undertakings given but certainly, given the great cooperation between the members of that committee, the minister’s office and the shadow minister’s office, we would be very surprised if we were not able to maintain our support.

In conclusion, I acknowledge and congratulate the minister’s office and the joint parliamentary committee members for inquiring into the bill and for the way in which they dealt with the matter. I add my congratulations to the member for Cook, who chaired the committee. I thank my Labor colleagues: the member for Denison, the member for Maribyrnong, Senator Hutchins and Senator Denman. In the end, the efforts of the shadow minister, the minister and their respective staff have illustrated to this place that, if we focus more on policy and less on
politicking, a lot can be done for the parliament and ultimately for the citizens of this country.

Mr WILLIAMS (Tangney—Attorney-General) (11.20 a.m.)—in reply—I thank all members who have contributed to this debate. The Australian Crime Commission Establishment Bill 2002 has received close scrutiny and it reflects the agreement that has been reached with the states and territories after extensive consultation. It also reflects the majority of the recommendations made by the parliamentary Joint Committee on the National Crime Authority. I will briefly respond to some of the key points that have been raised during the debate. Members on the other side have queried the reasons why change was necessary. We have heard a number of musings from the opposition about prime ministerial motives. Let me place squarely on the record the government’s position. If you take the analogy of a car, with the NCA we had an 18-year-old car. It may work as well as it can, but it has limits. The government decided it was time to review the adequacy of the NCA as Australia’s premier law enforcement vehicle. It decided Australia needed a state-of-the-art organisation to combat the state-of-the-art amenities used by criminal organisations.

I specifically reject the suggestion by the member for Maribyrnong that the basis for change is a principle of prime ministerial petulance. There is no such principle on this side of the House. Both the member for Banks and the member for Denison have raised concerns about coercive powers being given to police, and they quoted public comments by the Commissioner of the Australian Federal Police from early last year. I wish to place on record again the government’s position on this important issue. The government agrees that it is not appropriate that coercive powers be given to police and therefore agrees with the AFP Commissioner’s views. There is no inconsistency with this position in the proposal before the House for the ACC. There is a clear distinction between the authorisation of the use of coercive powers and the exercise of those powers.

It is proposed that the board of the ACC—which will include the police commissioners of the AFP, the states, the Australian Capital Territory and the Northern Territory—be able to authorise the use of the powers, but the exercise of those powers will be by independent statutory officers, to be called examiners. The legislation makes it clear that the examiners are not subject to direction by the CEO or the board in the exercise of those powers. The legislation also makes it clear that examiners are expected to exercise an independent discretion in relation to whether the powers should be used in a particular circumstance. They will be required to act reasonably, and they will be required to record in writing the reasons for deciding to exercise the powers in each case. So it is not the case that coercive powers have been given to police.

A further concern expressed during the debate related to a perceived lack of ministerial accountability. There is no lack of accountability under these proposals. As a Commonwealth body, the ACC will be accountable to the Minister for Justice and Customs. The ACC will be accountable to an intergovernmental committee. The ACC will be accountable to a joint committee of this parliament. The government does not agree with the additional recommendations made by certain members of the parliamentary joint committee. However, the Minister for Justice and Customs is continuing negotiations with the shadow minister for justice, with a view to reaching an agreement for amendments in the Senate in relation to the role of the intergovernmental committee. Any additional amendments would of course have to be approved by the states and territories. This bill is a significant initiative and will enhance the effectiveness of the national fight against serious and organised crime. I commend the bill to the House.

Question agreed to.

Bill read a second time.

Consideration in Detail

Bill—by leave—taken as a whole.

Mr WILLIAMS (Tangney—Attorney-General) (11.25 a.m.)—by leave—I present the supplementary explanatory memorandum
to the Australian Crime Commission Establishment Bill 2002 and move government amendments (1) to (31):

1) Schedule 1, item 35, page 12 (lines 15 and 16), omit “the head of such an operation or investigation and".

2) Schedule 1, item 35, page 12 (after line 27), at the end of subsection (1), add:

   Note: The CEO must determine, in writing, the head of an intelligence operation or an investigation into matters relating to federally relevant criminal activity; see subsection 46A(2A).

3) Schedule 1, item 35, page 13 (line 29), omit “1 month", substitute “2 months".

4) Schedule 1, item 35, page 16 (lines 5 to 10), omit subsection (4), substitute:

   (4) However, the Board cannot determine that a committee has the function of determining whether an intelligence operation is a special operation or whether an investigation into matters relating to federally relevant criminal activity is a special investigation.

5) Schedule 1, item 35, page 16 (line 14), omit “Subject to this section, a", substitute “A".

6) Schedule 1, item 35, page 16 (line 17), omit "The", substitute “However, the".

7) Schedule 1, item 35, page 16 (lines 19 to 24), omit subsection (8), substitute:

   Informing other Board members of decisions

   (8) A committee must inform the other members of the Board of its decisions.

8) Schedule 1, item 58, page 19 (lines 26 and 27), omit the item, substitute:

   58 Section 17

   Omit “Authority” (wherever occurring), substitute “ACC”.

9) Schedule 1, page 30 (after line 6), after item 127, insert:

   127A After subsection 28(1)

   Insert:

   (1A) Before issuing a summons under subsection (1), the examiner must be satisfied that it is reasonable in all the circumstances to do so. The examiner must also record in writing the reasons for the issue of the summons.

10) Schedule 1, page 32 (after line 6), after item 141, insert:

   141A After subsection 29(1)

   Insert:

   (1A) Before issuing a notice under subsection (1), the examiner must be satisfied that it is reasonable in all the circumstances to do so. The examiner must also record in writing the reasons for the issue of the notice.

11) Schedule 1, item 197, page 39 (after line 15), after subsection 43(1), insert:

   (1A) However, the Minister must not suspend the appointment of the CEO unless the Minister has:

   (a) asked the Board for its advice in relation to the proposed suspension; and

   (b) considered the Board’s advice.

12) Schedule 1, item 197, page 41 (lines 23 to 26), omit subsections 46A(1) and (2), substitute:

   (1) The CEO is responsible for the management and administration of the ACC. The CEO is to act in accordance with any policies determined, and any directions given, in writing by the Board.

   (2) The CEO must also manage, co-ordinate and control ACC operations/investigations.

   (2A) As soon as practicable after the Board authorises, in writing, the ACC to undertake an intelligence operation or to investigate matters relating to federally relevant criminal activity, the CEO must determine, in writing, the head of such an operation or investigation.

   (2B) Before the CEO determines the head of such an operation or investigation, the CEO must consult the Chair of the Board, and such other members of the Board as the CEO thinks appropriate, in relation to the determination.

13) Schedule 1, item 197, page 42 (lines 17 to 19), omit subsection (5), substitute:

   Full-time appointments

   (5) An examiner is to be appointed on a full-time basis.

14) Schedule 1, item 197, page 43 (lines 1 to 10), omit section 46D, substitute:

   46D Leave of absence

   (1) An examiner has the recreation leave entitlements that are determined by the Remuneration Tribunal.
(2) The CEO may grant an examiner leave of absence (other than recreation leave) on the terms and conditions, as to remuneration or otherwise, that the CEO determines in writing.

(15) Schedule 1, item 197, page 43 (line 20), omit “A full-time”, substitute “An”.

(16) Schedule 1, item 197, page 44 (line 16), omit “is a full-time examiner and”.

(17) Schedule 1, item 226, page 48 (line 13), before “the CEO”, insert “the Board, the Chair of the Board,”.

(18) Schedule 1, item 228, page 49 (line 22), before “CEO”, insert “Board, Chair of the Board,”.

(19) Schedule 1, item 228, page 49 (line 23), before “the CEO”, insert “the Board, the Chair of the Board,”.

(20) Schedule 1, item 228, page 49 (line 33), before “the CEO”, insert “the Board, the Chair of the Board,”.

(21) Schedule 1, item 228, page 50 (line 3), before “the CEO”, insert “the Board, the Chair of the Board,”.

(22) Schedule 1, item 228, page 50 (line 12), before “the CEO”, insert “the Board, the Chair of the Board,”.

(23) Schedule 1, item 232, page 51 (line 32), before “the CEO”, insert “the Board, the Chair of the Board,”.

(24) Schedule 1, item 235, page 52 (line 8), before “the CEO”, insert “the Board, the Chair of the Board,”.

(25) Schedule 1, item 239, page 52 (lines 23 and 24), omit the item, substitute:

**239 Subsection 55A(12)**

Repeal the subsection, substitute:

*Interpretation*

(12) A reference in this section to a law of a State conferring a duty, function or power includes a reference to the conferral of a duty, function or power under a law of a State.

(26) Schedule 1, item 243, page 53 (line 19), before “the CEO”, insert “the Board, the Chair of the Board,”.

(27) Schedule 1, item 243, page 53 (line 23), before “the CEO”, insert “the Board, the Chair of the Board,”.

(28) Schedule 1, item 245, page 53 (line 31), before “the CEO”, insert “the Board, the Chair of the Board,”.

(29) Schedule 1, item 267, page 56 (line 19), after “conducted”, insert “or is conducting”.

(30) Schedule 1, item 287, page 58 (line 19) to page 59 (line 3), omit section 59B, substitute:

**59B Liability for damages**

A member of the Board is not liable to an action or other proceeding for damages for or in relation to an act done or omitted in good faith in performance or purported performance of any function, or in exercise or purported exercise of any power, conferred or expressed to be conferred by or under this Act.

(31) Schedule 1, Part 1, page 61 (after line 1), at the end of the Part, add:

**307A After section 61**

Insert:

**61A Review of operation of Act**

(1) The Minister must cause an independent review of the operation of this Act to be undertaken as soon as practicable after 1 January 2006.

(2) The persons who undertake such a review must give the Minister a written report of the review.

(3) The Minister must cause a copy of each report to be tabled in each House of the Parliament within 15 sitting days of that House after its receipt by the Minister.

However, this section does not apply if a committee of one or both Houses of the Parliament has reviewed the operation of this Act, or started such a review, before 1 January 2006.

The government introduced legislation in September to give effect to the agreement reached with the states and territories to establish the Australian Crime Commission. The bill was referred to the parliamentary Joint Committee on the National Crime Authority for examination and report. The committee is to be commended for its efforts. The PJC was asked to report on the bill in a very tight time frame and has done a very good job in preparing a detailed report on the bill in the time available. Under the stewardship of the member for Cook, as chair, the PJC has conducted public hearings and considered extensive submissions on a wide range of issues from interested parties. I wish to place on record my own and the govern-
ment’s appreciation of the efforts of the chair and the members of the PJC and of the staff of the secretariat to the PJC in producing such a comprehensive report in the limited time available.

The government, with the concurrence of the states and territories, agrees in whole or in part with 13 of the 15 recommendations, and the amendments will give effect to those recommendations, for which legislation is required. The proposed government amendments fall into two categories: those to implement recommendations from the review of the bill by the PJC, and two minor measures necessary to correct issues that came to light after the bill was introduced. Let me now deal with the items.

Items 1, 2 and 12 implement the government’s response to the PJC’s fourth recommendation by providing that the CEO is responsible for the administration and management of the ACC and that the CEO must manage, coordinate and control ACC operations and investigations. This latter point will ensure that the head of an ACC operation or investigation is responsible to the board through the CEO. The amendment will provide that the CEO must appoint the head of the investigation or operation after having consulted with the chair of the board and appropriate board members. Appropriate board members may be determined by the board under directions issued under subsection 46(1). The amendments will ensure that the CEO has a clearer role to play in relation to the management of the ACC and control of the ACC’s investigations and operations.

Items 4 to 7 implement the government’s response to the PJC’s twelfth recommendation by prohibiting the board from establishing a committee to determine that an ACC operation or investigation is a special ACC operation or investigation. The amendments also address the PJC’s third recommendation, to require a committee of the board to inform other board members who are not on the committee of a decision of the committee. Item 8 implements the government’s response to the PJC’s second recommendation by adding an express requirement for the ACC to cooperate with law enforcement agencies within Australia and coordinate its activities with overseas authorities performing similar functions.

Items 9 and 10 implement the government’s response to the PJC’s fourteenth recommendation and will enhance the independent role of the examiners. The amendments will provide—before an examiner exercises coercive powers under section 28, a summons to attend, or section 29, notices to produce—that the examiner must decide that the exercise of the power is reasonable in all the circumstances. The amendments will also require the examiner to indicate in writing the grounds for making the decision. Item 11 implements the government’s response to the PJC’s fifth recommendation by requiring the minister to consult with the board and consider its advice before suspending the appointment of the CEO. Items 13 to 16 implement the government’s response to the PJC’s thirteenth recommendation by removing the reference to part-time examiners.

Item 29 implements the government’s response to the PJC’s ninth recommendation. The amendments provide that the PJC may have access to the same information that the IGC is able to access. This includes information in relation to an ACC operation or investigation that the ACC is conducting. Information that would prejudice the safety or reputation of persons or the operations of law enforcement agencies would not be disclosed. Where the chair of the board decides that the material should not be disclosed on these grounds, then the PJC would be able to direct the request to the minister for determination.

Item 30 gives effect to the government’s response to the PJC’s eleventh recommendation. The bill will be amended to provide that the protection from liability for damages should only be available to members of the board. (Extension of time granted) Item 31 gives effect to the government’s response to the PJC’s fifteenth recommendation. The bill will be amended to provide that there is to be a review of the operation of the ACC as soon as practicable after 1 January 2006.

There are two additional measures. Item 3 provides that the first meeting of the board must be within two months of the commencement rather than one month. As the act
will commence on 1 January, this resolves the practical problems associated with holding the first important meeting during January 2003. Items 17 to 28 will amend the bill to provide the consent mechanism for the board and chair of the board to perform a duty or function or exercise a power under a law of a state. The amendments are necessary to ensure that the board is able to authorise the ACC to undertake intelligence operations or investigations under state legislation and to determine when such operations or investigations are special operations or investigations. The amendments also clarify that a reference to a state law conferring a duty, function or power includes a reference to the conferral of a duty, function or power under a law of a state. I commend the amendments to the House.

Mr MELHAM (Banks) (11.32 a.m.)—As I foreshadowed in my speech in the second reading debate, we anticipated these amendments. I have seen them this morning and my office has just gone through them. We welcome them. They have the full support of not only the Joint Committee on the National Crime Authority but both sides of the parliament. I will reiterate what I said in my speech during the second reading debate. The process we have of dialogue with parliamentary committees, with both sides of the House and with people outside the House, in terms of expertise, results in amendments we can all live with, because they are aimed at improving the legislation that comes out at the other end and the way it goes onto the statute books. The Labor Party are very happy to support these amendments. Again, I commend this process, in terms of future legislation and other matters brought before the House, because I think it produces a better product.

Amendments agreed to.

Bill, as amended, agreed to.

Third Reading

Mr WILLIAMS (Tangney—Attorney-General) (11.34 a.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

FINANCIAL SECTOR LEGISLATION AMENDMENT BILL (No. 2) 2002

Second Reading

Debate resumed from 26 June, on motion by Mr Slipper:

That this bill be now read a second time.

Mr LATHAM (Werriwa) (11.34 a.m.)—The Financial Sector Legislation Amendment Bill (No. 2) 2002 gives additional powers to the Australian Prudential Regulation Authority to monitor and supervise companies associated with deposit-taking institutions. This follows the collapse of HIH and the controversy now affecting APRA. The bill seeks to avoid the contagion effect, where the collapse of one company could adversely affect other parts of the corporate sector, such as authorised deposit-taking institutions. Clearly, the government should have acted earlier to avoid the collapse of HIH. This is the point of the damages suit now being brought against the government by the HIH liquidator. It is the issue that underscores this particular legislation.

I draw to the House’s attention the words of the Parliamentary Secretary to the Minister for Finance and Administration, Mr Slipper, who presented this bill to the House. He pointed out that an amendment to the Insurance Act was required so that insurance companies must notify APRA of any breach
of prudential standards, including any material developments which are detrimental to their financial position. He further said that this will allow APRA to deal earlier with potentially troubled institutions—that is, HIH. It is very clear from the second reading speech of the parliamentary secretary that the government is acting to respond to the collapse of HIH by giving extra powers to APRA to deal with these contingencies in the future.

It does raise the very important issue of why the government did not act earlier to prevent the collapse of HIH. Why didn’t it intervene to stop the shonky sale to HIH of FAI—the Trojan Horse that ultimately destroyed the main company? The answer? This was a Liberal insiders’ job from the beginning to the end. The then Minister for Financial Services, Mr Hockey, failed to intervene because he did not want to cross his Liberal Party mates Rodney Adler and Malcolm Turnbull. In fact, the problem goes back a long way. The Palmer report, on which the HIH liquidators are now relying, points out that John Howard, as Treasurer in the Fraser government, ignored the concerns of the insurance regulator in 1978 to reissue FAI with a licence. There is a long history of Liberal government preferment for FAI because of the involvement of the Adler family as party members and multimillion dollar donors to Liberal campaigns. This is why this bill is necessary today: to cover up the internal preferment and corruption of the Sydney Liberal Party establishment. Indeed, the HIH collapse has Liberal fingerprints all over it. I noticed a report by the well-connected Glenn Milne in the Australian on 30 September, where he wrote that the Prime Minister:

...felt Hockey’s political antennae should have picked up signs from the Sydney business community that HIH was in trouble, way ahead of the fiscal triggers requiring prudential regulatory action.

This was code for saying that Mr Hockey, then serving as the financial services minister, would have known from his association with Turnbull and Adler that HIH was going down but he was too lazy and self-serving to do anything about it. As I mentioned earlier, this was an insiders’ job from beginning to end. So there is no doubt, even in the assessment of the Prime Minister, that if his then Minister for Financial Services, Mr Hockey, had acted on the information that was available in the Sydney business community—the information that clearly was available within the New South Wales division of the Liberal Party—then HIH may not have collapsed and this legislation before us would not have had the urgency that it has today.

The amendments to the legislation are trying to increase the powers of APRA to give it the capacity to access information that is detrimental to the financial position of insurance companies and to deal with potentially troubled institutions. I think it is wise, and the opposition supports the idea of giving APRA additional powers to intervene, to gather information, to act pre-emptively to ensure that we never again in this country have an HIH type collapse. It is an important piece of legislation but, just as importantly, the House needs to learn from the recent experience.

I have previously expressed my concern about Malcolm Turnbull’s involvement in the collapse of HIH. He knew from his involvement with Project Firelight that FAI was a lemon, yet he was prepared to sell it on to HIH for $300 million. The FAI purchase came with liabilities unknown to HIH, including $100 million in bad reinsurance contracts. It was the Trojan Horse that ultimately destroyed HIH and sent the Australian insurance industry into crisis. This is the contagion effect that is mentioned in this legislation that the government is now trying to prevent in the future. But we need to look at the contagion of the immediate past. The responsibility for the collapse extends beyond Adler and Ray Williams. Turnbull is also culpable; indeed, damned by his silence. At every stage, he and Adler covered up the truth. If Turnbull had been up-front and honest with the FAI board and said what he knew to be true—that is: ‘I was involved in an attempt to privatise the company and, in any case, you are only worth $20 million’—he would never have been appointed. More-
over, the board would have included this information in its part B statement and disclosed it to the Stock Exchange. The sale to HIH would never have taken place. Australia's largest corporate collapse would have been avoided and, I think it is also fair to say, the legislation now before the House would not have been so pressing.

Not only is Turnbull damned by his silence; documents were presented at the royal commission showing how he actively deceived the FAI board. On 28 September, for instance, he wrote to Mr Landerer talking of how he was on a 'learning curve' in respect of FAI—that is, pretending that he had no prior knowledge of the company’s finances. The bottom line? Turnbull failed in his duty of care out of greed. It is as simple as that. He gave a higher priority to pocketing $1.5 million in fees than to the principles of truth and public decency. Maybe this is why the Liberal Party has made him its federal treasurer—the bagman who can walk both sides of the street, look after his party mates and turn $20 million into $300 million. In truth, his disgraceful role in the collapse of HIH tells us as much about the Liberal Party as it does about Malcolm Turnbull. They preach responsibility for society’s poor, but they never practise these things themselves.

It is very clear that the government is scrambling with this legislation to cover up and make up for the failings of administration that led to the collapse of HIH. This is scrambling legislation. We cannot, unfortunately, unscramble the egg of the collapse of HIH. It is better late than never to do these things, but the government should learn at ministerial level about the inaction that caused the collapse of HIH. These are serious matters. Indeed, yesterday’s news of a damage suit against the government could cost the taxpayer further. It has been a very expensive exercise for the Australian taxpayer: the multimillion dollar expense of the royal commission into HIH, the public expense of now having to change the statute and the possibility of a multibillion dollar payout in the damages suit that is being brought by the HIH liquidators.

It is clear that Turnbull acted improperly; he may have acted illegally as well. Section 995 of the Corporations Law states that in dealings with securities a person must not engage in conduct that is misleading or deceptive or is likely to mislead or deceive. Section 999 establishes a criminal offence for making a false statement or disseminating false information in connection with the sale or price of securities. At a minimum, Turnbull is also bound to face civil proceedings; indeed, these were foreshadowed yesterday. Documents provided to the royal commission show that, following its appointment in September 1998, Goldman Sachs undertook to draw 'a very clear picture of the company (FAI) and identify all problem assets' and to bring these to the attention of potential buyers. Turnbull reneged on this commitment and led HIH down the garden path. Moreover, the HIH takeover was conditional on there being no adverse change in FAI’s financial position or prospects—a condition that Turnbull breached by failing to disclose the bad insurance contracts, the loan write-downs plus his earlier $20 million valuation of the company. As Turnbull admitted to the royal commission, his involvement with FAI was 'market sensitive information' that should have been included in the part B statement. Once again, Turnbull knew what was going on. With respect to the ‘no adverse change’ condition, he told the commission: 'I was aware of that condition, yes.' When the royal commission finishes sometime next year, the HIH liquidator and creditors are likely to seek compensation for these breaches, just as—as it was announced yesterday—they will be seeking compensation from the federal government for the slack role of APRA, for the inaction of Minister Hockey and for the bad decision of Treasurer Costello in allowing the merger of FAI and HIH to proceed.

The HIH collapse exposes the two faces of Malcolm Turnbull: the FAI buyer who overnight became its notorious seller. In fact, Turnbull has had more facelifts than Phyllis Diller. In the space of 12 months he has become a born-again Liberal, a born-again Catholic and a born-again preselection candidate. Earlier this year I was surprised to receive a call at home from Mr Turnbull asking me about the reading he should undertake to say things publicly about commu-
nity issues and social capital. It seemed a strange thing to do: a senior Liberal calling a Labor frontbencher for research advice. Indeed, Turnbull came across as quite awkward, as if he were engaged in a ‘dial an issue’ approach to public life: it was not so much the issues that mattered but rather the chance to lift his profile and have something to say—almost anything to say—at any cost. Since then Turnbull has had something to say on almost everything. His favourite subjects have been families and fertility: lecturing people on the virtues of marriage and babies. In truth, few people have done more to damage family and community life in this country in recent times than has Malcolm Turnbull. His role in the collapse of HIH triggered a public liability crisis, leaving hundreds of thousands of Australians without the insurance cover they need to participate in family and community events.

It was this crisis that prompted the government to take this legislative action. If these things had not happened in the past we would not even be debating this bill today—I am absolutely certain of that; this legislation would not be before the House of Representatives. But the fact that we are here, the fact that the legislation is now necessary and the fact that the government has given it priority in its legislative program proves a very important point. It teaches a very important lesson: this is what happens when someone puts personal financial gain ahead of public interest. This is why greed is such a corrosive force in our society. Instead of lecturing families, Turnbull should be apologising to them. When families find out that their school fete has been cancelled due to the rising cost of public liability insurance, they should ask for an apology and compensation from Malcolm Turnbull. When families find out that the local council has closed the playground at the end of the street, they should ask for an apology and compensation from Malcolm Turnbull. When people find out that their family doctor has been unable to access malpractice insurance, they should ask for an apology and compensation from Malcolm Turnbull. They should ask for their share of the $1.5 million he took out of FAI as he sold the lemon to HIH, knowing full well this would threaten the viability of Australia’s insurance industry. Turnbull described his time before the royal commission as a ‘very embarrassing one’, yet he has the $1.5 million to hide his embarrassment. The families hurt by the HIH collapse and the contagion that followed have nothing.

In financial circles Turnbull is known as the ‘fee catcher’. He caught a fee all right, while families and communities across the country caught nothing but misery and suffering from his greedy alliance with Rodney Adler. Throughout his evidence to the royal commission Turnbull came across as confused and evasive, often displaying a selective memory, particularly about events where he had been caught out. When it comes to examining the sale of FAI, the legal system has a lot more work to do. Not only do we need this legislative change; we need more work in the legal system. If there is any fairness in this country, Turnbull will be brought to justice in either the criminal or the civil courts, or in both.

Mr Entsch—Mr Deputy Speaker, I raise a point of order. I ask that you ask the member to come back to the bill that we are discussing here at the moment. He is way out of order on this.

The DEPUTY SPEAKER (Mr Mossfield)—I will listen carefully. At this stage I do not think there is a point of order. I will, nevertheless, listen carefully to the speaker.

Mr Latham—The point of this bill is of course to give extra power to APRA. Why does APRA need extra power? Because of the collapse of HIH. Why did HIH collapse? Because of the notorious role of Malcolm Turnbull. These are important matters, well within the context of this legislation. This is an important issue that deserves the close examination of the House. I for one look forward to the report of the HIH royal commission. The government has established the commission, and we look forward to the commission’s recommendations concerning Malcolm Turnbull. I would advise the government to take this matter seriously—not just this legislation but also the history that resulted in this bill being brought before the House. The Minister for Employment and Workplace Relations, Mr Abbott, has established a royal commission into the building
industry that increasingly looks like a damp squib. If the government wants to do something about the crooks and spivs in this country it ought to examine the HIH evidence and clean out its own ranks, especially Turnbull and Adler. Bob Menzies would be rolling in his grave, knowing that the finances of his party are now in the hands of a shyster like Turnbull.

Mr Cadman—Mr Deputy Speaker, I raise a point of order. These matters can be debated but they are before a royal commission and I think that a great deal of care needs to be taken. The member is making statements to the effect that the government ought to clean out certain things when the royal commission is still in progress. I think there is a sub judice concern here and that these matters are best left until the report is brought down.

Mr Latham—Mr Deputy Speaker, on the point of order: by the logic expressed by the member for Mitchell, this whole bill is sub judice. The government has brought this bill here because of the collapse of HIH and the need to give additional powers to APRA. It is nonsensical for the member for Mitchell to suggest the matter is sub judice when the government has brought legislation before the House. I refer him to the second reading speech by the Parliamentary Secretary to the Minister for Finance and Administration, Mr Slipper, on 26 June, where he clearly referred to the need for APRA to deal earlier with potentially troubled institutions—that is, HIH. There is no doubt that my comments are in order. The bill is here; it deserves to be debated in the proper context.

Mr Cadman—Mr Deputy Speaker, further to the point of order: I understand what the member is saying, but this bill applies to all insurance and all banking institutions. It is not totally generated by the failure of HIH and it certainly has nothing to do with the royal commission. The royal commission is looking at sheeting blame home to individuals. That should be left to one side and the substance of the bill dealt with.

The DEPUTY SPEAKER—Order! On the point of order, I have some advice for the information of members. I do not think the parliament can be deprived of the opportunity to debate this particular issue. It is in order to refer to the evidence that is before the royal commission, but it would be out of order to put any construction on that evidence which might appear to influence the royal commission. I am relying on some information I have been given on that matter from *House of Representatives Practice*.

Mr Cadman—Mr Deputy Speaker, I am not questioning your ruling, except to point out that the member has made statements drawing conclusions from the evidence and is saying that the government should take certain action against individuals when the commission has not made a finding. Therefore, I believe he is contravening your ruling.

The DEPUTY SPEAKER—Order! It would be out of order if any member put a construction on any evidence that is before the royal commission with a view to influencing that royal commission decision. I ask members on both sides to be careful of that sub judice rule.

Mr Latham—I am very mindful of the sub judice rule, as I am sure the parliamentary secretary was when he brought this legislation before the House. The truth is that Project Firelight lit a fire under Turnbull’s political career and has turned his credibility to soot. I would argue that Malcolm Turnbull is unfit for public life in this country. Nonetheless, the ALP is going to support this legislation. The legislation does respond to the HIH collapse. It provides additional powers to APRA to intervene to gather information to deal with potentially troubled institutions and, most importantly, avoid the collapse of those institutions and the contagion that would flow to other parts of the financial sector.

The government is really trying to repair things that in some respects are unrepairable. We are not going to re-establish HIH, but we need to learn from the experience. I am sure if he had his time again Treasurer Costello would not have approved the merger of FAI and HIH. He would not have approved the dirty deal that led to the merger of those two companies. I am sure the Treasurer is thinking that, if he had his time again, he would not approve the merger and as a result would not now be subject to a damages suit brought
by the HIH liquidator. I am sure the Treasurer is rueful about these things. He needs to learn the lesson: stop looking after your mates, stop being involved in insider jobs. This is the same Treasurer who appointed his mate Michael Kroger to the board of the ABC, the same Treasurer who has tried to appoint his mate Graeme Samuel as deputy to the ACCC.

Mr Entsch—Mr Deputy Speaker, I rise on a point of order. I ask that you direct the member for Werriwa to come back to the issue we are debating, the Financial Sector Legislation Amendment Bill (No. 2) 2002. His comments have nothing whatsoever to do with the bill before the House.

The DEPUTY SPEAKER—There is no point of order.

Mr Latham—There is a serious lesson for the government, and that is to avoid insider jobs. I think it is a legitimate point to make. There is a pattern of the Treasurer being involved in insider jobs, of appointing his mates to key positions and, in this case, not stopping the merger of FAI and HIH because two of his mates, Rodney Adler and Malcolm Turnbull, were involved in the dirty deal. The Treasurer needs to learn that lesson. I am sure if you ask him here today, in an honest moment he would say that he wished he had not done it and that he was not subject to a damages suit by the HIH liquidator. So they are important lessons.

Quite frankly, in the history of this matter, from Mr Howard’s involvement in 1978 to the present, they have all been in it: Howard, Costello, Hockey, Turnbull and Adler. It has been a dirty insider job by the Liberal Party. I think this is deeply regrettable. I look at these matters and at the members who are taking points of order today. They are as bad as Janet Albrechtsen, a skanky ho who will die in a ditch to defend the Liberal Party. It is her and the other dancing bears who are most likely to defend these dirty deals, but I think as time passes—and we see this day by day—it is indefensible. It is a matter that cannot be defended in any terms as good public policy. The legislation is way too late. Most importantly, the government is just trying to cover up something that it should have prevented a long time ago.

Mr Cadman (Mitchell) (11.55 a.m.)—There is no doubt that this House will have a very extensive debate when the royal commission makes its findings, and I do not think anybody would seek to prevent that from occurring. And it should occur. As the previous speaker, the member for Werriwa, has said, a lot of damage was done by the failure of HIH. If there is one lesson that can be learned by this process, it is this: it is very easy for the regulators to chase the small and the insignificant and pulverise the small schemes—the do-it-yourself insurance and the company funds that seek to take in superannuation—but it is much harder for the regulators to deal with large corporations if those corporations want to cover up things.

I just press on APRA, with the changes that are being made here, the need for it to focus on what should be its top priority—that is, to make sure that it gives confidence to the community. I notice in the Australian Financial Review today comments about the royal commission and APRA’s more active role in enforcement. In an article in the Australian Financial Review yesterday there were some comments about APRA from Alan Cameron, who chaired the Australian Securities and Investment Commission from 1993 to 2000. I do not know whether his comments are right—I am not in a position to judge—but I do know that back in 1991, in the period of the Labor government, the head of the Insurance and Superannuation Commission, Richard Beetham, was talking to HIH about their financial situation. So discussions began back then. It is all very well to allege these arrangements, these friendships and all that sort of thing—conspiracy theories by the member for Werriwa—but where was APRA or its predecessor during that period? When giving evidence at the royal commission, Alan Cameron said that he supported the ‘dual regulator’ model and that it was ‘very sensible’. He said that he liked the previous process and described the role of APRA as more of ‘the bedside manner of the doctor’ in looking after institutions rather than one seeking to carry the responsibility for proper conduct.
There are all sorts of reasons, and gradually they will be displayed—whether there is adequate staff in APRA, whether it had enough staff to focus on superannuation insurance when it moved from Canberra to Sydney, the role of contract workers coming into the organisation and whether it could adequately think through the regulatory process of government which had been established over many years in both insurance and superannuation. I would have to say that there is a great deal of regret all round that HIH went to the point that it did and that it was able to take on FAI without people being aware of the implications. We will come to that in due course. In the meantime, the government is certainly taking action. With this legislation before the House today, the government is strengthening the role of APRA to be able to take decisions and do things that have long needed to be done.

The Financial Sector Legislation Amendment Bill (No. 2) 2002 that we are debating today does look into what APRA should be doing and does look into the role of the processes. I turn now to the explanatory memorandum to gather up some of the detail which is in this legislation. Apparently this is considered minor legislation, but some of this is pretty significant stuff. According to the EM, the most significant amendments are changes to the Banking Act, which reflects that it has not been updated for some time. These amendments include provision for the application of a fit and proper test for directors and senior managers of Australian deposit-taking institutions. They also examine the proper role and qualifications of those taking a position in non-operating holding companies. All of this—covering the area of who is a fit and proper person to be a director—goes right across the whole financial sector, from banking institutions through to credit unions and building societies. I have to say in passing that I am a little concerned by some of this legislation as it applies to credit unions. I think the application of unnecessary bureaucratic control to mutual companies which are not for profit is quite concerning. I will be watching this very carefully because I am concerned that credit unions are in a different category and, while they certainly should be able to comply with these requirements, the compliance factors for them need not be applied to the same onerous extent as they are for a bank, insurance company or superannuation firm.

Amendments to the Banking Act also deal with auditors and are consistent with the auditor provisions in the Insurance Act. The amendments will provide APRA with the means to remove auditors who fail to perform adequately and properly. Those powers would have been a terrific thing to have had in the case of HIH where we had auditors who were members of the board. I do not believe that that was appropriate or that two auditors should have had a say at that level. Amendments to the Banking Act also include the requirement for a deposit-taking institution and their subsidiaries to notify APRA immediately of any breaches of prudential requirements and any material adverse developments. If they do not notify then I would imagine that that would allow APRA to go in and investigate. If APRA heard that proper processes had not been observed and the prudential requirements were not there then APRA could go in and say, ‘You have not notified us; we are here to find out what the story is.’ That is a valuable improvement.

Another amendment to the Banking Act will allow APRA to apply prudential standards on a consolidated group basis. That means that it will not just be one entity that they are able to look at; it will be the whole lot. If that was a limitation in the previous legislation—that there was no way that APRA could look at a consolidated group—I find that quite surprising. It seems quite strange to me, given the common practice of many different subsidiaries existing within a corporation generally known as a bank, that APRA could not look at the totality in terms of the movement of funds, the prudential requirements and the standards across the whole group. That was certainly a shortcoming in the previous legislation. Consultation has been had by APRA about these matters, and that is fine, but industry needs to be aware that the nation cannot afford the collapse of another insurance agency or even a superannuation fund. I think APRA need to be very active in looking at some members of the superannuation industry to make sure
that everything is managed appropriately there. There is stuff out there in the marketplace that APRA should be aware of and if they are not taking action, I think they should be.

The Banking Act will also be amended to provide additional grounds for APRA to revoke the authority granted to a deposit-taking institution or non-operating holding company. The final amendment in this legislation will correct a discrepancy between the indemnity provisions of the Banking Act and the APRA Act which relates to the extent of protection available to APRA officers under these acts. This amendment will also ensure that Australia complies with the Basel core principles in legally protecting staff of the supervisory agency, which is also very significant. Amendments to the Insurance Act will require APRA to discuss with a third party submissions from a director or senior manager who is being removed. If there is a problem with somebody’s conduct or behaviour, this will allow APRA, under the Insurance Act, to talk to others about it—whether it be law enforcement agencies, fellow directors or employees of a company. I believe this is a vital part of APRA’s ability to apply a fit and proper test to management. That is what Australians want: a fit and proper test applied to management.

Another amendment to the Insurance Act is the requirement that an insurance company notify APRA of any breach of prudential standards. That brings it into line with the requirements under the Banking Act. Again, it would seem to me that APRA now have the powers to go and have a look if the requirements are not complied with or if the prudential standards are not complied with. If APRA think they may not have been complied with, they can take action. The Superannuation Insurance Commission had many of these powers to go and have a look, and they did not hesitate to do so. I think it was Chris Hurford, when he was Assistant Treasurer, who strengthened the powers, following the collapse of an insurance company, to allow the commission to do that. Again, it is strange that we are having this legislative change that should have originally been within the scope and ambit of APRA.

Another amendment within this bill is to the Insurance Act, and it deals with the incorrect specification of penalties. The penalty provisions need to be increased so that the penalty units applied to a body corporate are appropriate and consistent with the Crimes Act. The final changes are to the Superannuation (Resolution of Complaints) Act and introduce flexibility in the time limits relating to complaints about disability benefits. This also follows the problems that we have had in the insurance industry, allowing a collapsing of the time and acknowledging the difficulty in assessing medical conditions over a time. It gives the Superannuation Complaints Tribunal discretion in dealing with time limits. I think we all know some of the problems with extraordinary lengths of time being available to complainants for payouts under the superannuation act or under other insurance provisions.

Finally, the changes to the Superannuation (Resolution of Complaints) Act will strengthen, modernise and improve the conciliation powers of the Superannuation Complaints Tribunal and will enable it to require attendance at conciliation instead of the current voluntary system. I think these are all good provisions, and we need to get them implemented. They are not minor. Taken collectively, they are substantial and will build, I hope, a new culture within modern governance in Australia. I am pleased that the opposition supports these provisions, and I think that we do have the chance now to build something that is more reliable and trustworthy.

Mr COX (Kingston) (12.10 p.m.)—The Financial Sector Legislation Amendment Bill (No. 2) 2002 contains amendments to seven financial sector acts in the areas of banking, insurance and superannuation. Most of the substantive changes are to the Banking Act. The government has honoured its commitment, made when we agreed to support the Financial Sector Legislation Amendment Bill (No. 1) 2002, to extend the fit and proper person test to the directors and senior management in the banking sector. It has also extended the same test to auditors. Labor has waged a long campaign on the application of a fit and proper person test to directors of
financial institutions. We therefore welcome its extension to banks and auditors. Nonetheless, we believe that further exploration of how the test is actually applied is warranted, and the legislation will be referred to a Senate committee so that the design and application of the fit and proper person test can be properly examined.

The other key changes are intended to strengthen APRA monitoring capabilities and require institutions to immediately notify prudential breaches and material developments detrimental to a company’s financial position. This will certainly put the onus on trustees, directors and management because there are penalties that are going to apply if they do not bring to the attention of regulators any information that they believe that regulators should know. Anybody who has ever had to deal with the aftermath of a collapse of a financial institution knows that, by the time management finally realise that they have got a serious problem that they cannot handle and they make an estimate of the sorts of losses that are likely to eventuate, it is typically the case that losses turn out to be a multiple of the losses and financial liabilities that are first identified. So putting some significant onus on management, on directors and on trustees to keep their eye out for the early warning signs of those things and to report them rather than to perhaps worry about them and try to muddle through is a significant shift in responsibility and, hopefully, one that will be beneficial.

I will go through the specific amendments to the relevant acts. Regarding the Banking Act, the fit and proper person test does not involve any formal approval process but it does provide APRA with some reserve powers to disqualify a person who, in APRA’s opinion, is not a fit and proper person to hold one of those positions. It requires banks to notify APRA immediately of any breach of prudential requirements and any material adverse developments, improving the flow of information to the regulator and enabling them to seek remedial action. Once again, this does not involve any formal monitoring by APRA but it places the onus on banks to comply or risk penalties or the revocation of their licence. It extends the fit and proper person test to auditors and enables APRA to remove auditors who fail to perform adequately and properly. However, as with directors and senior managers, the company auditor or auditors have the right to make a submission to an internal APRA review and to appeal to the AAT.

The bill empowers APRA to undertake supervision and apply prudential standards on a consolidated basis and to seek information from any member of a conglomerate from any other member of that conglomerate. It expands APRA’s grounds for revoking the authority granted to a bank where the application for the authority contained false and misleading information, and it ensures that the indemnity provisions are consistent between the Banking Act and the APRA Act to ensure that legal protection is afforded to staff and auditors, provided that they have acted in good faith. There have certainly been some very contentious issues in relation to bank regulation in the past where people have sought to sue the regulating authority—which in those days was the RBA—when things had gone wrong and they sought to spread some of the blame around.

With respect to the Insurance Act, the bill requires insurance companies to notify APRA of any breach in prudential standards, including material developments detrimental to its financial position in line with the requirements imposed on banks. Once again, this does not involve any formal monitoring by APRA but places the onus on companies to comply or risk penalties or the revocation of their licence. It allows APRA to discuss submissions from a director or senior manager who is being removed with third parties in order to test the veracity of any claims. That is an interesting area of law where I imagine libel issues would have otherwise arisen and might have constrained the regulator’s behaviour. It amends the calculation of penalties to ensure consistency with the Crimes Act.

Regarding the Superannuation (Resolution of Complaints) Act, the bill removes the arbitration powers of the Superannuation Complaints Tribunal. In 1999, the High Court overturned a 1998 Federal Court decision that the review powers of the Superan-
nuation Complaints Tribunal were invalid. In response to the 1998 decision, the Commonwealth had legislated to give the Superannuation Complaints Tribunal power to arbitrate. That is now redundant. It requires parties to a dispute to attend a conciliation conference and will impose penalties for noncompliance if the defendant does not appear and will consider the case withdrawn if the complainant does not appear. It also gives the Superannuation Complaints Tribunal discretion to deal with complaints relating to disability benefits that take longer to resolve in the prescribed time limits, in line with the Productivity Commission recommendation from December 2001.

With respect to the Superannuation Industry (Supervision) Act, the bill recognises current awards that emerged from arbitration, even though the arbitration power has been removed. With respect to the Australian Securities and Investments Commission Act 2001, the Corporations Act 2001 and the Corporations (Repeals, Consequentials and Transitionals) Act 2001, it corrects minor errors, grammatical mistakes and erroneous cross-references, and removes obsolete powers. These provisions—which put the onus back on directors, trustees and managers to advise regulation authorities—are not a form of self-regulation, in Labor’s view, and do not put the onus for regulation on those people. The onus for regulation remains with APRA. One of the responsibilities of the government is to make sure that APRA is properly resourced.

I had a meeting with a senior officer of the Australian National Audit Office yesterday. At that meeting, I raised the Auditor-General’s performance audits of APRA which are being done in a series covering the specific industry areas that APRA regulates. This matter has some history, and this is probably a very convenient time to make reference to it. Back in 1995, a major superannuation and insurance company, National Mutual, got into financial difficulty. The then Insurance and Superannuation Commission appeared to have completely missed this. National Mutual was in so much financial difficulty that it needed to sell a significant amount of equity so that the organisation could be recapitalised. At the time, I was principal adviser to the Treasurer. All sorts of people from financial institutions around Sydney and Melbourne who were involved in this sale process on behalf of potential buyers—there were not terribly many of them—were ringing me after they had been involved in the due diligence process. They certainly did not convey to me any improper or commercial information, but they did let me know that the organisation was more of a basket case than they might have expected when they went in with a view to buying it. It left me wondering whether the Insurance and Superannuation Commission was able to properly fulfil its role.

I took this matter up with senior officers in the Treasury and asked, ‘Do you know whether the Insurance and Superannuation Commission has the resources to do its job? It regulates an awful lot of financial institutions and the Reserve Bank has a rather luxurious—by comparison, at that stage—’role of only having to regulate a relatively limited number of banks with licences.’ The Insurance and Superannuation Commission had to deal with a very large number of organisations. With one of the biggest institutions, the ISC seemed to have been oblivious to the fact that that institution had got into some financial difficulties. Treasury officers went away and thought about this. They said: ‘This is very difficult. Nobody really has the expertise.’ I kept saying, ‘I think you ought to have a look at it and think about who ought to be able to evaluate whether the ISC has the resources it needs.’ Eventually they came back and said, ‘We think it might be appropriate to send the matter to the Auditor-General, who could do a performance audit.’ That did not strike me as quite the response I had been expecting, but it seemed to be a practical start.

Shortly after that, the Labor Party were out of office as a result of the 1996 election. While I had kept pretty clear recollections of the issue, I probably did not give it a lot more thought for the next couple of years because I was doing other things. But, after 1998, when I had been elected to this place, I became deputy chair of the Joint Committee of Public Accounts and Audit. One of the
roles of the public accounts committee is to discuss with the Auditor-General the audit priorities of the parliament. I recalled this incident and I raised it in the relevant meeting with the Auditor-General and asked what had happened. He said, 'Nobody ever raised it with me,' and so nothing had happened.

I maintained a significant interest in the Auditor-General then embarking upon a series of performance audits of the various areas that APRA regulates. The Auditor-General realised that some of these things were perhaps a little outside the Auditor-General's expertise, that they certainly could not be done all at once and that they would have to be done in series. I think they decided that they would start with deposit-taking institutions and move forward. I was hoping that they would very quickly get to superannuation. I thought, with the large number of super funds out there, it would be an excellent idea if they made sure that the regulation of those super funds was in order, because there are so many Australians with all of their assets for their retirement tied up in those super funds. But one of the things that intervened was HIH and the establishment of the royal commission. There was some sensitivity in the Audit Office to not put too much pressure on APRA because they were coping with the royal commission and would not really want to get involved in a separate inquiry which would put even more pressure on their management resources. In the meeting I had yesterday with a senior officer of the Australian National Audit Office, he said that they are now getting on with the performance audit of superannuation. It is under way and it will report in due course.

One of the issues that I raised at that meeting was the decision by the government to move the monitoring of self-managed superannuation funds to the Australian Taxation Office. I am sure that the tax office will have regular contact with all of those self-managed funds—and there are tens of thousands of them; they are the small funds that have five or fewer members—but the tax office will be looking at them primarily from the point of view of their tax arrangements. I wonder whether the tax office is the suitable body to be maintaining oversight of the way that those funds conduct their business as superannuation funds. I am indeed a little suspicious that the monitoring responsibility for the regulation of self-managed funds has been moved from APRA to the tax office just before the Auditor-General goes in to look at how well APRA is monitoring superannuation. The answer from the tax office will quite rightly be: 'It is a little early to be doing a performance audit on this because we have only just started.' If I were running one of these self-managed superannuation funds—which I have no intention of ever doing—I would be very mindful of the fact that there probably is not adequate oversight. I suspect that for some people that is probably a matter of enormous convenience, but it is a matter that the government ought to be showing more concern about and taking more responsibility for than they are at the moment.

I am looking forward to seeing the performance audit of APRA's superannuation function when it is released in due course. I think that the auditor will be quite capable of coming to a view about whether there is sufficient monitoring and how regular it is. It will provide a reasonable level of accountability on that matter which may help to build confidence in the superannuation industry. If the audit finds any defects, the Labor Party will be very energetic in pursuing additional resources for APRA, to make sure that it can perform its function of regulating superannuation funds absolutely thoroughly. The Labor Party have had a great role in building up superannuation for all Australians, to help them in their retirement. We are very conscious that Australians need to be assured that the funds that their superannuation moneys are invested in are monitored and protected to the fullest extent that the government is able, to assure people that their retirement incomes will be properly protected. I look forward to the Auditor-General's report on that matter. In the meantime, I commend to the House the aspects of this bill that will improve APRA's oversight
Mr SNOWDON (Lingiari) (12.29 p.m.)—I welcome the opportunity to speak in the debate on the Financial Sector Legislation Amendment Bill (No. 2) 2002. I am particularly pleased to highlight that item 8 of the bill gives APRA the power to direct a subsidiary of an authorised deposit-taking institution or a non-operating holding company to undertake certain activities to ensure that the subsidiary complies with the prudential standards or behaves in a way that is in the interests of depositors. I think that is very important. I want to now refer to some situations in the seat of Lingiari, particularly in relation to Indigenous Australians. Indigenous people, like other Australians, have had to come to terms with substantial structural changes that have occurred in our financial system. While we welcome new technology and regulations that have positive impacts on consumers, there are a number of negative impacts, particularly for the illiterate, for low-income earners and for people located in rural and remote communities. Indigenous people make up a significant proportion of these groups.

I draw the attention of the House to work done in this area by the Centre for Aboriginal Economic Policy Research at the Australian National University and, in particular, a paper prepared by researchers Siobhan McDonnell and Neil Westbury. Neil Westbury is a former general manager of Reconciliation Australia. The paper they co-authored was titled ‘Giving credit where it is due: Delivery of financial services to Indigenous people in regional and remote Australia’. It was published last year and it details the need to protect the interests of low-income earners and, in particular, Indigenous people. The paper argues that deregulation has had a profound impact on Indigenous Australians. APRA would do well to consider this document and what is in the best interests of Indigenous depositors. Without the ability to save, individuals are denied a range of economic opportunities, in particular the opportunity to break out of the poverty trap. Work by Neil Westbury in the Barwon-Darling region details the specific problems faced by Indigenous Australians. These problems are relevant to Indigenous communities across Australia. Westbury considers the problems to be:

- the failure of financial providers to take account of the different conceptions that Indigenous people have of financial facilities;
- the problems caused by the inadequate provision of banking and financial services within the region;
- the fact that many Indigenous people do not understand either the way bank fees and charges operate, or how to minimise these fees and charges; and
- the low technical proficiency of many Indigenous people.

In addition Indigenous people want banking services to be provided on a personal, private, face-to-face basis, by Indigenous staff.

Tackling these issues will require alternatives to the current delivery of banking and financial services to rural and remote Indigenous communities. It is imperative that these issues be addressed because there is a danger that services are decreasing in regions that have increasing Indigenous populations. For example, in the Northern Territory the proportion of the population that is Indigenous in towns with fewer than 600 people is 81 per cent. Nationally, at a broad regional level, Indigenous Australians represent a steadily growing share of the population and economy of those regions. Between 1981 and 1996, the Indigenous share of the population of remote Australia increased from 12.7 per cent to 17.8 per cent. Across Australia, towns of fewer than 1,000 people have been most disadvantaged by banking deregulation and the adoption of new technology. The Prices Surveillance Authority in their 1995 inquiry into fees and charges imposed on retail accounts by banks and other financial institutions argued that:

Access to a financial transactions account is necessary to conduct the personal business of everyday life in a modern economy. All citizens require this access regardless of income, employment status or personal circumstances. Bank fees have increased substantially from the early 1990s and have been the subject of much discussion in this place over the last couple of days. Last year, the parliamentary
Joint Standing Committee on Corporations and Securities reported that evidence indicates that fee restructuring has been used by banks to retain ‘high-value’ and to remove ‘low-value’ customers.

Low-balance customers, many of whom are Indigenous, pay disproportionately more for what is fundamentally an essential service. Recently, I was given an example where a bank customer with $1,400 of deposits paid over $140 in fees over a three-month period. There is a clear need for financial literacy programs which teach people how to minimise account keeping fees. A situation exists where Indigenous Australians have less access to and pay more proportionately for financial services. These are, after all, the poorest Australians, the most disadvantaged Australians and those most stricken by poverty. This impacts on communities in managing their consumer spending and developing business activities. It leads to Indigenous people relying more on larger centres for such financial services and entails travel and disruption to community life. It leads to desperate consumer practices in Indigenous communities that are open to abuse.

In the month of September, it came to my attention that a number of our banks, but in particular the ANZ Bank, were allowing people to overdraw their accounts when making electronic withdrawals and were charging them $29.50 for the privilege. One elderly Aboriginal person was slogged with this fee four times in one month. This equated to 25 per cent of her monthly earnings. When people approached the bank in Katherine, they were told that the only way to have this facility taken off their accounts was to write a letter to the bank.

I approached the ANZ, which came back with a couple of explanations. Firstly, they allow people to do this only on what are effectively cheque accounts. That is clearly false. This raised the question: what were the banks doing by giving Indigenous people these types of accounts? Secondly, the bank identified an error in their system when changing the accounts they offered from seven types to three. This meant that some people who previously did not have the ability to overdraw their account electronically had that ability for a period of three months from April to June this year. The bank said they are happy to refund any honour fees—as these are called—that were incorrectly charged. However, they have failed to indicate who was affected and how many of them there were. They also argued that this happened over a confined period.

One of the interesting sidelights that have come out of this is the amount of money people are charged to use electronic banking machines. It needs to be understood that, as a result of decisions taken by Centrelink, people who live in remote areas are now seeing their payments made into electronic accounts. The charge for using these accounts is in the order of $1.25 per transaction. That is just to go and put your card into the machine to establish whether you have any money in the account. If you have no money in the account, that just adds to the difficulty of dealing with an overdrawn account.

In the Northern Territory people are being charged for overdrawn accounts that should not be overdrawn, because there is no capacity in their account arrangements for them to be overdrawn. I know what happens when I go to the bank and there is no money in my account: my card is spat out and no money is forthcoming. Here we have an arrangement where effectively the most impoverished people in the community are being allowed to overdraw on accounts using these electronic transactions; have the transactions debited against their accounts; and then find, when they have money paid into the account from whatever source, that the account has horrendous charges listed against it. That is neither fair nor reasonable.

One of the interesting things here is that the banks accept no obligation to educate their clients as to their responsibilities in terms of the accounts they sign up to. We find that, as a result, many people who live in the Northern Territory are under financial stress, simply because they do not understand the nature of their accounts. When they sign up to an account they are not told what its transaction fees are. In many instances these people are illiterate. What are the banks going to do to ensure that all of these people are educated in such a way as to ensure that
they can properly use the financial services made available to them without suffering as a result? It seems peculiar to me that we are in a situation where people are effectively forced to use electronic transactions, yet the banks apparently accept no obligation to ensure that people understand the nature of the account and their obligations to the bank as a result of signing up to the account.

This raises a very serious question. It is clear that, in remote parts of Australia—and particularly in my electorate of the Northern Territory—in all but a very small number of places banks do not provide the services themselves. They might provide the resources through the account, but there is an ATM in the community at which people draw against that account, and the banks themselves do not appear. It raises a real question about what the banks’ responsibilities should be in relation to those communities. People might have signed up to certain accounts, but they do not have access to the full range of banking services, nor does it appear that they are going to.

Whilst the legislation before us makes some very commendable changes to the way banks and other financial institutions are to operate in terms of the prudential requirements, I want to make sure that the banking industry understands that there are people—and I have spoken to representatives of the banking industry about this—who cannot afford to be treated with the disdain with which some banks have been treating them. That is not only because they do not have the financial resources but also because of the implications for them and their families. They are already in poverty; they now have exorbitant charges imposed on them for accounts they do not properly understand. In many cases they are also allowed to overdraw on accounts and are then charged honour fees on those overdrawn accounts. In some cases it is possible for someone to draw out, say, $30 and be charged $20 for the privilege because it is an overdraw.

It seems to me that you do not have to be Einstein to work out that the interest charged on those overdraws is usurious. If you sat down to negotiate a loan of $30, $50 or $100, you would not agree to pay 50 per cent, 75 per cent or even 100 per cent interest, would you? It seems to me that the banks have got away with too much in relation to these issues, and the people who are suffering—the people who are paying—are those least able to afford it: the poorest members of our communities. I say to the banks that they are on notice. I support the remarks made in this chamber over the last few days by members of the opposition calling the government to account over the issue of banking and calling on it to ensure that the services given to Australians, wherever they might live, are properly understood and that people are not disadvantaged as a result of them.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (12.44 p.m.)—in reply—I thank the members who have participated in this debate on the Financial Sector Legislation Amendment Bill (No. 2) 2002. As all honourable members would be aware, this legislation continues the legislative amendments aimed at improving the efficiency and operation of a range of financial sector legislation. Most of the amendments are minor and technical. A number of amendments are aimed at improving the ability of the Australian Prudential Regulation Authority, APRA, to monitor the financial industry. While the speech made by the member for Lingiari ranged widely from the substance of the bill, I thank the opposition for its support of this particular legislation.

The member for Werriwa referred to the collapse of HIH. I point out that the royal commission is ongoing, and it really is not appropriate to make comments on that. Suffice it to say that the government announced the HIH royal commission in June 2001 to inquire into the circumstances surrounding the failure of that insurance group. The Royal Commissioner, Mr Justice Neville Owen, is conducting a comprehensive and thorough investigation. He has already identified a great deal of the complex circumstances surrounding the collapse of the HIH group, and the commission is now focusing on regulatory issues. As I said a moment ago, it really would not be appropriate for the government to comment on issues, which may be the subject of investigation by the
royal commission, before the royal commission has presented its findings. The government is, as you would expect, examining all of the issues which have been raised at the hearings of the royal commission. The government will provide a complete response to the recommendations of the commission after it has considered its final report, which is to be handed down in February next year.

The member for Werriwa also referred to an action brought against the Commonwealth—against APRA and the Insurance and Superannuation Commission—in the Australian Capital Territory Supreme Court on Monday. While it is a fact that the liquidator of HIH filed documents in the Supreme Court on Monday, they are yet to be served on the Commonwealth or APRA. We understand that this will occur, so the liquidator says, following the findings of the royal commission being handed down in February next year. The Commonwealth is currently considering its position and it would be preemptive to respond at this time.

The member for Mitchell always approaches his speeches to the parliament in a very precise manner and he went through this legislation point by point. He raised the issue of credit unions, and I know this is a matter that is near and dear to his heart. I want to reassure the honourable member that the Credit Union Services Corporation has indicated to Treasury that they support in principle the introduction of the fit and proper test to the Banking Act. CUSCAL expressed concern, however, that some of the smaller credit unions may be disadvantaged by the immediate introduction of the fit and proper test to the Banking Act. CUSCAL expressed concern, however, that some of the smaller credit unions may be disadvantaged by the immediate introduction of the fit and proper test, as they may not have the appropriate systems in place, unlike the larger credit unions and banks. For this reason, CUSCAL requested that a transitional period be applied during which time the smaller credit unions and others could implement the fit and proper test without being in breach of the law. The Treasury agreed to the request and offered a transitional period of six months, but CUSCAL advised that three months would be an adequate time, and they did not raise compliance costs as an issue.

Most APRA regulated entities already have some form of fit and proper test, even if informal. Credit unions and others are not expected to have put new systems into place to comply with the new provisions and, even if they do, it will be for the good of customers. The fit and proper test is a negative test—that is, APRA will not be pre-vetting or pre-approving any of the directors or senior managers to whom the test applies. This should keep any compliance costs to a minimum. The bill seeks to give legislative force to the fit and proper test and to bring Australia into compliance with international best practice. It will strengthen the financial system for all participants.

The Financial Sector Legislation Amendment Bill (No. 2) 2002 contains amendments to seven acts. Most amendments are to the Banking Act 1959, largely reflecting the fact that it really has not been updated for some time. Amendments to the Banking Act include the provision for the application of a fit and proper test to directors and senior managers of authorised deposit-taking institutions, ADIs, and authorised non-operating holding companies. A short transitional period of three months, which I have referred to before, will apply to part of the introduction of the fit and proper test, during which time authorised deposit-taking institutions will have the opportunity to assess who will be affected and to apply to APRA to have them approved. Currently there is no formal test of expertise and integrity of directors and senior management in authorised deposit-taking institutions. This amendment will make Australia compliant with the requirement for a fit and proper test as specified by the Basel committee, which prescribes the international benchmark for banking regulation. This amendment will also reduce the risk of exposure faced by depositors arising from mismanagement.

Further amendments to the Banking Act will make the provisions that deal with auditors consistent with the auditor provisions in the Insurance Act 1973. The amendments will provide APRA with the means to remove auditors who fail to perform adequately and properly. This is essential if APRA is to receive accurate information in carrying out its prudential regulation. The amendments to the Banking Act also
include the requirement for an authorised deposit-taking institution, an authorised non-operating holding company of an authorised deposit-taking institution and their subsidiaries to notify APRA immediately of any breaches of prudential requirements or of any material adverse development. Penalties are specified for breaches of this requirement. This will enable APRA to more effectively monitor the position of potentially troubled organisations in order to seek earlier remedial action and will assist in protecting depositor interests.

Given APRA’s conglomerate policy framework, any remedial reporting actions will cover an authorised deposit-taking institution on a stand-alone basis and also on a conglomerate basis. It will also improve compliance with the Basel core principles dealing with regular banking supervision. Another amendment to the Banking Act will allow APRA to continue to apply prudential standards on a consolidated group basis. This is consistent with APRA’s own conglomerate policy and also with the Basel core principles, which require that supervision of a banking group be on a consolidated basis. APRA’s data gathering capacity will be further enhanced by amendments to the Banking Act, designed to capture the provisions of the Financial Sector (Collection of Data) Act 2001.

The Banking Act will also be amended to provide additional grounds for APRA to revoke the authority granted to an authorised deposit-taking institution or non-operating holding company where the application for the authority contained false or misleading information. Currently, APRA must rely on uncertain national interest provisions. This amendment will remove the uncertainty. This is also a requirement of the Basel core principles. Another amendment to the Banking Act and to the Insurance Act will clarify the definition of information that APRA can collect from regulated institutions, which will enhance its investigative powers. APRA’s ability to seek the removal of a director under both the Banking Act and the Insurance Act will be enhanced by the provision of a further mechanism for the removal of a director. It provides a quicker and easier method which can be applied by either the chairman of the board of directors or a majority of directors acting together to seek removal.

The final amendment to the Banking Act will correct the discrepancy between the indemnity provisions of the Banking Act and the Australian Prudential Regulation Authority Act 1998. The discrepancy relates to the extent of protection available to APRA officers under these acts and will ensure that Australia is in compliance with the Basel core principles, which require that legal protection should be afforded to the supervisory agency and its staff against lawsuits when they have acted in good faith. Amendments to the Insurance Act are required to allow APRA to discuss with third parties submissions from a director or senior manager who is being removed. This would mean that APRA could test the veracity of any material notwithstanding privacy or confidentiality concerns. This is a vital part of the APRA’s ability to apply the fit and proper test to insurance management.

A further amendment under the Insurance Act is the requirement that an insurance company must notify APRA of any breach of prudential standards, including any material developments which are detrimental to its financial position. This will allow APRA to deal earlier with potentially troubled institutions. Another amendment deals with the incorrect specification of penalties. The penalty provisions need to be increased so that the penalty units applying to a body corporate are appropriate and consistent with penalty provisions specified in the Crimes Act 1914 applying to bodies corporate.

Amendments to the Superannuation (Resolution of Complaints) Act 1993 introduce flexibility in the time limits relating to complaints about disability benefits. These amendments acknowledge the difficulty in assessing medical conditions over time and give the Superannuation Complaints Tribunal discretion in dealing with time limits, which are currently fixed. Another amendment to the Superannuation (Resolution of Complaints) Act 1993 will work to strengthen, modernise and improve the conciliation powers of the Superannuation Com-
plaints Tribunal. This will enable the tribunal to require parties to attend conciliation instead of the current voluntary system. There will also be penalties for noncompliance. These amendments will make use of conciliation by the Superannuation Complaints Tribunal consistent with other administrative tribunals. A further amendment to the Superannuation (Resolution of Complaints) Act 1993 is required to remove redundant powers which deal with arbitration. There will also be further minor technical amendments which will have the effect of streamlining the application of the S(RC) Act.

Amendments to the Superannuation Industry (Supervision) Act 1993 will allow awards that were given under arbitration agreements and that are still in force to be recognised even though the arbitration power has been removed. Amendments to the Australian Securities and Investments Commission Act 2001, the Corporations Act 2001 and the Corporations (Repeals, Consequential and Transitional) Act 2001 correct minor errors, grammatical mistakes and erroneous cross-references and remove obsolete provisions. The Ministerial Council for Corporations has been consulted about the amendments and has approved them.

Turning to the comments made by the members of the opposition, I want to briefly refer to a remark by the honourable member for Kingston. He indicated in his speech that the fit and proper test will be referred to a Senate committee for assessment with respect to its design and application. He also mentioned the monitoring of self-managed super funds to the Australian Taxation Office when the Insurance and Superannuation Commission was transferred into APRA. I note the announcement of the ALP’s intention. It is perhaps unfortunate that the ALP has not been prepared to accept the position of the government with respect to this matter.

I want to refer briefly to the monitoring of self-managed super funds, in particular to the question of why small funds were moved from APRA to the ATO and what standards of protection exist. The move of small funds from APRA to the ATO followed a Wallis inquiry recommendation. By making sure that all members of self-managed funds are trustees, it was considered that potential regulation was not needed because trustees, as members, are best placed to look after their own interests. Self-managed funds must, however, formulate their own investment strategy in accordance with the Superannuation Industry (Supervision) Act. The trustee of a fund must formulate the strategy, having regard to the fund’s objectives and cash flow requirements. The ATO’s approach in ensuring compliance is to assist and provide educational material for trustees. Where investments have been seen to be improper, the ATO has worked with the funds in rectifying the situation.

It is broadly accepted in the Australian community that the financial sector is a key driver in the economy. The amendments contained in the bill before the chamber will provide increased efficiency in the financial industry and will improve the operation of the acts to assist the regulators in improving the regulatory environment. This bill builds on the financial sector reforms already undertaken and emphasises the commitment of the government to ongoing reforms. This will ensure that Australia is at the forefront of international best practice in financial regulation. I thank the honourable members for their support. I commend the bill to the House.

Question agreed to. Bill read a second time.

Consideration in Detail

Bill—by leave—taken as a whole.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (1.01 p.m.)—by leave—I present a supplementary explanatory memorandum to the bill and move government amendments (1) to (33):

(1) Schedule 2, item 3, page 5 (lines 27 and 28), omit “including those specified in”, substitute “within the meaning of the”.

(2) Schedule 2, page 8 (after line 16), after item 12, insert:

12A Section 11CG

Omit “or Subdivision B” (wherever occurring), substitute “or B or section 17 or 23”.
(3) Schedule 2, page 8, after proposed item 12A, insert:

12B At the end of subsection 14A(2)
Add:
A requirement to give information may include a requirement to produce books, accounts or documents.

12C Paragraph 14A(2A)(b)
Omit “the ADI statutory manager information”, insert “information or to produce books, accounts or documents”.

12D After subsection 14A(4)
Insert:
(4A) Subsections (3) and (4) apply to the production of books, accounts or documents in a corresponding way to the way in which they apply to the giving of information.

(4) Schedule 2, item 13, page 9 (line 3), after “information”, insert “or to produce books, accounts or documents”.

(5) Schedule 2, item 13, page 9 (line 7), after “information”, insert “or, the production of the books, accounts or documents”.

(6) Schedule 2, page 9 (after line 11), after item 14, insert:

14A Paragraph 16B(1A)(a)
After “information”, insert “or to produce books, accounts or documents”.

(7) Schedule 2, item 15, page 9 (line 23), after “regulations”, insert “or under the Financial Sector (Collection of Data) Act 2001”.

(8) Schedule 2, item 15, page 10 (line 16), after “regulations”, insert “or under the Financial Sector (Collection of Data) Act 2001”.

(9) Schedule 2, page 11 (after line 2), after item 15, insert:

15A At the end of section 16B
Add:
(7) Subsections (5) and (6) apply to the production of books, accounts or documents in a corresponding way to the way in which they apply to the giving of information.

(10) Schedule 2, item 16, page 11 (line 21), after “information”, insert “or, produce books, accounts or documents”.

(11) Schedule 2, item 16, page 11 (line 25), after “information”, insert “or, the production of the books, accounts or documents”.

(12) Schedule 2, item 16, page 11 (line 26), at the end of section 16C, add “or the Financial Sector (Collection of Data) Act 2001”.

(13) Schedule 2, item 17, page 12 (line 14), omit “under subsection (3)”, substitute “in response to the notice”.

(14) Schedule 2, item 17, page 12 (line 19), omit “pursuant”, substitute “in response”.

(15) Schedule 2, item 17, page 12 (after line 25), after subsection (7), insert:

7A An ADI must comply with a direction under this section.
Note: For enforcement of the direction, see section 11CG.

7B The power of an ADI to comply with a direction under this section may be exercised by giving a written notice to the person who is the subject of the direction.

7C Subsection (7B) does not, by implication, limit any other powers of an ADI to remove a person.

(16) Schedule 2, item 17, page 12 (line 26), omit “VIA”, substitute “VI”.

(17) Schedule 2, item 17, page 14 (after line 28), after subsection (8) (before the note), insert:

9 Subsections (1) to (8) have no effect until the end of the 3-month period that begins at the commencement of this section.

(18) Schedule 2, item 17, page 16 (line 25), omit “VIA”, substitute “VI”.

(19) Schedule 2, item 17, page 17 (line 32), omit “VIA”, substitute “VI”.

(20) Schedule 2, item 17, page 18 (line 23), omit “under subsection (3)”, substitute “in response to the notice”.

(21) Schedule 2, item 17, page 18 (line 28), omit “pursuant”, substitute “in response”.

(22) Schedule 2, item 17, page 19 (after line 3), after subsection (7), insert:

7A An ADI or authorised NOHC must comply with a direction under this section.
Note: For enforcement of the direction, see section 11CG.

7B The power of an ADI to comply with a direction under this section may be exercised on behalf of the ADI as set out in the table:
Power to comply with a direction

<table>
<thead>
<tr>
<th>Item</th>
<th>Who may exercise the power</th>
<th>How the power may be exercised</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The chair of the board of directors of the ADI</td>
<td>by signing a written notice.</td>
</tr>
<tr>
<td>2</td>
<td>A majority of the directors of the ADI (excluding any director who is the subject of the direction)</td>
<td>by jointly signing a written notice.</td>
</tr>
</tbody>
</table>

(7C) The power of an authorised NOHC to comply with a direction under this section may be exercised on behalf of the NOHC as set out in the table:

<table>
<thead>
<tr>
<th>Item</th>
<th>Who may exercise the power</th>
<th>How the power may be exercised</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The chair of the board of directors of the NOHC</td>
<td>by signing a written notice.</td>
</tr>
<tr>
<td>2</td>
<td>A majority of the directors of the NOHC (excluding any director who is the subject of the direction)</td>
<td>by jointly signing a written notice.</td>
</tr>
</tbody>
</table>

(7D) Subsections (7B) and (7C) do not, by implication, limit any other powers of an ADI or authorised NOHC to remove a person.

(23) Schedule 2, item 17, page 19 (line 4), omit “VIA”, substitute “VI”.

(24) Schedule 2, item 18, page 19 (line 5), omit “VT”, substitute “VI”.

(25) Schedule 2, item 18, page 19 (line 7), omit “VIA”, substitute “VI”.

(26) Schedule 2, page 24 (after line 21), after item 23, insert:

23A Subsection 62(2)

Omit “relating to the ADI”, substitute:

relating to:
(a) the ADI; or
(b) any member of a relevant group of bodies corporate of which the ADI is a member.

(27) Schedule 2, item 24, page 25 (line 19), omit “relating to the ADI”, substitute:

relating to:
(a) the ADI; or
(b) any member of a relevant group of bodies corporate of which the ADI is a member.

(28) Schedule 5, item 11, page 35 (line 16), omit “under subsection (3)”, substitute “in response to the notice”.

(29) Schedule 5, item 11, page 35 (line 22), omit “pursuant”, substitute “in response”.

(30) Schedule 5, page 35 (after line 23), after item 11, insert:

11A After subsection 27(5)

Insert:

(5A) The power of a general insurer to comply with a direction under this section may be exercised on behalf of the general insurer as set out in the table:

<table>
<thead>
<tr>
<th>Item</th>
<th>Who may exercise the power</th>
<th>How the power may be exercised</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The chair of the board of directors of the general insurer</td>
<td>by signing a written notice.</td>
</tr>
<tr>
<td>2</td>
<td>A majority of the directors of the general insurer (excluding any director who is the subject of the direction)</td>
<td>by jointly signing a written notice.</td>
</tr>
</tbody>
</table>

(5B) The power of an authorised NOHC to comply with a direction under this section may be exercised on behalf of the NOHC as set out in the table:

<table>
<thead>
<tr>
<th>Item</th>
<th>Who may exercise the power</th>
<th>How the power may be exercised</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The chair of the board of directors of the NOHC</td>
<td>by signing a written notice.</td>
</tr>
<tr>
<td>2</td>
<td>A majority of the directors of the NOHC (excluding any director who is the subject of the direction)</td>
<td>by jointly signing a written notice.</td>
</tr>
</tbody>
</table>

(5C) Subsections (5A) and (5B) do not, by implication, limit any other powers of a general insurer or an authorised NOHC to remove a person.

(31) Schedule 5, item 16, page 36 (lines 22 to 30), omit subsection (2) and the note, substitute:

(2) If an individual:
(a) commits an offence against subsection (1) because of Part 2.4 of the Criminal Code; or

(b) commits an offence under Part 2.4 of the Criminal Code in relation to an offence against subsection (1);

he or she is punishable, on conviction, by a fine not exceeding 40 penalty units.

(3) A notification given to APRA of a matter mentioned in paragraph (1)(a) must not include information, books, accounts or documents with respect to the affairs of an individual insured person, unless the information, books, accounts or documents are in respect of prudential matters relating to the general insurer, the authorised NOHC or the subsidiary, as the case may be.

(32) Schedule 5, page 37 (after line 26), after item 23, insert:

23A Subsection 49(1)

After “information” (first occurring), insert “, or to produce books, accounts or documents,”.

23B Subsection 49(1)

After “information” (second occurring), insert “, or the production of the books, accounts or documents,”.

(33) Schedule 5, page 37, after proposed item 23B, insert:

23C Section 49B

After “information” (first occurring), insert “, or produce books, accounts or documents,”.

23D Section 49B

After “information” (second occurring), insert “, or the production of the books, accounts or documents,”.

The passage of the bill that I have introduced will have the effect of correcting minor technical matters to seven different acts relating to the financial sector. In addition, the amendments will improve the efficiency and effectiveness of the financial industry by ensuring that Australia complies with world’s best practice, thereby maintaining Australia’s position as one of the best places in the world to do business. I ask for the support of the House for government amendments (1) to (33).

Question agreed to.

Bill, as amended, agreed to.

Third Reading

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (1.03 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

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

Cognate bills:

AUSTRALIAN HERITAGE COUNCIL BILL 2002

AUSTRALIAN HERITAGE COUNCIL (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2002

Second Reading

Debate resumed from 12 November, on motion by Dr Kemp:

That this bill be now read a second time.

Mr MURPHY (Lowe) (1.04 p.m.)—Before I resume my speech on the Environment and Heritage Legislation Amendment Bill (No. 1) 2002, the Australian Heritage Council Bill 2002 and the Australian Heritage Council (Consequential and Transitional Provisions) Bill 2002, I pay tribute to the great work of the broadcasting staff supporting the chamber—in particular, the ABC’s celebrated Mr John Ringwood and Ms Emma Flett. The member for Banks kindly, for the first time since I have been here in four years, introduced me to the broadcasting team in this House. They very graciously explained to me the job that they do. I am sure that a lot of people listening to the broadcast around Australia today do not really understand what great knowledge of parliamentary procedures and practices the broadcaster team possess and how they accurately convey the proceedings and, at times, theatre of the parliament. I know that Australians are grateful for that. Well done John Ringwood, Emma Flett, the ABC and all the broadcasting team—you do a great job.
The DEPUTY SPEAKER (Mr Lindsay)—On behalf of the parliamentary broadcasting staff, I thank the member for Lowe for his comments. Perhaps now we should return to the substance of the bill.

Mr MURPHY—Before I was politely interrupted while speaking on the Environment and Heritage Legislation Amendment Bill (No. 1) 2002, I was about to say that the first and the most invasive ramification of this bill is the abolition of the Australian Heritage Commission and its substitution with an advisory council. I have said more than once today that this is a classic example of this government’s philosophy of reductionism. This means it thinks it can barter with nature by taking away the objectivity of decision making by a panel of experts and replacing that expertise of indifferent and objective opinion on matters of high law and substituting that learned opinion and judgment with a discretionary power held in the hands of the minister.

In one fell swoop this government is saying that the question of whether a place is of heritage value is to be determined by ministerial prerogative and discretion alone. The provisions of this bill also say that higher law no longer recognises the intrinsic value of a place and that the assessment of those intrinsic values are less valuable than the value of a vote or money. The government, therefore, demonstrates its thoroughly contemptible utilitarian, want based perspective and morally bankrupt law making that it exhibits here today in this bill. All these statements are made in the one decision to abolish the Heritage Commission and its objective assessment powers.

For these reasons I therefore fully endorse the recommendation of the shadow minister for environment and heritage, the member for Wills, the Hon. Kelvin Thomson, and move to reinstate all functions and powers of the Australian Heritage Commission, including restoration of its former name. I have already identified the strategic gap analysis problems with this bill and the potential for huge losses in the statutory protection currently afforded to approximately 800 Commonwealth places that may or may not fall within the new criteria for listing under the new National Heritage List or Commonwealth Heritage List. I agree again with the member for Wills in recommending that the ministerial decision-making power be amended to reinstate the independent listing process. As I said earlier, the effect of this bill is to vest objective and accountable decision making regarding listing in the hands of the minister as a discretionary power. This proposed provision is absolutely unacceptable.

Another time-honoured technique in reductionism is the maxim, ‘If you can’t win a debate, wreck it.’ One way of wrecking a debate is to change the vocabulary—if the words cannot be altered, then redefine them to give them a meaning not originally intended. Thus the entire clause or section changes simply by redefining the words within the clause or section. In this case, the government seeks to redefine the meaning of the word ‘action’. I cannot improve on the observations of the member for Wills on this point, who notes that the definition of ‘action’ has been watered down in the latest version of this bill. As the member for Wills says, it is not as inclusive in the new Australian Heritage Council Bill 2002 as it is under the existing Australian Heritage Commission Act 1975, and the deleted references concern things such as provision of funding via grants and granting of authorisations, including permits and licences. This reductionist redefinition has met with substantial opposition from the ACF and ICOMOS.

I turn to the use of the prescribed term ‘values of the place’ under the Australian Heritage Council 2002. This terminology ignores the intrinsic value of the ‘place’ itself and refers only to the ‘values’ of that place, which is a very different concept. I thus urge the Senate and this House to expand the definition of ‘values’ to include the place itself when considering the management plan provisions of the Australian Heritage Commission Act.

I turn to the fourth issue—the system of ministerial discretionary powers under the new clause 341ZE and the ability of the minister to exercise wide discretion and abuse. The issue is whether the minister will exercise his or her discretionary power under...
this provision to place an encumbrance on title by covenant on a title currently held by a Commonwealth agency pending the sale or lease of Commonwealth land. Members of this House will know that planning law is the constitutional responsibility of the states and the territories. Hence there is no capacity of the Commonwealth government to contribute to the planning schemes of the states and territories in placing affectation notices on relevant zoning certificates for land. Therefore, the Commonwealth contents itself with making statutory provision for ministerial discretion to register a covenant on title within the relevant Torrens title land registries of the states and the territories.

This is yet another example of reductionism, for the additional system of registration of the national estate was created precisely to overcome the constitutional limitation on the Commonwealth. An affectation notice on zoning certificates under planning law is always a superior protection to a second schedule encumbrance under land law, principally because an affectation notice is a statutory instrument, whereas a second schedule encumbrance is a privately registrable land law instrument upliftable at the discretion of the incoming registered title holder. Hence the issue is inextricably mixed with the issue I mentioned earlier—namely, the gap in those properties no longer protected by the passage of this bill, in light of the loss of protection over certain Commonwealth places that may not qualify for protection under the new regime.

I turn to the divestment of Commonwealth heritage responsibilities to the states. The amendments in this regard in the bill before the House today have the effect of placing greater reliance on state and territory laws. There is apparently no research available to know what places on the Register of the National Estate are also registered on the relevant state and territory registers. Thus some state and territory protection for sites will cease if they are protected in the new Commonwealth regime. Gap analysis would reveal that many of the estimated 800 sites may not be protected under either Commonwealth or state-territory register listings. In fine reductionist fashion, many sites will simply lose any protection whatsoever.

The 2000 Bills Digest No. 105 contains the salient reminder that: ‘Of course, the Commonwealth had originally intended to deal with this variation through an accreditation process developed through the national strategy, proposed by Senator the Hon. Robert Hill, as stated in his Senate estimates transcript of 7 June 1999 at page 52. However, in true reductionist manner, this government has played another of its tricks of selective amnesia and conveniently forgotten about its own national heritage strategy in the bill before us now. The national strategy is simply forgotten by this government, thus passing on the cost of listing those Commonwealth places formally on the Register of the National Estate to the states and territories at the states’ and territories’ own expense and with no Commonwealth funding for that purpose. It is lamentable that the government persists with its liberalist ideologies, thinking that it can barter with nature as it convinces itself that the provisions of this bill amount to better heritage protection. They do not.’

Mr Slipper—‘Liberalist’—is that a word?

Mr MURPHY—For the benefit of the member for Fisher, for whom I do have warm regard, although I do not appreciate his interjections, let me spell out the bottom line on the ramifications of the bill. This bill amounts to a degradation of the environmental standard in heritage protection. It ensures that the lethal admixture of ministerial discretion, gap analysis losses, erasure of the Heritage Commission standard of professional assessment and care and other factors all contribute to the diminution and ultimate extinguishment of heritage responsibilities in the Commonwealth jurisdiction.

It is a sobering thought that the existing 1975 legislation of the Australian Heritage Commission Act, passed by the then Whitlam government, is highly regarded internationally and represented world’s best practice in heritage law when it was first introduced. Today the government demonstrates yet again, in the tradition of a long line of bills, that it is not interested in the public interest and it is not interested in intrinsic values. As
its bills further reflect the abrogation of environmental human rights and other intrinsic and inalienable values and it becomes a pariah state in the international community, perhaps it will be interested in the scowls of international condemnation.

In conclusion, for the reasons I put before the House today and the other night I oppose this bill because it sends a wrong message to the international community. I urge this House and the Senate to review the entirety of the provisions contained therein. I hope that the Parliamentary Secretary to the Minister for Finance and Administration, the member for Fisher, is taking note of what I am saying for when he has the opportunity to respond in this debate. This is a very important bill. People are very worried about the environment today. You only have to look at the results of the last federal by-election to get the message about how people feel about the environment; it is very important. We got the message and I hope that you will too.

Mr ANDREN (Calare) (1.16 p.m.)—There is no doubt that the existing Commonwealth laws to protect and manage Australia’s heritage need strengthening. It should go without saying that Commonwealth heritage legislation must guarantee improved protection for those places determined to be the responsibility of the Commonwealth and deemed to be of national significance to Australia’s heritage. Not only that, but the ongoing protection of such places must remain the primary intent of any such legislation—free from the shifting priorities of economic or political expediency, informed in the first instance by independent and expert advice and binding on any person or body, government or otherwise, wishing to use such places.

I believe that the Environment and Heritage Legislation Amendment Bill (No. 1) 2002 and cognate bills have the potential to prove to be a major step forward for heritage protection in Australia. However, there are a number of issues that must still be addressed, and I remain concerned that the government may be divesting itself of responsibility for sites that have already been determined to need Commonwealth protection.

The Australian Heritage Commission Act 1975 was an important step in the conservation of Australia’s heritage; in fact, at that time it was Australia’s only heritage protection law. The Australian Heritage Commission, an independent statutory body established under that act, has provided invaluable and independent advice relating to the national estate. The commission’s compilation of the Register of the National Estate represents a mammoth 27-year undertaking and a wonderful achievement, with the assessment and listing of more than 13,000 places of heritage value throughout Australia. This inventory includes natural, Indigenous and historic places owned by all levels of government and by business organisations and private individuals. It is an invaluable tool used by decision makers, researchers and community groups to take into account the heritage value of a place when proposing actions that might affect the conservation of that place.

At present, places listed on the register and gifted to the National Trust are tax deductible. Under these bills, tax deductibility will be limited to those places included on the national and Commonwealth heritage lists. This will be a significant disincentive for the gifting of national estate listed properties to the Trust. I propose to move an amendment to the Australian Heritage Council (Consequential and Transitional Provisions) Bill 2002 to maintain tax deductibility for gifting of national estate listed properties. I will detail my reasons for the amendment during the detail stage of debate on this legislation.

It should be clearly recognised that, under the existing Australian Heritage Commission Act, a listing on the register does not guarantee protection for a place. The current regime does not place any direct legal constraints or controls over the actions of state or local government, or private owners. Furthermore, there are no offence provisions attached to the AHC Act. The main legal protection currently offered by the AHC Act is section 30, by which only the Commonwealth government is constrained from taking any action which adversely affects a place on the register, unless ‘there is no fea-
sible and prudent alternative to the taking of that action, and that all measures that can reasonably be taken to minimise the adverse effect will be taken’. If an action could affect a place on the register to a significant extent, it must be referred to the Australian Heritage Commission for its consideration and comment. Under this existing requirement, there is no need for the minister—or anyone else, for that matter—to take the views of the commission into account in deciding whether or not to approve any action that might adversely affect a listed place.

Many practitioners to whom I have spoken have made the cynical observation that, while the Register of the National Estate does offer nominal and moral protection to those places listed on it, section 30 has about as much effect as being flogged with a wet lettuce. The minister need only claim that there is no feasible and prudent alternative and the action will proceed. These bills could well provide the legislative teeth that are currently lacking for the increased protection of such heritage. But, in repealing the Australian Heritage Commission Act, they also change the Commonwealth process for listing items of natural, historic and Indigenous significance which are currently at least recognised by inclusion on the Register of the National Estate.

Whilst this bill retains the register as a consolidated list of heritage places, a listed heritage site will not benefit from the approval provisions under the EPBC Act or any substantive Commonwealth protection, unless that place is also included on one of the two new lists established by this bill. They are the National Heritage List, covering nationally significant heritage sites, including Australian heritage sites outside Australia such as the Kokoda Trail—and that certainly is to be welcomed—and, secondly, the Commonwealth Heritage List for places owned or leased by the Commonwealth. They make sense. Most places on the register fall under state and territory protection, and certainly one intention of the bill is to clarify which sites are Commonwealth responsibility.

This raises another issue under the current system where heritage places almost certainly do not enjoy the same level of protection Australia-wide. The varying regimes from state to state constitute an uneven patchwork, particularly for natural and Indigenous heritage sites. With this in mind, the Commonwealth’s capacity under the EPBC Act to delegate environment and heritage approval powers to the states through bilateral agreements must be treated with caution. Any accreditation of state assessments or management plans should be in line with procedures set by the Commonwealth and subject to proper parliamentary scrutiny. This should refer not only to existing provisions in the EPBC Act but also to negotiations between the states and the Commonwealth under COAG. It is an issue that will need to be addressed in the future.

However, the new listing regime raises a number of other problems that I suggest need resolving before this bill passes both houses. Those sites listed on the register but not included on either the national or Commonwealth heritage lists will no longer have even the nominal protection from Commonwealth agencies presently afforded by section 30 of the Australian Heritage Commission Act, as far as I can ascertain, even when they are on Commonwealth land and do not fall under state responsibility. There is no provision for the Register of the National Estate to be the relevant list under these bills until such time as the national and Commonwealth registers are operational. Nor has any allowance been made for the automatic inclusion in either list of places currently on the RNE that might fall under the criteria set for those two new lists. Now there are currently around 1,500 places alone owned or leased by the Commonwealth listed in the Register of the National Estate. The government has clearly flagged that the new list will be streamlined—and I am advised that this means perhaps about 200 on each list—and has forecast that the rate of assessment for either list may be something like six a year. This is unacceptable. It means that many of our heritage sites may be left with no protection at all if they do not fall under state protection.

Enormous effort has been spent on the assessment of these sites, and they have al-
ready been determined as special places deserving of Commonwealth protection. I would be far happier if there was a provision in the bill deeming all places on the RNE answering the criteria to be included on either the national or Commonwealth heritage register as appropriate. The assessment process could then operate in reverse, removing places that do not meet the requirements for inclusion on the list. This at least would prevent the unacceptable situation of leaving a large number of heritage places unprotected while the lists are being determined.

I commend those opposition amendments determining that a transitional national heritage list take effect, which is to cover any other place on the RNE not included on the Commonwealth Heritage List, until the National Heritage List is established. This brings me to another contentious issue. Under these bills the Australian Heritage Commission will be replaced by the Australian Heritage Council, which will identify and assess places for national or Commonwealth heritage values. Such places satisfying the relevant criteria may then be proposed by the council for inclusion on either list. The council will advise the Minister for the Environment and Heritage, who has the ultimate responsibility for deciding whether to include a property on either list. Anyone may nominate a place for inclusion on either list, and there is a public comment period as part of the listing and approval process. Further, the EPBC Act allows for members of the community to request an injunction or judicial review under section 488. This then will apply to heritage places on the national and Commonwealth heritage lists. Under the current system there is no requirement to prepare management plans for any places on the Register of the National Estate. However, the proposed regime determines management plans to protect the heritage values—that is, in emphasis, it must be prepared and implemented for sites on both new lists and they must be reviewed every five years.

This may give the opportunity for better management and protection of heritage sites
to which those provisions apply. However, I am at a loss to understand how one can manage the values of a site without taking into account the whole place, particularly with environmental places that are complex webs of systems we are only just beginning to understand. I support the opposition’s proposed amendments therefore to change protection from the values of a place to the place and its values.

Presently the minister who proposes an action on a Commonwealth property is also the one who approves it. Further, there is no direct obligation for that minister to take the views of the Heritage Commission into account in deciding whether or not to grant that approval. Under the proposed bill, that clear conflict of interest is removed. As per part 3 of the EPBC Act, the minister for the environment will be the approval body for any action which has, will have or is likely to have a significant impact on the listed values of either a national or Commonwealth heritage place.

This reminds me of a related issue where the non-government proponent of any action is also the author of any assessment approving that action, such as the EIS process for mining in sensitive areas. It would be commendable to see this issue of vested interest addressed in another forum. This was always my concern with the EPBC Act: the lack of overarching Commonwealth involvement in the environmental impact process. Compared with the non-existent punishment regime currently in place, the taking of such action by certain bodies or in certain circumstances would now under this act be an offence attracting significant penalties. Not only this, but the requirement to seek approval for such an action attaches to a much broader range of individuals or bodies than under the current AHC Act, which is restricted to the Commonwealth and Commonwealth authorities. The proposed regime will also capture corporations, individuals and state or local government.

This sounds pretty good, but here is the rub: the increased protection offered is at the same time limited by the restrictions to the definition of ‘action’ under the EPBC Act. The definition of ‘action’ under that act is far narrower than the broad definition contained in the current Australian Heritage Commission Act, which deems the taking of an action to include the making of a decision or recommendation—including grants—the approval of a program, issue of a licence or granting of a permission. But under section 524 and 524A of the EPBC Act, the granting of authorisation by a government body for another person to take an action and the provision of funding by way of a grant are exempt from the definition of an action. This effectively exempts all government decisions and funding activities from the operation of the EPBC Act and means that the federal minister cannot act where the granting of permits, licences and funding from a state government, for instance, could potentially affect the heritage site.

This definition has been widely condemned as flawed and achieving little in the way of protection from many actions that cause major and irreversible impacts, particularly to our precious and precarious environmental places of significance. Indeed, this definition virtually nullifies any protection offered in the earlier parts of the EPBC Act. I strongly urge the government to widen this definition, including grants, permits and licences, as is the case under the existing act.

There are two other points I quickly raise. This government has been divesting itself of many Commonwealth owned properties, many of which are listed on the Register of the National Estate. The protection for listed Commonwealth properties that are to be sold or leased is also subject to what I have called the wet lettuce treatment, where the agency need only decide that a covenant protecting the heritage values of a place is unreasonable or impracticable. This is particularly relevant to disposal of Defence land, such as, for instance, the Bathurst Army Ordnance Depot. Again, it would seem protection of heritage is not the prime intent here, and I would suggest removal of this provision. Further, it is inappropriate that a listed place be removed from the approval of the Minister for Environment and Heritage and the process of protection.

As I said, the ongoing protection of those places that are recognised as holding envi-
rmonnal, Indigenous and heritage significance must remain the primary intent of any such legislation. That would seem to require a continuing covenant on such places. The decisions made in relation to the protection of these places must be informed firstly by independent and expert advice and be binding on any person or body, government or otherwise, wishing to use such places.

In only 200 years of white history there is already so much of our heritage abused or destroyed, and once gone it can never be brought back. We live in a very special place and are the custodians of unique recent and ancient histories. This parliament could build a legacy of real protection of that history, if it had the will, by tightening the proposed regime under the EPBC Act. I support these bills for the limited improvements they offer and will consider the opposition amendments on their individual merits, as I hope the government and opposition consider my amendment. However, I reiterate: this legislation can and should be better.

Ms LIVERMORE (Capricornia) (1.35 p.m.)—I am very pleased to have this opportunity to speak today on the Environment and Heritage Legislation Amendment Bill (No. 1) 2002 and the associated bills that form part of this package. This package represents the latest in the government’s long-running efforts to update the heritage protection regime in Australia. Our current system of identifying and protecting Australia’s natural, Indigenous and historical heritage dates back to the Whitlam government’s passage of the Australian Heritage Commission Act in 1975. That was a landmark step for a national government at the time, one that we in the Labor Party are very proud to be associated with, and was regarded as leading the world in terms of the recognition and protection of heritage sites.

It is interesting to note as a Queenslander that the attitude of the Whitlam government and its commitment to preserving and celebrating our country’s precious heritage was in stark contrast to what was going on in Joh Bjelke-Petersen’s Queensland at the time when I was growing up. Part of that premier’s infamous legacy was the destruction of many magnificent historic buildings and natural sites in our state.

In recent years, however, it has been recognised that the system could be improved and was in need of an overhaul, particularly since the states have developed their own heritage regimes in the years since 1975. There has been a process of consultation and negotiation since 1996, including the 1997 COAG agreement on Commonwealth-state roles and responsibilities for the environment and the 1998 National Heritage Convention to establish a new system.

Despite this, and despite the strong recommendations that came out of the Senate inquiry into the bills last year, there are still problems with the heritage regime outlined in these bills. For example, the Labor Party believes that the change in the status and role of the Australian Heritage Commission, the narrowing of the definition of actions that trigger heritage provisions and the failure to put in place proper interim arrangements to protect Commonwealth heritage sites already on the Register of the National Estate represent a reduction in heritage protection compared to the current regime. Labor has foreshadowed a number of substantial amendments to address those and other deficiencies. Unless the government takes up those amendments, we have foreshadowed that we will oppose the passage of these bills.

The effect of these bills is to establish a Commonwealth heritage regime that will focus on matters of national heritage significance and Commonwealth responsibility. It introduces a new mechanism to provide for the listing of places of national heritage significance. These sites will be identified through a process of public nomination, with nominations being assessed by the newly formed Australian Heritage Council to determine whether the site possesses the degree of national heritage significance necessary for listing, which might be on the basis that it represents Indigenous, historic or natural heritage. The final decision for listing lies with the Minister for the Environment and Heritage, and this is of great concern to a number of organisations within the heritage protection community, as well as to the Labor Party.
Once a place is included on the National Heritage List there is then a requirement for a management plan to be developed to ensure its protection. It also becomes a matter of national environmental significance under the Environmental Protection and Biodiversity Conservation Act, which means that the environment minister must give approval for any activities that might impact on the heritage values of that place. Similar processes and protections will be put in place with respect to those properties owned by the Commonwealth that have heritage significance. There is no doubt that there are aspects of these proposals that we support, but the overall package includes measures that actually reduce the protection of sites that exist under the present system. We want those protections retained in the new regime. That is the flavour of the amendments that have been put forward.

The first issue we have involves the method of listing places on the National Heritage List. The original 1975 legislation established the Australian Heritage Commission as an independent statutory authority. It had a broad range of functions, including the power to identify, assess and ultimately list places of appropriate heritage value on the Register of the National Estate. The Register of the National Estate has been built up over the years to include around 13,000 places of natural, Indigenous and historic heritage significance. Under that system, the process of listing has been a purely technical matter, with a decision to list being made by the independent commission. The government’s bills propose to threaten that independence.

The commission is to be replaced with the Australian Heritage Council, which will have only an advisory function. The council will conduct assessments as requested by the minister and advise him or her as to whether the place meets the criteria for listing. The decision of whether or not to include a place on the National Heritage List or the Commonwealth Heritage List is then entirely for the environment minister. This is not on. The assessment of the heritage values and recognition of a place as one of national heritage significance should not become a political football in this way. The process should remain one of a technical assessment of the heritage values of the place by a group of independent experts, and certainly should be independent of any particular agenda or political pressure being brought to bear on the minister at the time. Labor’s amendments seek to reinstate the functions and powers of the Australian Heritage Commission so that it will retain its important role as the independent decision maker on the matter of what sites warrant protection under the heritage regime.

Another problem that has been identified by heritage bodies is the narrowing of the definition of those actions which will trigger the operation of the EPBC legislation to protect heritage sites. Under the Australian Heritage Commission Act 1975, the acts triggering the legislation include the provision of funding via grants and the granting of authorisations, including permits and licences. This has been watered down in the government’s bill, which exempts these acts and decision-making processes by the Commonwealth government. Labor wants to restore the definition of action to that contained in the Australian Heritage Commission Act 1975, which will include the full range of Commonwealth actions that exist now, such as government decisions on funding grants.

Finally, there are big holes in the transitional arrangements for these bills. Right now there are 13,000 places on the Register of the National Estate administered by the Australian Heritage Commission. If the legislation is passed in its current form, there will be no places on either the Commonwealth Heritage List or the National Heritage List. We will be effectively starting from scratch, waiting to have places listed, and they will be unprotected until that happens. Meanwhile, representatives from the environment department stated in estimates that they expect no more than six places per year to be assessed and listed. This is not good enough. There are 450 places of heritage significance owned by the Commonwealth currently on the Register of the National Estate and they should not be left unprotected in this way. Labor believes that all Commonwealth places currently on the Register
of the National Estate should be automatically transferred to the Commonwealth Heritage List.

There are other amendments that Labor has introduced to the House that go into further details of these bills, but I am not going to spend any more time on those right now. I would like to use my remaining time to explain why it is so important to my electorate that we get this new heritage protection regime right. In my first speech to this House, I spoke of my pride in representing an electorate with such a rich history—a history that lives on in the communities of Central Queensland and continues to form part of our physical environment and our cultural identity. It lives on in places such as Quay Street in Rockhampton, the only place in Australia where an entire streetscape has been listed as a heritage site—or so I have been informed. That street is home to buildings that formed the commercial heart of Rockhampton in the days when it was a major centre of trade in gold, wool and beef. There are places like Customs House, the Mount Morgan Mines’ headquarters, which is now home to the ABC studios in Rockhampton, and Cattle House, amongst others. Other sites in my electorate include the magnificent Shoalwater Bay, just north of Rockhampton, and, in the far west, Lark Quarry near Winton, where the remains of a dinosaur stampede are preserved—truly a unique piece of our heritage.

The people of my electorate feel a very strong connection to the many places of natural, cultural and Indigenous heritage that surround us. We want to know that these places will be protected and managed in a way that enriches life in our communities and also provides opportunities to build on the interests that exist amongst Australians and international visitors in these unique and beautiful places. There are a few examples in Rockhampton of where groups are attempting to do just that. They have identified ways in which the heritage values of some of our most prominent old buildings can be preserved in order to enhance their value to our city in terms of attracting visitors and also providing services to local residents.

I would like to use this opportunity to add support to some of those local projects. It is great that the Minister for Environment and Heritage is here, because I think he will be seeing applications under the Cultural Heritage Projects Program for these projects next year. The first one is the Rockhampton post office. This building dates back to 1892 and is a fantastic example—one of only four examples, I believe—of this particular type of building in Queensland. Sadly, it has been vacant since 1997, although it is now owned by the Central Queensland University. The Rockhampton post office occupies a very prominent place in Rockhampton. It is right in the centre of our city and now forms part of the Central Queensland University precinct with the renovated Supreme Court and District Court buildings, which have been taken over by the university. It is a landmark in Rockhampton. It is a place where people have conducted business, met and stood in the shade of the verandahs on a hot day for generations. It has become a symbol of our city.

The post office has been vacant since 1997. The university, as part of a consortium in the city including the Mater Health group, have plans to turn the building into a community place and an integrated health service. In particular, they want to use the building as a venue for training allied health professionals in Central Queensland. They also want to open it up as a public space for things like a coffee shop. Importantly, it will be available to house the Capricornia collection of historical artefacts and documents. Many of those date back to the boom days of Mount Morgan, which has an important part not just in Central Queensland’s but in Australia’s history as a major gold mining site in the pioneering days of Australia.

This is a great project. This building is right in the middle of Rockhampton. If money is made available to this consortium of community organisations, they will be able to do the necessary work on the building to get it back into public use—things like replacing the asbestos roofing, cleaning up the sandstone exterior of the building and restoring it to its proud place in the centre of Rockhampton, making it a place where once again the community will meet and come to do business.
The SPEAKER—I do not wish to interrupt the member for Capricornia but the chair would be greatly facilitated if she could draw the link between her remarks and the bill. I have no doubt there is a link but she will appreciate that I was just struggling a little.

Ms LIVERMORE—I understand, Mr Speaker. I have gone through the technical aspects of the bill. I am now pointing out a couple of examples in my electorate of heritage buildings that will be subject to this legislation.

The SPEAKER—I do not wish to detract from your contribution. I really sought for the link to be made.

Ms LIVERMORE—I am also taking the opportunity while the minister is here to let him know about some of the things going on in Rockhampton which no doubt he will be called on to make decisions about next year. The other one is the Criterion Hotel, built in 1899. This is another landmark building in Rockhampton and is famous for being the home to General MacArthur when he was in Rockhampton directing the Australian and American troops during World War II. The Turnbull family have turned it into a very popular venue for both locals and visitors. It is now home to many backpackers and the site of many good nights in Rockhampton.

There is work to be done on the Criterion Hotel to restore the ceilings. Over the years, the ceilings have been covered over but I am told there are classic original pressed metal ceilings underneath. For both of those projects, the Rockhampton post office and the Criterion Hotel, funding will be sought next year under the Cultural Heritage Projects Program to do that work. I commend those projects to the minister and the government. They are projects that will not only preserve these important historical buildings and restore them so they can occupy a central place in community life but also play a role in attracting people to Rockhampton.

Mr KATTER (Kennedy) (1.50 p.m.)—In rising to speak on the Environment and Heritage Legislation Amendment Bill (No. 1) 2002, I note that there are probably a few people in the House who have been more exposed to the problems and arguments than I have. I was the first heritage minister in the state of Queensland. When approached to do the job, I refused point-blank because I have very strong feelings that your property is your property; it is not the property of the government. If the government has the right to direct you and tell you what you can and cannot do with your own home, then I do not think you own your own home; the government owns your home.

The most popular politician in American history was Huey Long, the kingfisher from Louisiana, who inherited a state with virtually no education. There were only one or two people in country Louisiana who could read and write. There were three bridges in the whole of Louisiana. He built hospitals, brought education and built roads and bridges for the people at the expense of the mining companies. Huey had a saying: ‘Every man a king.’ There are very few Australians who will have heard the saying that I have heard on many occasions: ‘To every Australian, land; and that land is his kingdom.’ But that is far truer of your home.

As minister, there were numerous occasions when I was assailed about taking control of somebody’s house—I did not believe that was the business we were in. However, Shafton House, which was actually owned by the federal government and is the oldest building in Queensland, was being put under the hammer. It would have lent itself to a very good development site, but the development would have entailed the loss of the house as well as one of the largest trees.
in Australia. We were able to negotiate with the people. Ever since the Phoenicians invented money, there is an alternative to coercion, so we went down the money path to purchase Shafton House. The net result is that Shafton House is still there today. We succeeded in preserving Shafton House, another major building in Brisbane in similar circumstances, and the cliffs at Kangaroo Point from development, as well as a lot of other odds and ends, including the police station in my own home town of Charters Towers.

The other reason that I speak with considerable authority on this subject is that I live in one of the oldest cities in Queensland, the very famous gold rush town of Charters Towers. Most of the main street was built in the 1800s, including my own family’s building, which was built in 1882. So we have always had very strong feelings in that community that any development in the main street should be in harmony with the existing buildings. This is the very essence of what we are talking about in this bill.

The bill relies upon the threat of seven years jail and tells you what you can and cannot do with your buildings. Hardly a month passes by in my home town of Charters Towers without a battle around this legislation and the state government version. It is very hard to stand up and say that you believe in the institution of property and then the next minute tell some person what he can and cannot do with that property. My experience is that people buy these properties because they love them. They are the last people in the world who would do something detrimental to the heritage values of a particular property.

Mr Entsch—Mr Speaker, I rise on a point of order. The point of order is on relevance. What is the relevance of this to the bill?

The SPEAKER—I was, after five minutes, going to ask the member for Kennedy to refer to the bill, but he made a reference to the bill. I had already interrupted the member for Capricornia, asking her to make a link between local buildings and the bill. I would appreciate it if the member for Kennedy could further elaborate on the relevance to the bill.

Mr KATTER—Mr Speaker, the parliamentary secretary must not have been listening, because I said that the entire main street of Charters Towers is the subject of this bill. Whether you believe that there should be seven years jail or that the government should take some responsibility, if the government wish to take property off somebody, then—as stated in the Mabo case by the Chief Justice of the High Court—the most strongly held principle of British justice is that compensation should be paid. The government want to have it both ways. They want to say, ‘Yes, we can take it off you, tell you what to do with it or have de facto ownership,’ but they are not going to pay you any compensation. So, Mr Speaker, I am serving notice that I would use the best of my endeavours to ensure that we had a Mabo case about any property in Charters Towers—or any other place that I represent—against the government. I did not really think I would have to explain the relevance, but obviously some people are slower than others. I will move on.

The SPEAKER—The bill is also about the listing of property. That was probably an appropriate reference for the member for Kennedy to make.

Mr KATTER—Mr Speaker, I am absolutely certain that you understood where I was going with this; but, as I said, others are much slower than you, and we must, I suppose, make allowances for them. I will be more specific and bring it down to the lowest common denominator.

Whilst this bill is more about buildings and the built heritage, it is important to understand the implications of heritage declaration. Under this bill, if a declaration is made over an area—and we have the fascinating example of Rohan Bosworth in North Queensland—anything that adversely affects the heritage value of that area is an offence. For example, you might have a paint shop next door, and a drift of vapour might adversely affect the heritage building next door, or very loud noise might undermine the foundations—something of that nature. That is casting an extremely wide net that most certainly cuts right across the concept of private ownership. I will be more specific. The Bills Digest says:
These new sections are very similar to existing sections 12 and 15A which create civil and criminal offences for unlawful actions having significant impacts on the values of World Heritage properties …

To give you an example of just how long a bow can be drawn, in the case of the World Heritage declaration of the rainforests of North Queensland, it was held that a person scaring off flying foxes some 30 kilometres from the nearest World Heritage area had an ‘adverse effect upon World Heritage values’. If the bow is drawn that long in that area of the law, I am quite sure that this bill is opening the door to the drawing of a bow just as long with respect to built heritage.

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

Indonesia: Terrorist Attacks

The Speaker—I advise the House that I have received further condolence messages following the terrorist bombings in Bali. They are from the Speaker of the British House of Commons; the Speaker of the Israeli Knesset; the Ambassador of Israel; the Speaker of the National Parliament of the Democratic Republic of East Timor; the Chairman of the Committee for Inter-Parliamentary Cooperation of the House of Representatives of the Republic of Indonesia; the Ambassador of Afghanistan; the Speaker of the Parliament of the Republic of Poland; Ms Kathleen Palmer, a citizen of the United States; and Ms Elena Guajardo and 24 other citizens of the United States. I table the messages.

Ministerial Arrangements

Mr Howard (Bennelong—Prime Minister) (2.01 p.m.)—I inform the House that earlier today Senator the Hon. Ian Macdonald was sworn in as the Minister for Fisheries, Forestry and Conservation. The new ministerial title better reflects Senator Macdonald’s responsibilities for Australia’s important fishing industry and aquaculture matters. For the information of honourable members, I table a revised ministry list.

The list read as follows—
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<tr>
<th>Title</th>
<th>Minister</th>
<th>Other Chamber</th>
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<tr>
<td>Prime Minister</td>
<td>The Hon John Howard, MP</td>
<td>Senator the Hon Robert Hill</td>
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<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon Jackie Kelly, MP</td>
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<td>Minister for Transport and Regional Services</td>
<td>The Hon John Anderson, MP</td>
<td>Senator the Hon Ian Macdonald</td>
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<td>Treasurer</td>
<td>The Hon Wilson Tuckey, MP</td>
<td>Senator the Hon Ian Macdonald</td>
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<td>Parliamentary Secretary (Foreign Affairs)</td>
<td>The Hon Chris Gallus, MP</td>
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<td>Minister for Defence</td>
<td>The Hon John Howard, MP</td>
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<td>Treasurer</td>
<td>The Hon Robert Costello, MP</td>
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<td>Minister for Revenue and Assistant Treasurer</td>
<td>Senator the Hon Helen Coonan</td>
<td>The Hon Peter Costello, MP</td>
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<td>Parliamentary Secretary</td>
<td>Senator the Hon Ian Campbell</td>
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<td>Minister for Trade</td>
<td>The Hon Mark Vaile, MP</td>
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<td>Minister for Foreign Affairs</td>
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<td>Parliamentary Secretary (Foreign Affairs)</td>
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<td>Minister for Defence</td>
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<td>The Hon Danna Vale, MP</td>
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<td>Minister for Veterans' Affairs</td>
<td>The Hon Danna Vale, MP</td>
<td>Senator the Hon Robert Hill</td>
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<td>Minister Assisting the Minister for Defence</td>
<td>The Hon Danna Vale, MP</td>
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<td>Parliamentary Secretary</td>
<td>The Hon Fran Bailey, MP</td>
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<td>Minister for Communications, Information Technology and the Arts</td>
<td>Senator the Hon Richard Alston</td>
<td>The Hon Peter McGauran, MP</td>
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<td>(Deputy Leader of the Government in the Senate)</td>
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<td>Minister for the Arts and Sport</td>
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<td>The Hon Peter McGauran, MP</td>
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<td>Minister for Employment and Workplace Relations</td>
<td>The Hon Tony Abbott, MP</td>
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<td>Minister Assisting the Prime Minister for the Public Service</td>
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<td>Minister for Employment Services</td>
<td>The Hon Mal Brough, MP</td>
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<td>Minister for Immigration and Multicultural and Indigenous Affairs</td>
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<td>Minister Assisting the Prime Minister for Reconciliation</td>
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<td>Minister for Citizenship and Multicultural Affairs</td>
<td>The Hon Gary Hardgrave, MP</td>
<td>Senator the Hon Chris Ellison</td>
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<td>Minister for the Environment and Heritage</td>
<td>The Hon Dr David Kemp, MP</td>
<td>Senator the Hon Robert Hill</td>
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<td>(Vice-President of the Executive Council)</td>
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<td>Parliamentary Secretary</td>
<td>The Hon Sharman Stone, MP</td>
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<td>Attorney-General</td>
<td>The Hon Daryl Williams, AM QC</td>
<td>Senator the Hon Chris Ellison</td>
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Minister for Justice and Customs  Senator the Hon Chris Ellison  The Hon Daryl Williams, AM QC MP

Minister for Finance and Administration  Senator the Hon Nick Minchin  The Hon Peter Costello, MP
Special Minister of State  Senator the Hon Eric Abetz  The Hon Tony Abbott, MP
Parliamentary Secretary  The Hon Peter Slipper, MP

Minister for Agriculture, Fisheries and Forestry  The Hon Warren Truss, MP  Senator the Hon Ian Macdonald

Minister for Fisheries, Forestry and Conservation*  Senator the Hon Ian Macdonald  The Hon Warren Truss, MP
Parliamentary Secretary  Senator the Hon Judith Troeth

Minister for Family and Community Services  Senator the Hon Amanda Vanstone  The Hon Larry Anthony, MP
Minister Assisting the Prime Minister for the Status of Women
Minister for Children and Youth Affairs  The Hon Larry Anthony, MP  Senator the Hon Amanda Vanstone
Parliamentary Secretary  The Hon Ross Cameron, MP

Minister for Education, Science and Training  The Hon Dr Brendan Nelson, MP  Senator the Hon Richard Alston
(Deputy Leader of the House)

Minister for Science  The Hon Peter McGauran, MP  Senator the Hon Richard Alston

Minister for Health and Ageing  Senator the Hon Kay Patterson  The Hon Kevin Andrews, MP
Minister for Ageing  The Hon Kevin Andrews, MP  Senator the Hon Kay Patterson
Parliamentary Secretary  The Hon Trish Worth, MP

Minister for Industry, Tourism and Resources  The Hon Ian Macfarlane, MP  Senator the Hon Nick Minchin
Minister for Small Business and Tourism  The Hon Joe Hockey, MP  Senator the Hon Eric Abetz
Parliamentary Secretary  The Hon Warren Entsch, MP

Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. Except for the Department of the Prime Minister and Cabinet and the Department of Foreign Affairs and Trade, the title of each department reflects that of the portfolio minister. There is also a Department of Veterans’ Affairs in the Defence portfolio. Asterisks indicate changes from the last published list.

I also inform the House that the Minister for Trade will be absent from question time today. The minister is travelling to Sydney to attend an informal meeting of trade ministers to advance World Trade Organisation negotiations. The Minister for Foreign Affairs will answer questions on his behalf.

**QUESTIONS WITHOUT NOTICE**

**National Security: Terrorism**

Mr CREAN (2.02 p.m.)—My question is to the Prime Minister. Can the Prime Minister inform the House what progress has been made in identifying the tape, purporting to be that of Osama bin Laden, carrying within it threats to Australia and to other countries? Prime Minister, what, if any, changes is the government considering to its domestic and external security arrangements as a result of these threats?

Mr HOWARD—I can inform the House that the government has been informed by United States intelligence authorities that they believe that the voice on the tape broadcast by al-Jazeera is that of Osama bin Laden. The tape is assessed by them to be authentic. The contents of the tape, I am sure all Australians will agree, is a chilling reminder of the evil and perverted character of the apparent leader of the deadliest terrorist threat the world has had in the lifetime of people in this parliament. It does underscore
the heightened threat to Australia, including our interests overseas, from al-Qaeda since 11 September last year and especially after Osama bin Laden made specific reference to Australia in November 2001. The House will know that the assessed terrorist threat to Australia was increased following 11 September, and heightened measures to protect Australia and our interests abroad have been in place since then.

Following a review after the Bali attack, further protective measures were agreed by the government. These included the acceleration of work to finalise better federal arrangements for responding to terrorism. The appropriateness of these steps has been reinforced by the tape. The al-Qaeda network was already judged to be a very significant threat to Australia and our interests overseas. That judgment has not changed; indeed, it has been reinforced by the material in the tape.

It is worth making a number of observations about the contents of the tape. Although Western nations—and in particular, but not only, Australia—are targeted in the tape, the House should be reminded that, in the indiscriminate terrorist attacks which have occurred, the citizens of other than what loosely could be called ‘Western nations’ have lost their lives. Osama bin Laden and his cohorts do not care whether they kill Muslims, Christians, Jews, Hindus or any other religious or ethnic group—or, indeed, people who profess no religion at all—in their campaign of terror. The range of nationalities of people who died on 11 September last year and 12 October this year indicates that no country can ignore the al-Qaeda threat.

As I said in the House yesterday—and I repeat it with added emphasis—this government and this nation will not be intimidated by terrorist threats. That applies not only in relation to these statements but also to any other statements that may be made. I believe that this tape and what it represents reinforces the need for this country to remain an effective partner with other freedom loving countries in the campaign against terrorism. I have said before, and I repeat it: the terrorists have done terrible things over the last 18 months, but the ultimate terrorist nightmare would be if weapons of mass destruction were to fall into the hands of Osama bin Laden and his cohorts. That is the ultimate nightmare from terrorism. It follows from that that efforts must be sustained by the nations of the world to remove weapons of mass destruction from the hands of people who might capriciously use them.

It is a chilling tape; it is the tape of somebody who, by his very reference to God, dis-honours all of the great religions of the world. I find it so obscene that somebody should seek, in the name of God and in the name of Islam, to justify the sorts of deeds that have been committed by this organisation. I know that all Australians of whatever faith or, indeed, of no faith at all will join me in condemning what terrorism represents, condemning what this man stands for, repudiating to the depth of our being any notion that his actions have the sanction of a force beyond this world. It is an obscene notion and one that should be nailed as such.

Trade: United States

Mr CIOBO (2.08 p.m.)—My question is addressed to the Prime Minister. Would the Prime Minister provide an update on the proposed Australia-United States free trade agreement?

Mr HOWARD—I am pleased to inform the House that this morning Ambassador Bob Zoellick, United States Special Trade Representative, informed me and other members of the cabinet that President Bush had authorised him to send a letter to the United States Congress providing notification of the administration’s intention to negotiate a free trade agreement with Australia. In welcoming this announcement, can I inform the House that this action triggers a 90-day consultation period with Congress, as required by US law, prior to the commencement of formal negotiations. We are hopeful that negotiations will start early next year. The ambassador told us this morning that the aim of the administration was to complete that negotiation during the remainder of President Bush’s first term in office. This is, by any measure, a historic development in the bilateral relationship; it is unambiguously good news for Australia.
A free trade agreement between Australia and the United States would deliver enormous economic benefits to this country. Economic modelling has found that removal of tariff barriers between Australia and the United States could increase Australia’s gross domestic product by as much as $4 billion a year. A free trade agreement would facilitate linkages between Australia and the world’s largest economy. The indirect benefits to our economy from both greater inwards and outwards investment flows could also be significant. It is worth observing, as the Treasurer did in our discussions with Ambassador Zoellick this morning, that currently the direct investment from Australia to the United States exceeds direct investment from the United States to Australia on an annual basis. That is an indication of the way in which investment between our two societies has burgeoned.

None of us underestimates the challenges, but I am very confident that, if we work hard and we commit ourselves, we can achieve a favourable result. I told the ambassador that Australia will be seeking a comprehensive agreement. Both sides said that they will take a comprehensive approach to the negotiations. We have made it clear that agriculture must be part of the free trade agreement with the United States. We are not in any way going to compromise or sell out the interests of Australian farmers in pursuit of a free trade agreement with the United States or, indeed, with any other country. We will continue to consult very closely with industry sectors and relevant stakeholders in formulating our negotiating position.

The Australian government believes—and I think it is worth making this point because of some of the observations that have been raised in criticism of the government’s position on a possible free trade agreement with the United States—that the free trade negotiations with the United States will complement our joint efforts in the World Trade Organisation Doha Round to facilitate greater trade liberalisation globally. Free trade agreement negotiations with the United States will set a high standard and provide an important demonstration effect to help ratchet up the World Trade Organisation and other trade negotiations. It should be remembered that Ambassador Zoellick’s visit here is for that primary purpose. He and the Minister for Trade have been working together very closely in the World Trade Organisation. The trade minister and the ambassador will continue to pursue that objective during the World Trade Organisation ministerial meeting in Sydney this week.

The World Trade Organisation Doha Round remains at the centre of Australia’s trade policy. It offers the greatest broad-ranging benefits for Australia and the world economy. But it is a false and misleading notion to argue that you cannot, compatibly with supporting the World Trade Organisation Doha Round, also take advantage of bilateral trade opportunities as and when they arise. Where you can get benefit from a bilateral agreement, it is in the national interest to try to obtain it. That is why we are doing it now with the United States and why, within the region, we have recently been doing it with both Singapore and Thailand.

I very warmly welcome this decision. It is a reminder to those who said it could not be achieved that, if there is enough political will at the top of two governments, it is possible. I do not know the final outcome, but we are very committed to achieving a positive outcome. I believe if we can achieve it it will be of lasting benefit to the people of both Australia and the United States.

Trade: United States

Dr Emerson (2.14 p.m.)—My question is to the Minister for Foreign Affairs representing the Minister for Trade. Will the minister rule out putting on the agenda for a free trade agreement with the United States the abolition of Australian local content rules for television, radio and film, the abolition of Australia’s Pharmaceutical Benefits Scheme and the abolition of the Foreign Investment Review Board?

Mr Downer—As the Prime Minister has explained, and in particular as Ambassador Zoellick explained both to the members of the cabinet who attended the meeting with him this morning and to the press conference that he gave jointly with the Prime Minister later, the proposal here is to have a compre-
hensive negotiation. When we get to the point of the actual negotiations—which will be around March next year—we will, in those circumstances, put forward our own specific set of proposals, and no doubt the United States will put forward its own specific set of proposals. Given the way that the member for Rankin asked his question, I would have thought it would be unlikely we would put forward a series of demands on ourselves; we would put forward a series of demands on the United States of America. And if the United States were to put forward the sorts of proposals the honourable member is talking about—I do not know whether they would or they would not—obviously that would be part of the negotiating process.

I also observe that the member for Rankin has attacked the notion of a free trade agreement with the United States on a number of occasions and yet has not attacked the notion of a free trade agreement with Singapore or the fact that we would wish to negotiate a free trade agreement with Thailand or a new trade and economic agreement with Japan or a new framework economic agreement with China. He has not attacked those; he has only attacked—as he did in a disgraceful way last week—the notion of a free trade agreement with the United States of America. I just think that exposes, if ever it needed exposing, the bankruptcy of the Australian Labor Party’s policy approach.

Mr Gavan O’Connor—So you’ll sell out, like you usually do.

Mr Latham—So it’s on the table. That’s the end of it.

Foreign Affairs: Iraq

Mr NEVILLE (2.17 p.m.)—Thank you, Mr Speaker—

The SPEAKER—The member for Hinkler has the call—

Mr Gavan O’Connor—Get off your knees; get off your knees when you’re negotiating.

Mr Tuckey—Another scare campaign.

The SPEAKER—The member for Hinkler will resume his seat. The chair is not being facilitated by members on my right or my left. The member for Hinkler has the call.

Mr NEVILLE—My question is addressed to the Minister for Foreign Affairs. Would the minister inform the House about a decision overnight by Saddam Hussein to accept the terms of the UN resolution on the disarmament of Iraq? When will weapons inspectors be able to begin work? What part will Australia play in that inspection process?

Mr DOWNER—I thank the honourable member for Hinkler for his question. I recognise the interest he has shown for a long period of time in the elimination of weapons of mass destruction. The government welcomes the news that Saddam Hussein’s government has told the United Nations it will cooperate with new Security Council resolution 1441. I have no doubt that the threat of force has brought Saddam to this point. We should bear in mind that it is only a first step. We will judge Iraq by its actions from here on. The test remains Iraq’s full and unconditional implementation of all of the terms of this resolution. I note with interest that Saddam Hussein’s acceptance of Security Council resolution 1441 came with an assertion that Iraq does not possess weapons of mass destruction. This is not the case. This is why it is essential that inspectors be allowed into Iraq and why we expect Iraq to cooperate with the inspectors to enable them effectively and without hindrance to do their job. With Saddam Hussein’s latest advice we expect that UNMOVIC and IAEA advance teams will be in Iraq next Monday—that is, 18 November. The Australian government have told UNMOVIC and the IAEA that we will support them in whatever way we can, consistent with our proud history of contributing to international disarmament and non-proliferation efforts.

Dr Bill Jolley, an Australian currently working in UNMOVIC headquarters who comes from our home state of South Australia, will serve as a chief weapons inspector on the first UN inspections team in Iraq. A number of Australians have been trained as inspectors by UNMOVIC and are on the roster which will be drawn on as inspections teams are sent in. At this stage I understand that three Australians who are Department of Defence employees are likely to join the ini-
tial UNMOVIC inspections team. Australians with relevant expertise are also likely to participate, as time goes on, in IAEA inspections teams. While these individuals will serve as UN employees, it will not—it is important to understand—be as a national contingent. The government will facilitate their participation and strongly support their decision to go to Iraq. We are also talking to UNMOVIC about ongoing support by Australia for its activities in Iraq and how we might be able to assist.

In answer, finally, to all aspects of the honourable member’s question, let me say it is only through robust inspections that we can determine whether Saddam Hussein is deceiving the international community. As is well known, it is the view of the governments of the United States, of Great Britain, of Australia and of probably all the countries of the European Union and many others that Saddam Hussein is deceiving the international community. It is clear he does have a weapons of mass destruction capability. I think it is important to remember this: he has only a short period of time—I think until 8 December—to declare the presence of those weapons of mass destruction capabilities in Iraq.

**Taxation**

Mr McMULLAN (2.22 p.m.)—My question is to the Treasurer. Can the Treasurer confirm that he is the only Treasurer in Australian history to have collected income tax equal to or more than 17 per cent of national output or GDP? Isn’t it the case that he has achieved this level not once but six times—in 1997, in 1998, in 1999, in 2000 and in 2001? He is well on the way to doing it again in the current year. Isn’t it the case that this level of taxation has only been equalled or exceeded six times since Federation and that he has been responsible for all six?

Mr COSTELLO—The income tax take as a proportion of the economy this year is lower than it was in the first year of this government. That is because this government reduced income tax rates on 1 July 2000. But the income tax take, as a proportion of GDP, varies not only according to the income tax rates but according to the number of people who are in work. One of the reasons that the Australian Labor Party is able to say that in the early 1990s the income tax to GDP rate was lower is that unemployment was 11.3 per cent. On the same income tax rates it stands to reason that, with one million more people paying income tax, the tax to GDP ratio would rise. The fact that we now have one million people more in work does not mean that the average person is paying more tax. Patently, they are not. Their tax rates are lower and were reduced in July 2000. What it means, incidentally, is that you get benefits to the economy if people come into work because not only do they start paying tax but unemployment benefits reduce. So let us compare the record to date: one million more people, lower tax rates, income tax being collected from those in work and the budget balanced rather than being two to three per cent in deficit, as it was in the early 1990s.

The Australian economy continues to grow as the fastest growing economy of the developed world. We survived the US recession of 2001. We were promised by the Australian Labor Party that our reforms of 2000 would throw the economy into recession. Nobody made that more plain than the member for Hotham, who claimed that we would be in recession as a result of tax reform. He was partly right: there was a recession in 2001; it was in the United States. But it was not in Australia. We on this side of the House are very pleased that an additional one million Australians have jobs, that they are paying income tax and, that as a consequence, the Australian economy is strong.

**Economy: Statistics**

Mrs MAY (2.25 p.m.)—My question is addressed to the Treasurer. Would the Treasurer advise the House of the results of the survey of average weekly earnings released today by the Australian Bureau of Statistics? How has the labour market strengthened under the policies of this government?

Mr COSTELLO—I thank the honourable member for her question. I can inform her that the Australian Bureau of Statistics released average weekly earnings statistics today which showed that full-time adult ordinary time earnings increased in the quarter by 1.4 per cent and by 4.9 per cent for the
year. Employees’ total earnings increased by 1.3 per cent for the quarter and by 3.6 per cent for the year. The important thing about earnings is that, if you have growth in productivity, earnings can grow without being inflationary. If, for example, inflation is two or 2½ per cent, as it currently is in the Australian economy, and you have productivity growth of two per cent then a wage increase of 4½ per cent will not be inflationary. Because we do have high productivity in this country, we are not only keeping inflation restrained but we can have a growth in real wages.

I said earlier that, over the course of the six years since the government was elected in 1996, over one million new jobs have been created in the Australian economy. The House will be interested to know that I was looking at the Daily Telegraph yesterday. It runs a historical series of what happened 10 years ago, and it featured the front page of the Daily Telegraph Mirror of 13 November 1992. On 13 November 1992—10 years ago—the Daily Telegraph Mirror recorded this:

Unemployment soars to the highest level recorded since the Great Depression 60 years ago. An extra 52,200 people joined the dole queue, bringing the number out of work to 979,000 or 11.3 per cent.

Last month the unemployment rate stood at six per cent, which was the equal lowest since that Labor Party high of 11.3 per cent.

There will be some new members in this House who would think six per cent was a normal unemployment rate in Australia. Let me tell you that it is not. Those of us who were here 10 years ago when the member for Brand was the employment minister, closely followed by the member for Hotham, remember 11.3 per cent unemployment. We also remember at that time that one of the proudest boasts of the Australian Labor Party was how they kept real wages low. Those of us who were here will remember the then Treasurer and the then Prime Minister coming to the dispatch box and saying that one of the greatest achievements of the Labor government was to keep real wages low. The member for Batman smiles, because he was in the ACTU at the time and will remember all the work that the Labor Party went to to try to keep the growth in real wages down.

Let me just finish by reminding the House of one comparison, because we on this side of the House actually believe that non-inflationary real wages growth is a good thing. We actually want workers to be paid better; we are actually in favour of productivity improvements which will improve their real wages. Over the last six years real wages in this country have grown by 11 per cent under the coalition government. Over 13 years of Labor Party government real wages grew by 1.8 per cent. They were growing at 0.1 per cent per annum; they are now growing at around two per cent per annum—on one million extra jobs. That is the sign of economic reform and management. What could the Labor Party do to help the Australian economy? Get out of the way. That is the best thing that the Australian Labor Party could do. They should get out of the way, vote through the coalition program in relation to unfair dismissal laws and the budget, and let ordinary Australians have a decent go.

DISTINGUISHED VISITORS

The SPEAKER (2.30 p.m.)—It is my pleasure to inform the House that we have present in the gallery this afternoon the Speaker of the National Assembly of the Republic of Hungary, Dr Katalin Szili. On behalf of all members of the House I extend to her, and to the officers of her parliament, a very warm welcome.

Honourable members—Hear, hear!

The SPEAKER—While I am on my feet may I also say that I recognised in the gallery the former Minister for Arts, Heritage and the Environment, the Hon. Barry Cohen, and Mr Clarrie Millar, a former Deputy Speaker of the parliament. I welcome them as well.

QUESTIONS WITHOUT NOTICE

Taxation

Mr McMULLAN (2.31 p.m.)—My question is to the Treasurer. I thank the Treasurer for his admission that he has taken a higher percentage of income tax from even more Australians.
The SPEAKER—The member for Fraser knows that he must come to his question

Mr McMULLAN—Treasurer, doesn’t this graph I am holding not only prove that you have come first in the highest taxing Treasurer stakes—for collecting more income tax as a proportion of national income than any other Treasurer—but also show that you have come second, third, fourth, fifth, sixth and seventh?

Government members interjecting—

The SPEAKER—Before I recognise the Treasurer I would remind all members that, as the member for Fraser is aware, the use of charts is not encouraged by the chair. The chair’s intervention on the member for Fraser was not assisted by the level of interjection occurring on my right.

Mr COSTELLO—As I previously indicated, one of the reasons why tax revenues collected by the government can be higher is if you have more people in work.

Mr McMullan—Not as a percentage of GDP.

The SPEAKER—Order! The member for Fraser! The Treasurer has the call.

Mr COSTELLO—What I will probably do is go back and look at the Labor Party tax take on the basis of another one million jobs. I think that would be a very interesting adjustment—

Mr McMullan interjecting—

The SPEAKER—Order! The member for Fraser!

Mr COSTELLO—because, as I said, income tax rates in this country have been cut.

Mr McMullan interjecting—

The SPEAKER—Order! I have asked the member for Fraser to exercise a good deal more restraint. The Treasurer has the call.

Mr COSTELLO—And in cutting income tax rates, because more people have got into work, the government has actually been able to maintain its revenue take. That is a good thing, actually. As it turns out, it is a good thing to have more people in work paying lower taxes—so that you can fund your expenditures—rather than fewer people in work paying higher taxes, and to have larger expenditures including unemployment benefits.

In addition to the income tax cuts which the government introduced on 1 July 2000—when we reduced the 20 per cent income tax rate to 17 per cent, when we reduced those above 43 per cent to 40 per cent and when we put 80 per cent of Australians on a tax rate of 30 per cent or less by taking the 30 per cent rate up to $50,000—the government also reduced taxes in other significant ways. We introduced a rebate for private health insurance, now worth 30 per cent of private health insurance premiums—

Mr Howard—Which Labor voted against.

Mr COSTELLO—Which Labor voted against and which Labor calls a crime—that is what the member for Perth called it. In addition to that, we introduced new and additional family tax benefits; some of which are claimed on the tax side of the budget and many of which are actually claimed on the expenditure side of the budget, notwithstanding the fact that they are benefits off tax by way of rebates to individual families. From memory, we actually increased the family tax benefits by $2 billion. So the whole taxation system was moved down, family benefits were increased, the private health insurance rebate was introduced, one million people came into the tax system and government revenues were able to not only balance the budget but also afford a decent expenditure system. They are the benefits of economic reform, they are the benefits which the Australian Labor Party opposed, and they are the benefits which the Australian Labor Party could do its best for by getting out of the way and by allowing the government to put its program through the Senate and have the opportunity to continue to strengthen the Australian economy—now the fastest growing economy in the developed world. Wouldn’t it be great if we could keep it there, after having come through those Labor years of recession?

Mr McMullan—Mr Speaker, I seek leave to table two documents. One is a table of Commonwealth income tax revenue as a percentage of GDP, which shows that even in...
the 1960s when unemployment was two per cent—

The SPEAKER—The member for Fraser will indicate the two documents he seeks to table.

Mr McMULLAN—I am just trying to explain what this one shows so that people are aware of it.

The SPEAKER—The member for Fraser will simply indicate the two documents he wishes to table.

Mr McMULLAN—I also wish to table a copy of the chart I displayed earlier.

Leave granted.

Environment: Water Management

Mrs HULL (2.36 p.m.)—My question is addressed to the Minister for Agriculture, Fisheries and Forestry. Would the minister advise the House what measures the government will take to ensure the security of water supply to my irrigators in the Riverina and in the Murray-Darling Basin? What are the impediments to increased environmental flows in the River Murray?

Mr TRUSS—I thank the honourable member for Riverina for her question. She rightly recognises that this drought is affecting not only the dryland agricultural areas of Australia but also the irrigated areas. The shortage of water, particularly in the Murray-Darling system, is causing considerable concern to the Murray-Darling Basin Commission and all of those who are associated with managing the water supplies for not just the irrigators but also the urban and industrial users in the Murray-Darling system. I have asked the Murray-Darling commission to immediately look at options to deal with the urgent shortfall that is occurring in the River Murray system, particularly in the summer and autumn of 2003. The commission will be looking at its longer term operating relationship with Snowy Hydro and the operating procedures governing the flexibility of movement along the Murray River system.

But it is also important that we look at ways in which savings can be made within the system. At the last meeting of the Murray-Darling Ministerial Council, the states were asked to identify potential savings within their system that could be returned, either for additional use or for environmental flows. Between them, the basin states were able to identify potential savings of about 400 gigalitres. To put that into some degree of context, there are proposals being considered at the present time for increased environmental flows into the Murray-Darling of between 350 gigalitres and 1,500 gigalitres. Of that 400 gigalitres, 200 gigalitres have already been committed to the Snowy system, so potentially the states were only able to identify about 200 gigalitres of savings. Even that did not come cheaply: it is estimated between the various states as being between $1 million and $3 million a gigalitre. The costs are very, very substantial, and I think it is important for the House to understand that there is no such thing anymore as free water. Even water that is going to go into environmental flows will be extremely expensive, and there will be substantial costs associated with achieving water savings.

I think it is important that we look also at other ways in which water can be saved. There is potential for on-farm savings, but those savings are going to be very difficult to achieve without a secure water rights regime. That is why the meeting of COAG early next month will be particularly important in driving an appropriate, secure and bankable water rights regime. Farmers have no incentive to make water savings if in fact there is no security for them in the resource that they have. In addition, they cannot possibly borrow from a bank to undertake savings if in fact there is not going to be any security to ensure that they can use the water.

I think that there are a lot of ideas also in the community. I am encouraging people to come forward with ideas, and we can look then at evaluating them and at what potential savings they might be able to deliver. The honourable member has been particularly active in putting forward a proposal with the Pratt group to look at some pilot water savings in the Murrumbidgee region. I commend her on the leadership and the initiative that she has provided in that regard. The New South Wales and Commonwealth governments have agreed now to look at ways in which we can test some of the ideas that are
being put forward for the Murrumbidgee area, and they could provide examples for use in other parts of Australia. That is an excellent example. We want to build on that.

This is a dry continent and, in these times, it is especially important that we look at ways of using our water wisely and well. In this sort of context, the government certainly stands ready to work with the states to endeavour to achieve savings wherever possible. They will be in the interests not just of helping to make our scarce water resources more valued and more readily available to those who need them and to maintain the development and environmental objectives that we have in the basin but also of ensuring that we are better equipped to meet future droughts when they arrive.

**Taxation**

Mr COX (2.41 p.m.)—My question is to the Treasurer. Treasurer, isn’t it the case that personal income tax revenue has surged from $83 billion in the year before the GST was introduced to $92 billion this financial year? Doesn’t this mean Australians are paying even more personal income tax—

**Government members**—No!

Fran Bailey interjecting—

The SPEAKER—Order! The member for Kingston has the call and will be heard in silence.

A government member—I didn’t hear the question.

The SPEAKER—The member for Kingston can state his question again.

Mr COX—Treasurer, isn’t it the case that personal income tax revenue has surged from $83 billion in the year before the GST was introduced to $92 billion this financial year? Doesn’t this mean Australians are paying even more personal income tax than they were two years ago—

**Government members**—No!

Fran Bailey interjecting—

The SPEAKER—I warn the member for McEwen!

Mr COX—and that tax thresholds relative to average earnings have fallen for every bracket—in spite of your so-called tax cuts, which have now been completely eaten by bracket creep?

Mr COSTELLO—I would have thought that Ralph Willis’s adviser would know that it does not mean that at all. It does not mean that at all. As I said, income tax take is a function not only of tax rates, which have been reduced, but of the number of people in work. And, as more people come into work, on the same tax rates you collect more money—not because people are paying more but because more people are working. That is actually one of the objects of economic policy, as it turns out—to get people into work. Not only is it good for people to get jobs but it is good for the economy because you collect tax rather than pay unemployment benefits. If we could get more people into work on the same tax rates, we would collect more income tax again. How could we get more people into work? Well, pass the unfair dismissal laws.

**Opposition members interjecting**—

Mr COSTELLO—I suppose they will now say they are only opposing the unfair dismissal laws because they want to keep the tax take down: ‘We oppose the unfair dismissal laws, we keep more people out of work and that is the way that Labor keeps taxes down in this country!’

Mr Crean interjecting—

Mr COSTELLO—He’s nodding!

Mr Cox—Mr Speaker, on a point of order as to relevance: the question was about bracket creep.

The SPEAKER—The Treasurer was talking about tax rates.

Mr COSTELLO—As I said in answer to the earlier question, when this government—

Mr Cox—No, this question. Answer this question.

The SPEAKER—The member for Kingston is defying the chair. The Treasurer has the call.

Mr COSTELLO—in relation to income tax, the income tax take as a proportion of GDP in this financial year is lower than it was in 1996-97, when the government was first elected. Let us go over it so that this is clearly understood. The income tax take, as a
proportion of GDP, six years after the election of this government is lower than it was six years ago and one million people, additionally, are paying tax. So one million people have come into the work force and are paying tax, but the tax take as a proportion of GDP is lower. Why is that? Because income tax rates were dramatically cut in July 2000.

Mr Cox interjecting—

The SPEAKER—I warn the member for Kingston!

Mr COSTELLO—As a consequence of the income tax cuts which this government put in place, the 20 per cent rate came down to 17 per cent, 34 per cent came down to 30 per cent, the ones in the 40s came down to 40 per cent and the top threshold was pushed out to $60,000. As it turned out, we wanted to push that threshold out further and reduce income tax even more. There was a reason why the government was unable to reduce income tax any more and I am surprised it has been forgotten. The Labor Party defeated our proposals in the Senate to cut income tax further.

Opposition members—Oh!

Mr COSTELLO—‘Oh,’ they say. ‘Oh, we forgot about that.’ Yes, they did forget about that. Let us just get the Labor Party’s policy clear. The Labor Party policy, as far as I can work it out now, is the following. They are voting against expenditure restraint—that is why they are voting against Pharmaceutical Benefits Scheme changes. They would like a bigger surplus and they would also like lower income taxes. Why didn’t we think of that? Lower taxes, higher spending and at the end of it you all got a budget surplus. They keep coming up with new ideas, these people! He used to be called B.S. Crean—Bigger Surplus Crean. He is against the expenditure rate, he wants a bigger surplus and he is also in favour of lower income taxes. We had the biggest income tax cut in Australian history on 1 July 2000. Two years after the event, we still have the strongest growing economy in the developed world. There is a reason why we do not get any questions about the economy. It is because Labor’s record compared to the coalition’s record speaks for itself and they can take full responsibility for it.

Employment

Mr HAASE (2.48 p.m.)—My question is to the Minister for Employment and Workplace Relations. Would the minister inform the House of the latest information about the government’s Indigenous Employment Program? What new initiatives are there that will help Indigenous people find employment?

Mr ABBOTT—I thank the member for Kalgoorlie for his question. I note his strong interest in Indigenous employment initiatives in his electorate. While Indigenous unemployment is slowly trending down, it is still three times the national average. Bad though the statistics are, they actually mask the true extent of Indigenous unemployment because most Aboriginal workers have jobs which are funded by the taxpayer. The government’s Indigenous Employment Program aims to get unemployment down, but more importantly it aims to get employment in private sector organisations up. I am pleased to say that the number of Indigenous training jobs has nearly doubled in the past three years to nearly 5,000. I am particularly pleased that more than 80 per cent of these training jobs are with the private sector. The number of Indigenous wage subsidy agreements is also improving after a bit of a dip last year. Again, more than 80 per cent of these are with the private sector. It is still, regrettably, a stand-out fact that the shops and businesses of country Australia have plenty of Indigenous customers but they have very few Indigenous employees. The government is determined to try to break down typecasting, particularly by employers. Under the CEOs’ initiative, some 62 large Australian companies have pledged to do more to help potential Aboriginal employees. More than half of these have already established dedicated training jobs for Indigenous Australians.

In remote areas, there are very few jobs except those which Aboriginal people can create for themselves. It is hard for people who have no history of credit to get access to capital. I can tell the House today that my department is trialing a microcredit initiative in selected remote Aboriginal communities.
to provide interest free business loans of up to $5,000 to potential Indigenous entrepreneurs. As Noel Pearson has said, Aboriginal people have a right to take responsibility and the government wants to see grassroots capitalism in these communities drawing on the creativity and initiative of Indigenous Australians.

**Taxation**

Mr SWAN (2.51 p.m.)—My question is directed to the Treasurer—the highest taxing in our history.

The SPEAKER—The member for Lilley will come to his question.

Mr SWAN—Treasurer, why are you slugging 840,000 families with children 60c of every extra dollar they earn in tax? With families paying more tax than ever before, why are you considering giving a new tax break to help pay for share options for executives?

Mr Cameron Thompson—What an idiot!

The SPEAKER—The member for Dickson will withdraw that remark. I am having a bad day today on seats: the member for Blair will withdraw that remark. I apologise to the member for Dickson, lest his constituents should think he had taken some improper action.

Mr COSTELLO—The Labor Party works on the old union tactic that if you restate a falsity often enough you will get somebody to publish it. Not only is the income tax share of GDP lower today than it was when this government was elected—

Mr McMullan—that is not true.

Mr COSTELLO—Your table shows that it is lower this year than it was in the first year that the government was elected. The Labor Party table shows that. There it is; it is lower today than it was in 1996-97.

Mr McMullan interjecting—

The SPEAKER—The member for Fraser now deliberately chooses to defy the chair!

Mr COSTELLO—I ask people to look at the document he tabled, which shows that it is lower in 2002-03 than it was in 1996-97, notwithstanding the fact that there are one million more people paying income tax. So the tax rate is lower, and one million more people are in work. Why is that? Because income tax rates have been cut under this government. The other measure that is indicative of taxation is overall taxation to GDP, which, as we know, has also been reduced as a consequence of the government’s changes in relation to company tax, which it cut; capital gains tax, which it cut; financial institutions duty, which it abolished; stamp duty on shares, which it abolished; and all of the bed taxes and so on that it abolished as well. So let us put that canard to bed before the Australian Labor Party tries to repeat it too many times.

In relation to the family allowance, the question now seeks to put together two factors. One is the income tax rate, which for average families is now 30 per cent but which under Labor was—from memory—34 per cent and 42 per cent. For average families, instead of paying 34 per cent and 42 per cent, they are now paying 30 per cent. He added on top of that the withdrawal rate of the family allowance. The withdrawal rate of the family allowance is 30 cents in the dollar when you trigger the income tests. Did we actually introduce the withdrawal rate for the family allowance? Did we introduce that? It was actually introduced by the Australian Labor government.

The member for Lilley stands up here and insinuates that he is actually against a withdrawal rate on the family allowance. If you are against a withdrawal rate on the family allowance, would you please say so clearly to the people of Australia. You introduced it and you have now been to three elections, in 1996, 1998 and 2001, and supported it. If you are actually in favour of reducing the taper on the family allowance, the people of Australia would be very interested to know it. But I do not think you are, because I do not think this is actually a serious policy question. I think it is one of those issues which the Australian Labor Party is trying to use to make false allegations. The tax is 30 per cent on families and the taper rate is 30 per cent, as it was under the Australian Labor Party. It comes in at a higher threshold because we pushed out the threshold—you recall that—so that it did not cut in until people
were on higher incomes. As a result of that, we have an income tested family allowance system. We on this side of the House are in favour of an income tested family allowance system. The Australian Labor Party was in favour of it because it introduced it. It was in favour of it in 1996, 1998 and 2001. If the Australian Labor Party now wants to oppose it, it should say so openly and we will cost it.

Mr Swan—You are a slugger!

The SPEAKER—I warn the member for Lilley!

Mr COSTELLO—We will work out what other taxes the Australian Labor Party will have to put up in order to pay for it.

Health: Pharmaceutical Benefits Scheme

Mr JOHNSON (2.57 p.m.)—My question is addressed to the Minister for Ageing, representing the Minister for Health and Ageing. Would the minister inform the House of how the government is ensuring the sustainability of the Pharmaceutical Benefits Scheme? What alternative policies exist on this issue?

Mr ANDREWS—I thank the honourable member for Ryan for his question on this important subject. Australians have enjoyed good health by international standards because we have a comprehensive health system in this country. An integral part of that health system is a sustainable and affordable Pharmaceutical Benefits Scheme, one which has stood this country in good stead over the past 50 years. However, there have been increases in the cost of that. In 1990, the PBS cost the nation $1 billion. Today it costs almost $5 billion and it is projected that, if the current growth rate continues, it could cost as much as $60 billion by 2040. Therefore, in order to ensure the ongoing sustainability and affordability of this scheme, the government propose that we increase the copayment—a copayment first introduced by the Australian Labor Party—from $3.60 to $4.60 for concessionable cardholders and from $22.40 to $28.60 for other Australians.

This ought to be put in the context of the actual cost of the pharmaceuticals and the medicines concerned. If we look at the end of December last year and the drugs, pharmaceuticals and medicines most commonly prescribed in Australia, we find the most common were for cholesterol—Lipex or Zocor. The average cost of a prescription for these drugs is $60.86. We are proposing that a concessionable cardholder would pay no more than $4.60. Take Lipitor, the second most prescribed drug in Australia. The actual cost per prescription is $59.71. Again, it is proposed that a concessionable cardholder would pay no more than $4.60. Take Losec, which is used for peptic ulcers. The actual cost for that is $64.14. Again, a concessionable cardholder would pay no more than $4.60. Take Celebrex, which is commonly used in the treatment of arthritis. The prescription cost is $46.92, for which it is proposed a concessionable cardholder would pay no more than $4.60.

The real question is for the Labor Party. Back in 1990, when the copayment was introduced, the then leader of the Australian Labor Party, Paul Keating, said about copayments that Australians risk losing:

... the scheme altogether, so that access to complete health care would only be available to the wealthy.

The choice facing the Australian Labor Party today is whether or not it is prepared to support the changes to this scheme which will ensure that, for not just the last 50 years but the next 50 years and for not only this generation but also future generations of Australians, we have a sustainable and affordable pharmaceutical benefits system in place. Does the Australian Labor Party any longer pretend to represent ordinary Australians or is it just concerned with the wealthy, because they will be the only ones able to afford drugs into the future?
lians. That is the choice before you at the present time. Do you want to have a sustainable system into the future or not?

Transport and Regional Services: Ansett

Mr MARTIN FERGUSON (3.02 p.m.)—My question is to the Deputy Prime Minister. Can the minister advise the House when he will be repealing the Ansett ticket tax as it has raised enough money to fulfil its purpose? Can the minister also confirm that the government is considering increasing another transport tax, the passenger movement charge, as part of the upcoming tourism package? Will the minister rule out this further tax increase for the transport industry?

Mr ANDERSON—All of us would like to see the Ansett ticket levy go when it is possible, but it is worth firstly making the point that this was to fund a set of entitlements and arrangements for workers who otherwise would have been severely disadvantaged and represented something that the Australian Labor Party never attempted to do for workers, as a principle, and which has not been supported by the Labor Party here or in any of the states since. Worse than that is the constant misrepresentation by the ACTU of what we did for workers. They have continued to claim that ‘workers have not seen any of the ticket tax at all’. They were never to see any of the ticket tax. It was used to fund, if you like, an overdraft facility, out of which some $330 million has been made available to Ansett workers—a large amount of money that would simply not have been forthcoming if it had not been for our actions to this point. That is an average of $26,000 per worker.

I would have thought that the member for Batman, an ex-ACTU spokesman, would have not only been prepared to say that what the government has done has been very valuable, has been the right and Australian thing to do for people left behind in an unfortunate situation, but also repudiated his successors at the ACTU who continue to misrepresent what the government has done. I have a reasonable hope—I think I can say at this stage—that we can expect to recover some or even all of the expenditure over time but the fact of the matter is that, as the member for Batman knows, there is a court case pending which raises uncertainties about a superannuation sum that may have to be recovered from the creditors and which may impact on the funds available for the government to recoup the costs involved. I hope that court procedure will be wound up over the next few weeks. I cannot speculate on the outcome, but I hope we will have the certainty very soon to enable us to wind the tax up. Nobody would like to see that more than I would, but it has been the right thing to do.

Mr Martin Ferguson—What about the departure tax?

Mr ANDERSON—So far as a departure tax is concerned, there has been no talk of that in government circles. To the very best of my knowledge, that is a proposal that comes out of thin air. I am certainly not aware of any such idea.

Education, Science and Training: Apprenticeships

Mr SCHULTZ (3.05 p.m.)—My question is addressed to the impeccable and very capable—

The SPEAKER—The member for Hume will come to his question.

Mr SCHULTZ—Minister for Education, Science and Training. Would the minister inform the House of the government’s initiatives aimed at increasing the opportunities for Australians wanting to take up apprenticeships? Is the minister aware of other comments or policies in this area?

Dr NELSON—I thank the member for Hume, who is a fair dinkum Australian, for his question and his commitment to apprentices and training. As of 30 June there were 362,000 Australians in apprenticeships and training. That is a 15 per cent increase over the last year. As the member for Hume will be pleased to hear, completions increased by 27 per cent last year to 107,000. Importantly, 38 per cent of those 362,000 apprentices are in traditional trades. Particularly for those representing rural and regional Australia, especially those concerned on this side of the House, one-third of those apprentices are from the rural parts of Australia. One of the other things the government have done is make sure that employers have red tape cut. The government recently announced a package of measures which would make it easier
for employers to take on apprentices. We have cut red tape, we have put more emphasis on not only commencement but also completion and especially on making it easier in areas of skill shortages and in rural and regional Australia.

The question is: what are the priorities of the Australian Labor Party? The member for Hume has asked me a question about apprentices and training, as have many members on this side. After 354 days of having the privilege of being the Minister for Education, Science and Training I have not had one single question from the Australian Labor Party about apprentices—not one single question! Yet yesterday the member for Jagajaga—the Labor Party’s deputy leader, who is supposed to be driving policy reform in the Labor Party—issued a media release under the heading Nelson ignores financial plight of student. She said:

Young people are leaving university saddled with debts of up to $30,000 …

There are 2,200 of the 1,115,000 people who owe a HECS debt in this country who owe $30,000. The Labor Party’s priority is dentists, lawyers, doctors and people leaving university with $30,000 worth of debt, instead of people like the member for Hume, who was a slaughterman in his mid-teens. The member for Grey was a labourer and a shearer; the member for Leichhardt, as we know, at the age of 13 was cleaning toilets at Maroubra train station to pay for the university education of the Leader of the Opposition. The reality—

Mr Swan—Mr Speaker, I rise on a point of order. My point of order is on relevance standing order 145. Further to that, it is quite clear that not all the remarks are related to the question. If the minister wants to pretend to be humble, he should not; he is not that great.

Dr Nelson—One-third of all of the teenage children in this country currently in full-time employment are apprentices and trainees, and they deserve a little bit of attention in this House. Tomorrow is a very important day because of two things. Tomorrow is an important day because all of the training ministers throughout Australia will meet in Sydney to consider something extremely important: whether or not in this country we will have uniformity in terms of recognition of apprenticeship training and quality. What that means is that, if you are a parent of a daughter doing hospitality or a son training to be a baker in Victoria, and your child, having done their apprenticeship, wants to move to Queensland or South Australia, then they need to be able to do it and to be recognised in doing so.

At the moment the Australian Labor Party is preventing national uniformity in the training of our apprentices. If the New South Wales labour council can tell the New South Wales government who to appoint to the ACCC, then my challenge to the Leader of the Opposition is to get on the phone to the state Labor governments and implore them, on behalf of the more than 200,000 kids under 25 doing apprenticeships, to move to national consistency. If we do not, then we will not have a future which offers hope and practical training for the young Australians of this country. When we come back to this House I will be able to report, Prime Minister, on whether the Australian Labor Party has been able to put the interests of apprentices and trainees at least alongside the interests of those who are getting a university education, about whom the Labor Party is preoccupied.

Political Parties

Mr Sercombe (3.11 p.m.)—My question is directed to the Minister representing the Special Minister of State. It refers to the affairs of a registered political party under the Commonwealth Electoral Act. Is the minister aware of the failure of the Liberal Party’s shadow treasurer in Victoria, Robert Dean, to be correctly enrolled and thus be eligible to stand for election? Minister, what does it say about the Liberal Party’s ability to manage the Victorian economy if its senior members cannot even manage to be correctly enrolled?

Mr Abbott—Mr Speaker—

Mr Gavan O’Connor interjecting—

The Speaker—I warn the member for Corio!

Mr Abbott—What I can say to the member for Maribyrnong is that this gov-
ernment—and this Liberal Party—believes in equality under the law. That is what we believe in: equality under the law. Certainly, as far as this government is concerned, the gentleman in question should be treated in exactly the same way as anyone else who finds himself or herself in that position would be treated.

Ms Gillard interjecting—

The SPEAKER—I warn the member for Lalor!

Foreign Affairs: Papua New Guinea

Mr Lloyd (3.14 p.m.)—My question is addressed to the Minister for Foreign Affairs. Would the minister inform the House of the steps Australia has taken to establish contact with the new Papua New Guinean government of Sir Michael Somare? What can Australia do to assist with the challenges facing Papua New Guinea?

Mr Downer—I thank the honourable member for Robertson for his question. I particularly appreciate him asking this question because he very recently—I think just last week—led a parliamentary delegation to Papua New Guinea which, amongst other things, met with the Prime Minister of Papua New Guinea. I understand that it was extraordinarily successful so I would like to take the opportunity to thank him for his good work. In terms of contact with the new government in Papua New Guinea, I think the House would be aware that the Prime Minister met with the Papua New Guinean Prime Minister, Sir Michael Somare, during a visit to Papua New Guinea in August.

This evening I leave for Papua New Guinea with a delegation of ministers—the Minister for Defence, the Minister for Immigration and Multicultural and Indigenous Affairs, the Minister for the Environment and Heritage, the Minister for Justice and Customs and the Minister for Finance and Administration—to attend the Australia-Papua New Guinea Ministerial Forum, which will take place tomorrow. This is the 14th of those forums and this will be the 11th visit that I will have made to Papua New Guinea in my time as the foreign minister.

This forum tomorrow is very timely. There is no doubt that Papua New Guinea faces major economic, environmental and also social challenges. I particularly draw the House’s attention to the problems in Papua New Guinea of declining revenue, declining infrastructure and a weakening of government and social institutions. The Australian government is committed to working with a reform minded Papua New Guinean government to assist with and to encourage the process of reform in that country. We know only too well of the importance of Papua New Guinea remaining engaged with international financial institutions and continuing to pursue the process of structural and economic reform that was begun by the last Papua New Guinean government.

I think one of this government’s proudest achievements was the role it played in bringing a civil war in Bougainville to an end. We will, of course, be taking the opportunity to discuss the current situation in Bougainville with our Papua New Guinean counterparts. We will also be thanking the Papua New Guinean government for the constructive role it has played in helping us combat the problem of people-smuggling, by providing a processing centre on Manus Island until October 2003. The role that Papua New Guinea has played has been important in ensuring the success we have had over the last year in dealing with the problem of people-smuggling.

In conclusion, I take this opportunity to express my sympathy for the Papua New Guinean foreign minister, Sir Rabbie Namaliu, who is very well known to many members of this House, as his son was involved in a very serious car accident the other day. Sir Rabbie has accompanied his son to Townsville for medical treatment. He will of course, therefore, not be able to participate in the forum tomorrow. I know I speak on behalf of all members—and I know so many of you know Sir Rabbie—when I say that our sympathy goes to him at this very difficult and trying time. We wish his son a rapid recovery.

Honourable members—Hear, hear!

Workplace Relations: Reform

Mr McClelland (3.18 p.m.)—My question is to the Minister for Employment
and Workplace Relations. Can you confirm that the Australian Chamber of Commerce and Industry has today advocated that employers be given the right to 'opt out' of workplace laws? Do you recall telling the House on Monday that 'this government supports and upholds the rule of law' and repeating today that you believe in the concept of equality before the law? Despite your close links with ACCI, can you guarantee that you will never ever introduce legislation to make some employers exempt from the rule of law, leaving Australian workers to have their pay and their hours of work determined by the law of the jungle?

Mr ABBOTT—I am not across all the detail of the Australian Chamber of Commerce and Industry’s paper, although I should tell the House that I very much welcome the paper. I think it is a very interesting and thoughtful contribution, insofar as I am across it, to the very important workplace relations reform debate in this country. As I understand their proposal, it is not to opt out of the law as such; it is to opt out of a particular form of regulatory framework. They would still operate under the law but they would operate outside a particular framework administered by the Industrial Relations Commission. I do not believe that there is anything particularly remarkable about this suggestion. It is a worthwhile one. It builds on suggestions that have been previously made by the Mines and Metals Association. As with all suggestions that are made in this way, the government will carefully consider it.

Immigration: English Language

Mr KING (3.20 p.m.)—My question is directed to the Minister for Citizenship and Multicultural Affairs. Would the minister advise the House as to what action the government is taking to ensure that new migrants get a head start when settling in Australia?

Mr HARDGRAVE—I thank the member for Wentworth. His commitment to investing in individuals is well acknowledged in his own electorate, which is a culturally and a linguistically diverse part of Australia. It is important, from this government’s point of view, that we strongly invest in individuals upon their arrival in Australia. We strongly encourage the learning of the English language. We give 500 hours of free English classes for humanitarian entrants, and refugees have the option of an extra 100 hours. To obtain citizenship a knowledge of basic English is required. Since its establishment in 1948, the Adult Migrant English Program has helped more than 1.6 million migrants and refugees to this country learn English. Indeed, investing in them helps them in their settlement in Australia. The annual budget is over $100 million, and over six million hours of English language tuition has been provided over the years. The AMEP plays an important role in helping newcomers become active and also accepted members of the Australian family.

The House will be interested to know that we are planning for something like 34,800 new-arrival clients during the current financial year, and this represents an increase of 12.5 per cent over last year. Next year it is expected to rise to approximately 38,800 clients from 180 different countries and 100 different language backgrounds. It is certainly clear that that particular increase we have seen this year is going to be part of an ongoing upward trend, because this government has decided to boost the overall size of the migration program. In the past year, the Adult Migrant English Program—a showcase program of investment in individuals—has improved its overall reach to eligible clients by 6.4 per cent, from 68.8 per cent in 2000 to over 75 per cent in 2001. Tomorrow here in Canberra I will be officially opening the annual conference of the Adult Migrant English Program. ‘Change and continuity’ is the conference theme, and 200 AMEP teachers and service providers will be investing three days in enhancing their already quite profound skills to improve the delivery of this important program.

In the last 18 months those who are part of the Adult Migrant English Program have been able to access an Australian citizenship course, which has been linked to the AMEP. The ‘Let’s participate: a course in Australian citizenship’ program has been very popular. All prospective candidates have been able to access information about that through a
booklet entitled *What it means to be an Australian citizen*. This gives them a brief overview of what many of us perhaps take for granted—the way this country runs, our traditions, our institutions, our system of government and what it means to be an Australian citizen. As I have said on many occasions, citizenship is the glue which binds our culturally and linguistically diverse society together. It is important that all of us in this place—indeed, all of us in public life—at this time in our nation’s history, and indeed in the world’s history, be wise in the words we choose and seek to be part of the unity ticket rather than the ticket of division. It is important that all of us provide that leadership.

*Opposition members interjecting—*

**Mr HARDGRAVE**—When I note comments, motions and efforts by some members opposite—comments by the member for Rankin, a motion by the member for Fowler, claims by the member for Greenway about migrant resource centre funding at Blacktown, and comments by the member for Reid about migrant resource centre funding at Parramatta—I know that those opposite are all too often part of the business of division rather than unity, part of the business of attempting to make people feel awkward and unwelcome in Australia. It is important that the government’s investment in individuals produces real results. All I ask those opposite to do is join the unity ticket of welcoming all people who come to this country through the migration system and to recognise the government’s commitment to the investment in those people to produce great outcomes for people of all backgrounds in this country.

**Rural and Regional Australia: Drought**

**Mr WINDSOR** (3.24 p.m.)—My question is to the Prime Minister. Is the Prime Minister aware that north-western and New England cattle producers are starting to shoot their breeding stock, others are removing calves from their mother at birth to assist the survival of the females, and seven drought related suicides have occurred in the past month? What steps is your government taking to help these producers who are not recognised under current exceptional circumstances arrangements?

**Mr HOWARD**—I have heard of those reports. In the past few days that issue has specifically been raised in quite a lengthy personal discussion with me by the Deputy Prime Minister. In fact, the Deputy Prime Minister has been at the forefront of bringing to my attention the importance of preserving the breeding herds and breeding stock of this country as it is faced by the drought. The availability of exceptional circumstances depends upon a number of factors. Those factors are a measurement of the severity of the drought as it affects particular areas. I think the member will know that exceptional circumstances applications are initiated by state governments. I imagine that he, as the member for New England, would have been in close and immediate contact with the New South Wales government to ensure that, if there are exceptional circumstances conditions existing in parts of his electorate, the appropriate action is taken—and speedily—by the New South Wales government. I shall undertake to the House to make inquiries as to whether any applications covering his electorate have come from the New South Wales government.

Let me more generally assure the House that, because my attention was drawn to this issue by the Deputy Prime Minister and Leader of the National Party earlier this week, I have already asked in discussion with my colleagues that consideration be given to this issue. I also had the opportunity of discussing the matter with the leadership of the National Farmers Federation on Tuesday night. I drew attention to the action that had been taken by the Fraser government 20 years ago during the 1982 drought to preserve the breeding stock and the valuable asset that it represented. It provided a capacity for the Australian economy to come out of that drought, when it did rain, very effectively.

I can assure the honourable member that, if additional steps are needed, they will be taken. I have to say that the reaction I got from the National Farmers Federation was that, broadly speaking, there was not overwhelming evidence that a specific program at this stage for the preservation of breeding stock was needed. It is an issue that is very
much in my mind, largely due to it having been brought to my attention by the Leader of the National Party.

**World Diabetes Day**

Mrs MOYLAN (3.28 p.m.)—My question is to the Minister for Ageing representing the Minister for Health and Ageing. Today is World Diabetes Day. Could you outline for the House the government’s policies in relation to the prevention and treatment of diabetes?

Mr ANDREWS—As the honourable member for Pearce indicates in her question, today is World Diabetes Day, a day recognised by the International Diabetes Federation in collaboration with the World Health Organisation. It is important because it is estimated that some 350 million people worldwide suffer from diabetes. I take this opportunity to commend the honourable member for Pearce, along with other members of this House, including the member for Blair and the member for Lyons, for their work to prevent diabetes.

It is estimated that one in 13 deaths in Australia are due to diabetes or diabetes-related illnesses. Therefore, it is a major issue in the health of our community. Indeed, it has been estimated that some 400,000 Australians have undiagnosed diabetes. So questions about awareness of the existence of the condition for individuals and prevention through more exercise and better diet are extremely important in dealing with it.

In the last year the Howard government introduced the $76 million National Integrated Diabetes Program, which is a world first program to improve care of people with diabetes through their general practitioner. A new National Diabetes Services Scheme agreement between Diabetes Australia and the Commonwealth government helps diabetics to access essential products at subsidised rates. Indeed, in the last financial year diagnostic agents and insulin were subsidised by $232 million on the Pharmaceutical Benefits Scheme. Just last month, the health minister announced a further $2 million to fund a program of research, health information and intervention aimed at raising awareness and reducing the burden of type 2 diabetes in Australia.

The message of today, World Diabetes Day, is that diabetes is not a trivial condition; in fact, it is a hidden killer in our society. It has potentially dangerous and serious complications for those who are suffering from it. I encourage all people who have not had the simple test for diabetes to go to their GP and have that simple test, because, as I said, it is estimated that there are some 400,000 Australians who have diabetes and are unaware of the condition.

Mr Stephen Smith—On indulgence, as shadow minister for health, I compliment the minister on drawing attention to World Diabetes Day and also compliment the member for Pearce on her work heading up the parliamentary group on diabetes. I would like to associate myself with the remarks of the minister and, on behalf of the opposition, underline the point that diabetes is one of those health areas where prevention and screening can do a lot to ensure not only better individual health but also better health outcomes for the nation.

Honourable members—Hear, hear!

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

**QUESTIONS WITHOUT NOTICE:**

**ADDITIONAL ANSWERS**

**Taxation**

Mr COSTELLO (Higgins—Treasurer) (3.32 p.m.)—Mr Speaker, I seek the indulgence of the chair to add to an answer.

The SPEAKER—The Treasurer may proceed.

Mr COSTELLO—The new tax rates from 1 July 2000 reduced Labor’s tax rate of 20 per cent to 17 per cent; Labor’s tax rates of 43 and 34 per cent to 30 per cent; and Labor’s tax rate between $50,000 and $60,000 from 47 per cent to 42 per cent. I table the comparison of the new tax rates.

I also indicated in relation to family allowance that this government had increased the free area, it had also increased the threshold maximum—that is, pushed it out so that more people became eligible—and that it had continued the Labor Party’s re-
bate, which was right, but I may have given the impression that the Labor Party’s withdrawal rate was 30 per cent, as it is under the new tax system. In fact, the Labor Party’s withdrawal rate was 50 per cent, so that on average weekly earnings the combined tax rate and withdrawal rate—that is, adding the two together—under the Labor Party was 93 per cent. I would not want the House to be misled about that.

PERSONAL EXPLANATIONS
Mr McMULLAN (Fraser) (3.33 p.m.)—Mr Speaker, I wish to make a personal explanation.

The SPEAKER—Does the honourable member claim to have been misrepresented?
Mr McMULLAN—Yes.

The SPEAKER—Please proceed.

Mr McMULLAN—The Treasurer in an answer today asserted that the document which I tabled was misleading. He asserted that it said that the tax take in the year in which the Treasurer was elected was less than the tax take now. The document which I tabled said no such thing. That is quite untrue. The rate in 1995-96 was 16.4 per cent; this year it is 17 per cent.

Mr COSTELLO (Higgins—Treasurer) (3.34 p.m.)—Mr Speaker, I wish to make a personal explanation.

The SPEAKER—Does the honourable member claim to have been misrepresented?
Mr COSTELLO—Yes, by what was just said.

The SPEAKER—Please proceed.

Mr COSTELLO—As I said in an answer, and as the table shows, in 1996-97 the income tax to GDP ratio was higher than it is today, notwithstanding the fact that there are one million additional people in the work force and paying tax.

QUESTIONS TO THE SPEAKER
Questions on Notice
Mr MELHAM (3.35 p.m.)—Mr Speaker, pursuant to standing order 150, I request that you write to the Minister for Foreign Affairs seeking reasons for the delay in answering question No. 635 under my name, which has been on the Notice Paper since 19 August 2000.

The SPEAKER—I will follow up the matter raised by the member for Banks as the standing orders provide.

PERSONAL EXPLANATIONS
Mr STEPHEN SMITH (Perth) (3.35 p.m.)—Mr Speaker, I wish to make a personal explanation.

The SPEAKER—Does the honourable member claim to have been misrepresented?
Mr STEPHEN SMITH—Yes, by the Treasurer in question time.

The SPEAKER—Please proceed.

Mr STEPHEN SMITH—This was the same misrepresentation that the Minister for Health and Ageing made yesterday, which I corrected. The Treasurer said that I had described the private health rebate as a ‘public policy crime’. What I have said is that, irrespective of the merits or otherwise of the private health insurance rebate, it was a public policy crime for the government to introduce it without requiring cost or health outcomes on the part of the private health industry or the private hospital industry.

Mr BEAZLEY (Brand) (3.36 p.m.)—Mr Speaker, I wish to make a personal explanation.

The SPEAKER—Does the honourable member claim to have been misrepresented?
Mr BEAZLEY—Yes.

The SPEAKER—Please proceed.

Mr BEAZLEY—During question time the minister for education said that no member of the opposition had asked him a question about the issues of apprenticeships and traineeships in the entire time he had been a minister. As a person in the opposition who has asked him a question along those lines, I have been misrepresented. I asked him a question on 27 August; it had five parts to it. A ream of statistics have been introduced. The one thing that is interesting about it is that completion rates—
Ms BURKE (Chisholm) (3.37 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Ms BURKE—Yes.

The SPEAKER—Please proceed.

Ms BURKE—In today’s Herald Sun I have been accused of being the ‘invisible woman’. If conducting my regular mobile offices to keep in touch with my 85,000 constituents has resulted in one printing error, I apologise, but I can assure the House I was very visible in the Surrey Hills shops on 8 November.

Ms Macklin interjecting—

The SPEAKER—The member for Jagajaga, by any measure, has been a persistent interjector today. I ask her to desist. I want to point out to the member for Chisholm that, as the Speaker, I was unaware of where she had been misrepresented and for that reason it would be helpful, for the sake of the Hansard record—I am accommodating her with an indulgence not normally granted—if she would indicate where she was misrepresented.

Ms BURKE—Thank you. In today’s Herald Sun in Victoria, Terry Brown wrote that I was the ‘invisible woman’.

The SPEAKER—I thank the member for Chisholm for that explanation.

QUESTIONS TO THE SPEAKER
Parliament House: Security

Ms HALL (3.38 p.m.)—Mr Speaker, a number of staff members have approached me about the current security screening procedures for staff, in particular the security arrangements for card holders. The concerns that have been raised relate to the lack of trust in staff and the potential security risk because members and senators are not screened. Could you investigate this? The staff find it particularly demeaning that they have to put lunch boxes, briefcases and luggage through for screening, particularly when travelling interstate. They believe that if there is genuine concern about something being put into their property, then that risk is also there for members and senators. The concern is that there does not appear to be equitable treatment when staff are trusted to such an extent that they have been issued with a photographic pass. It is felt that, if there is security screening for those photographic passes, that in itself should be sufficient. They also refer to the fact that members and senators do not get preferential treatment at airports, where they still have to be screened in the same way. So there are two issues that the staff are raising: one, that members and senators could be potential security risks unknowingly, with someone placing something in our bags or luggage; and, two, that they are screened and trusted to work in this building and there should be some equality in the way they are treated. Mr Speaker, your answer would be greatly appreciated, not only by me but by the staff of many members on both sides of the House.

The SPEAKER—As the member for Shortland is aware, the question of the security of the building is under active review right now and a number of steps have been taken to enhance security. I do not take issue with the things the member for Shortland has raised except to point out that the photographic passes are not only issued to staff, and that is one of the reasons for the screening. I would also add that, in common with a number of my colleagues, I always put all of my hand luggage through the screen so that, should it be necessary for all members to do that, no-one will have cause for complaint. The matter is currently under review.

PERSONAL EXPLANATIONS

Ms PLIBERSEK (Sydney) (3.43 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Ms PLIBERSEK—Yes.

The SPEAKER—Please proceed.

Ms PLIBERSEK—I was misrepresented today by Piers Akerman in the Daily Telegraph. He said today in his column that the member for Fowler and I intentionally ignored the tragic terrorist attack at Kibbutz Metzer when we spoke about the conflict in the Middle East on Monday. I very clearly said that I deplore violence on both sides in
the Middle East conflict. We did not know in Australia about this tragic attack; it did not appear in the newspapers until the following day and, indeed, it did not appear in the Telegraph until Thursday. I would like to put that on the record.

PAPERS

Mr McGauran (Gippsland—Deputy Leader of the House) (3.44 p.m.)—Papers are tabled as listed in the schedule circulated to honourable members. Details of the papers will be recorded in the Votes and Proceedings and I move:

That the House take note of the following papers:


Debate (on motion by Ms Macklin) adjourned.

Mr McGauran (Gippsland—Deputy Leader of the House) (3.45 p.m.)—I present papers on the following subjects, being petitions which are not in accordance with the standing and sessional orders of the House:

Requesting an end to detention of asylum seekers and temporary protection visas—from the member for Warringah—287 Petitioners

Requesting no Australian involvement in military action against Iraq unless authorised by the United Nations—from the member for Dunkley—287 Petitioners

SPECIAL ADJOURNMENT

Mr McGauran (Gippsland—Deputy Leader of the House) (3.45 p.m.)—We are missing the Leader of the House at this particular moment.

Opposition members interjecting—

Mr McGauran—Yes, it leaves a giant hole at this dispatch box when the member for Warringah is not here. I move:

That the House, at its rising, adjourn until Monday, 2 December, at 12.30 p.m., unless the Speaker fixes an alternative day or hour of meeting.

Question agreed to.

MINISTERIAL STATEMENTS

Indigenous Education and Training Report 2001

Dr Nelson (Bradfield—Minister for Education, Science and Training) (3.46 p.m.)—by leave—It is with mixed emotions that I table the National report to parliament on Indigenous education and training, 2001. The report is a baseline—the first in a series of annual reports required under the Indigenous Education (Targeted Assistance) Act 2000.

In 1997 this government introduced improvements to the Indigenous Education Strategic Initiatives Program to enable the collection of data on Indigenous education outcomes. Additionally, in 2000, the Prime Minister launched the $27 million National Indigenous Literacy and Numeracy Strategy to address and improve literacy and numeracy outcomes for young Indigenous Australians. As a demonstration of this government’s commitment to working with Indigenous families, communities, states, territories and education providers to address Indigenous disadvantage, a requirement to report nationally on Indigenous education outcomes was included for the first time in legislation in 2000 through the Indigenous Education Act.

This report is an account of what happened—both in terms of recognised national data collections and as reported by preschool, school and vocational providers of education and training, funded under the Indigenous Education Strategic Initiatives Program. It incorporates relevant higher education data from institutions funded through the Indigenous Support Funding Program. The report acknowledges that there are Indigenous students who are successfully achieving outcomes commensurate with their non-Indigenous counterparts. Their attainments reflect their commitment and determination to achieve. This report is an important statement to record these successes.

This report is comprehensive and seeks to present a holistic picture of Indigenous education and training in Australia. It is a significant statement of this government’s desire to signal two imperatives of modern
education. First, Indigenous education should receive national support and the highest priority. This is fundamental to equal opportunity for all Australians. Second, this report appreciates that all levels of government, in partnership with Indigenous Australians, share the challenges of improving educational outcomes—and the learning environment—for Indigenous communities. However, the report records the significant challenges ahead to improve Indigenous education and training. While there are Indigenous students who, in the face of significant adversity, are able to achieve at levels comparable to their non-Indigenous counterparts, they are still a minority. Despite improvements, serious gaps between Indigenous and non-Indigenous outcomes remain in a range of important areas.

Retention to year 12 was 30.6 per cent in 1995. This increased to almost 36 per cent in 2001, but this is still less than half the rate of 76.2 per cent for non-Indigenous students in 2001. In 2000, 76.9 per cent of Indigenous year 3 students achieved the national reading benchmark—up from 73.4 per cent in 1999. This is promising, but further improvement still is needed. The year 2000 was the first year of reporting against national numeracy benchmarks: 73.7 per cent of Indigenous year 3 students achieved the benchmark, compared with 92.7 per cent of all Australian students. These results should be of particular concern to all Australians. The average attendance rates of Indigenous students are almost invariably lower, no matter what their level of schooling, and are a matter of great concern.

In his 1999 independent review of Indigenous education in the Northern Territory, the Hon. Bob Collins found unequivocal evidence of deteriorating outcomes, led primarily by poor school attendance. This has to change. All parents, Indigenous and non-Indigenous, are responsible for getting their kids to school—not just in the Northern Territory, but all over the country. Despite significant improvements in recent years, disparities are also evident for Indigenous Australians in the vocational education and training and higher education sectors. Participation by Indigenous Australians under 25 in vocational education and training has risen by 73 per cent, from 13,454 people in 1996 to 23,290 in 2000. Overall module completion rates for Indigenous vocational education and training students are up, from 64.8 per cent in 2000 to 65.7 per cent in 2001, but they remain significantly lower than the rate for their non-Indigenous peers of 78.1 per cent. In the five years from 1996 to 2001, the number of Indigenous students in undergraduate education rose by 15.8 per cent; they now represent 1.5 per cent of commencing university students.

However, there is still a significant gap in the rates at which Indigenous and non-Indigenous university students progress through and complete their courses. This year the Commonwealth will provide around $445 million to improve specifically the learning outcomes of Indigenous Australians. This covers direct assistance programs, higher education support and vocational education and training infrastructure for Indigenous people. Key aspects of this funding to leverage outcomes for Indigenous people include an estimated $183.7 million for Indigenous school and tertiary students through Abstudy—in 2001 this assisted some 50,451 Indigenous students; and $167.9 million, which includes funding for the National Indigenous Literacy and Numeracy Strategy—targeting literacy, numeracy and school attendance—plus supplementary per capita funding to preschool, school and vocational education and training providers under the Indigenous Education Strategic Initiatives Program, or IESIP as it is known.

IESIP funding, in particular, contributes to closing the gaps about which I have spoken and accelerating the rate at which Indigenous outcomes meet those of other Australians. It does this through some 200 Indigenous education agreements with education providers around the nation. The agreements from 2001 to 2004 include performance indicators with annual targets for improvement. As a result, we are now collecting comprehensive information on Indigenous education. The collection of this data, and its publication, will be an annual measure of our progress. The major challenge ahead will be to better
work together to address the educational disadvantage faced by Indigenous Australians.

I wish to acknowledge all the hard work being done by those people who refuse to let their aspirations for real improvements for Indigenous students be overwhelmed by the job ahead and the constraints of the past. These people are making a real difference by contributing their professional expertise to modern and innovative approaches to Indigenous education and training. They include those at the coalface—principals, teachers, lecturers and administrators—many of whom I have had the privilege to meet in my capacity as Minister for Education, Science and Training.

With just one year of formal education in his early teens, the late Neville Bonner became the first Aboriginal person to sit in federal parliament, as a senator for Queensland from 1971 to 1983. He later acknowledged that one year of formal education for him was a life-changing experience made possible by his grandmother, who instilled in him a desire to be able to read and write and the values by which he lived his life. Neville said, towards the end, that his grandmother ‘always said that courtesy and respect cost nothing but paid great dividends’. His legacy shows this to be true. In his first speech in parliament on 8 September 1971, Neville Bonner was keenly aware of his lack of formal education. He said:

I feel overawed by the obvious education of honourable senators within this august chamber ... I have graduated through the university of hard knocks. My teacher was experience.

When asked by Robin Hughes, in reflecting on his life, to nominate his greatest achievement, Neville Bonner said:

... that I was there. They no longer spoke of boongs or blacks but of Aboriginal people.

If the next generation of Indigenous Australians is ‘to be there’, if they are not to feel what Neville felt that day and be forced to climb the same mountains, the key is education and training. We must work to ensure they have been equipped with the capacity to choose a diverse range of pathways to achieve their goals.

This report aims to present its account in a way that is sensitive to the incredible diversity of circumstances that impact on the lives of Indigenous Australians and on those who deliver educational services to them. I use the word ‘sensitive’ not with any special pleading. Sensitivity should reflect the fact that the report is unique in the complexity of its subject matter. The report states the facts without presuming that solutions can or should be dictated from a national level. Whilst we need to set our goals and broad directions in a national sense, these need to accommodate, support and motivate delivery of diverse local strategies developed in partnership with Indigenous communities. Diversity used to be seen as a barrier in this country; today we recognise it as an opportunity.

The report findings show that positive change has been recorded and Australian educational communities have recognised the issues. Positive things are happening where Indigenous people have assumed responsibility for managing their own affairs and where government has been able to respond in a way that supports what they have set out to do. This is the essence of the whole-of-government approach that we have initiated. We aim to establish successful partnerships with Indigenous communities and regions and to manage existing programs and targeted services in a more coordinated and flexible way. Education and training programs will be an integral part of the approach in the selected communities and regions.

In his Northern Territory review, Bob Collins noted the repeated observation from Indigenous elders that they were more literate than their children and their grandchildren. As one of the longest living cultures in the world, lifelong learning is a valued tradition in Aboriginal and Torres Strait Islander cultures and societies. We will need to value and build upon those rich traditions if our partnerships with Indigenous communities are to be effective. Preschool, school, and vocational education and training providers funded through one of those programs, the Indigenous Education Strategic Initiatives Program, have not so far had the chance to look closely and realistically at their own
progress in a national context. This report provides them with the chance to compare others’ achievements and strategies, to explore the nature and quality of their own contribution to this national picture and, if need be, to refine or re-work them.

In presenting this report to you, it is important to clarify that it is not a general review of Indigenous education and training. It does not develop a new set of aims or future directions for Indigenous education and training. These are clearly set out in the national Aboriginal and Torres Strait Islander education policy, which came into effect on 1 January 1990. Endorsed by state, territory and Commonwealth governments, the policy over the last 12 years has proven its mettle. It has survived a succession of governments at all these levels, and it maintains a high degree of bipartisan support to this day.

The report gives an account of the educational outcomes achieved within a variety of educational and social contexts. It describes the great variety and diversity of provider groups or units as well as the diversity between sectors, which is even greater. This diversity limits the capacity to make judgments and comparisons between providers and sectors. This report is important in providing observations and comments on how outcomes are achieved in addition to the outcomes themselves. This is fundamental to building an inclusive and fair educational system.

The report cannot tell the whole story of the intricate factors influencing Indigenous education and training in 2001. However, over time successive reports will pay greater attention to trends and progress. How we address the serious inequities that exist will be a true measure of the success of our education and training systems. In conclusion, we should judge our progress in education not only by our ability to pursue a culture of excellence in research, innovation and higher education but also by the extent to which advances can be made for those Australians whose educational life horizon remains far too limited. I present the following report:


Ms MACKLIN (Jagajaga) (4.00 p.m.)—by leave—The National report to parliament on Indigenous education and training, 2001, released today, does paint a very disturbing picture. It makes plain just how poorly Indigenous Australians are faring in our schools, our TAFEs and our universities. The Minister for Education, Science and Training has talked about some of the problems, but unfortunately he has told only part of the story. While some Indigenous Australians are achieving great things in our education system, the report makes it very clear just how big the odds stacked against them are. Last year almost two-thirds of Indigenous children dropped out of school before year 12. Our national school retention rate, where just 73 per cent of students complete year 12, is already unacceptably low. But no developed country in the 21st century should accept a situation where just 38 per cent of Indigenous students stay on to year 12.

Even when Indigenous students are at school, the report makes it clear that they are not reaching the standard of education people need to survive and prosper. The minister referred to year 3 reading results; he should have also told us of the results for year 5. By year 5 most children should be able to read newspapers, magazines, junior novels and book chapters—skills that are pretty basic to continuing their education. But in 2000 less than two-thirds of Indigenous students at year 5 level reached the basic reading benchmark. What the minister should have told us is that the picture is far worse in the Northern Territory, where just 34 per cent of Indigenous students satisfied the benchmark. When you go outside the cities and major urban centres, the situation deteriorates rapidly.

In his 1999 review of Indigenous education in the Northern Territory, Bob Collins found that just four per cent of Aboriginal children in year 5 could read to the standard of the national benchmark. Among year 3 Indigenous children for whom English was a second language, that number fell to just two per cent. This means that in 1999 almost all Aboriginal children growing up in the Northern Territory’s outback could not read to the basic standards we as a country expect. It is
pleasing to note that Bob Collins is now working with the Indigenous community in the Northern Territory to try to bring about the urgent change which these figures desperately call for.

Of course, for a lot of Indigenous students and their families half the battle is just getting to school. Last year the Australian Bureau of Statistics found that less than 20 per cent of Indigenous communities had a school offering year 10 nearby. Barely one in 10 communities had—or were close to—schools which offered year 12. For a substantial number of Indigenous communities—44 per cent—the closest year 12 school was more than 100 kilometres away. So the scale of odds stacked against Indigenous students is incredible. Even when they leave school to undertake further education and training, the situation of Indigenous students is far worse than that facing other Australians. The rate at which they are entering vocational education and training has dropped significantly in the last six years.

In 1996 the rate of growth in Indigenous student enrolments in vocational education and training was 20 per cent. By 2000 it had dropped to less than two per cent, before recovering to 12 per cent last year. Even though 58,000 Indigenous Australians were enrolled in vocational education and training in 2001, they still made up just three per cent of the total student population—and they are not attaining the same level of training and education as their non-Indigenous counterparts. Nearly one-third of these Indigenous students are enrolled in courses that are generic rather than providing vocational skills, and 90 per cent are training below the AQF certificate III level. Furthermore, just 66 per cent of Indigenous students are considered to have achieved successful training outcomes, compared with 80 per cent for all students in vocational education and training. Even when they do succeed in their vocational training, the path to employment is not easy for Indigenous Australians. They are 10 per cent less likely to get work than other graduates of vocational training.

One of the most disturbing findings regarding Indigenous education is the fact that the number of Aboriginal Australians embarking on university studies dropped by almost 15 per cent between 1999 and 2001—winding back to levels not seen since 1995. This is a major step backwards for the Indigenous community and for all Australians. It is through higher education that many Indigenous leaders of the future will develop the skills and knowledge required to succeed. The reason for the dramatic decline in Indigenous student enrolments is no mystery. A study conducted in 1999 by Deakin University on behalf of the Aboriginal and Torres Strait Islander Commission warned that planned changes to the Abstudy scheme would undo years of hard work building up Indigenous participation in higher education. The study found that the proposed changes would undermine the Abstudy scheme, rendering 94 per cent of Indigenous students worse off.

This government has ignored that warning and, instead of improving Abstudy, pushed ahead with changes that have resulted in thousands of Indigenous students paying the price with the loss of their education and their future. Even if Indigenous Australians overcome all the barriers placed in the way of their education—inaccessible schools, low levels of literacy and numeracy, poor retention rates, inadequate financial support—and get to university, there are very few role models for them to emulate. At present, there are only 550 Indigenous staff in our universities—less than one per cent of all employees. This is a third of the number that should be there if our universities are to be truly representative of the communities in which they are based. Such small numbers mean there are few role models or mentors for those Indigenous Australians willing and able to overcome all of the barriers they face to a university education, not least lengthy separation from their families and communities.

Labor does support the formation of the National Indigenous Higher Education Advisory Committee as a first step to addressing the many serious problems highlighted by this report. The committee will give Indigenous Australians a role in developing solutions, but it must be backed up by urgent action. There is no question that these studies
are important, but it is action that is needed now if we are to get an improvement in educational outcomes for the Indigenous community.

Mr SNOWDON (Lingiari) (4.09 p.m.)—by leave—Firstly, can I thank both the Minister for Education, Science and Training and the shadow minister, the member for Jajara for their remarks in relation to the tabling of the National report to parliament on Indigenous education and training, 2001. I am sorry that I have not had an opportunity to read the document, but I have had an opportunity to scan it and I did listen intently to the comments made by the minister and the shadow minister. I just want to make a couple of remarks in relation to the appalling state of education for Indigenous people of the Northern Territory. The minister and shadow minister will be aware, as will members of this House, that this is not a new subject to me when discussing the concerns I have with regard to Indigenous education, but I want to make a couple of points. The first is that the minister referred to the Collins report in which Bob Collins said he:

... found unequivocal evidence of deteriorating outcomes, led primarily by poor school attendance.

He then said:

This has to change. All parents, Indigenous and non-Indigenous, are responsible for getting their kids to school—not just in the Northern Territory, but all over the country.

Minister, broadly speaking, I concur—but there is a fundamental problem. For most students in the Northern Territory who live in isolated communities, if you are older than 13 or 14, school is not an option. I have used these figures before and I have yet to validate them but, frankly, it is worth pointing out that there is somewhere between 3,000 and 4,000 young people between the ages of 13 and 18 in the Northern Territory who have no access to high school.

On the one hand, I accept that it is important that parents take an interest in their children’s education. But the facts are that, since self-government was introduced in 1978, and since the Commonwealth transferred responsibility for education to the Northern Territory government, successive CLP administrations in the Northern Territory sadly did not pay sufficient attention to Aboriginal education—indeed, Minister, to the point where you will recall that, when the Labor government came to power last year, one of the first things they did was sign an outstanding IESIP agreement with you. That was because the previous CLP administration had been most obdurate, as it had been over successive years, in coming to an agreement with the Commonwealth about the terms and conditions of these grants. They knew, Minister—as you would know from reading the Collins report—that, in instances of grants made to the Northern Territory for IESIP, in excess of 40 to 50 per cent of moneys were appropriated by the then Northern Territory government for its own purposes. That clearly raises significant concerns. We have to be very careful that we do not put ourselves in a position where we are blaming the victims for the results of poor administration and poor public policy. The facts are that, in the context of the Northern Territory—and indeed I say this with all the graciousness I can muster—it is not only the Northern Territory government that is responsible for this; it is, of course, also successive Commonwealth governments, including Labor governments.

I also want to point to the fact that the testing regimes which are used are not always appropriate. They are indices of a test that is applied across the board, but they may not be indices of the competencies of children in their home environments using culturally appropriate material. I think it is extremely important that we understand that, across the Northern Territory, there are particular circumstances which prevail in relation to young people. English is their second or third language, and I note that there is no testing of literacy in their first language. I also note that, in the context of the development of educational outcomes for Indigenous students, in the Northern Territory the bilingual education program, which had been initiated prior to self-government by the Commonwealth government and which was very successfully in place for many years, was abolished by the previous CLP administration.
There are real issues here about the nature of the curriculum. There are the issues of what languages are used in the schools, what materials are available to students to be used in schools and whether or not those materials are culturally and socially appropriate. Whilst I accept the appalling outcomes that this document indicates and I know that they are true, the fact is that we need to contemplate different forms of testing. We need to understand that, in many schools in the Northern Territory, the people who are responsible for delivering the education services themselves, prior to moving to these communities, had no understanding of the cultures or the circumstances of the people they are going to be working with. That, fundamentally, is a real issue because pedagogy requires a fundamental understanding. If the teacher does not understand the culture and the language of the children that he or she is working with, then his or her ability to transfer knowledge is of course impeded.

Very significant issues are raised by this document. Another issue which needs to be contemplated—which this document will not contemplate because it is not required to contemplate it—is the abject poverty that many people in Indigenous communities find themselves in. It is little wonder that young students find it difficult to achieve at school if, as in many cases, they live in circumstances of 15 to 20 people in a three-bedroom house and if they go to school hungry. There is a whole range of circumstances which these documents do not contemplate and do not comment on. While I applaud the minister for his frank assessment this afternoon—and indeed the shadow minister—this goes a lot deeper. If we are to really address this issue, we have to understand the root cause of poverty, we need to contemplate the relationship between health and education, and we need to understand our responsibilities as legislators and as public policy makers to ensure that there are sufficient funds available to attract teachers of sufficient capacity and understanding to work in these communities.

While I have made comments about a lot of teachers who are first year out and go to these places without any knowledge or experience of the cultures with which they are going to work, the bottom line is that there are also many dedicated professionals who are working their backsides off in these Indigenous communities without a lot of support. I am pleased to have had this opportunity to speak to this report and say to the minister that I would be happy to engage with him and with the shadow minister in a bipartisan way to make sure that we have—

Opposition members interjecting—

Mr Snowden—I understand what you are doing, but this happens to be a very important issue to me and a fundamentally important issue to Australia. If we are really concerned and interested in ensuring that Indigenous Australians are able to have a better life and the diversity of choices which the minister refers to in his speech, we have to give them a fundamental choice and a right to education. We will only do that when we address the issues I have raised this afternoon.

Miss Jackie Kelly (Lindsay—Parliamentary Secretary to the Prime Minister) (4.17 p.m.)—I move:

That the House take note of the paper.

Question agreed to.

Debate (on motion by Ms Macklin) adjourned.

Matters of Public Importance

Telstra: Privatisation

The Deputy Speaker (Mr Jenkins)—The Speaker has received a letter from the honourable member for Melbourne proposing that a definite matter of public importance be submitted to the House for discussion, namely:

The Government’s, including the National Party’s, support for the full privatisation of Telstra.

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) (4.18 p.m.)—What a big week it has been in communications. We have had two sham inquiries, we
have had the Democrats caving in to the government and handing a giant free kick to Telstra at the expense of Australian consumers by letting their huge line rental increases through the Senate, we have had confirmation from the government that the sale of the rest of Telstra will have a significant negative effect on the budget and we have had the final confirmation from the Prime Minister and the Treasurer, backed up by the Leader of the National Party and Deputy Prime Minister, that none of the proceeds of the sale will be invested in major environmental or infrastructure programs.

On Friday the Estens inquiry report was handed down. You may recall when the inquiry commenced that Labor said it was a sham, with National Party mates given a couple of months to report and not even holding any public hearings. Believe it or not, the findings of the inquiry emphatically confirmed our assessment. They are so far removed from reality that National Party members of parliament are shaking their heads, biting their nails and, indeed, assessing their superannuation packages because this inquiry is a complete cave-in to the Liberals. It was designed to be a face-saver for the National Party and it has not even managed to be that.

Throughout the report, the Estens inquiry accepts every claim that Telstra makes about its network and its services and about what it is doing or is going to do without any serious scrutiny or questioning. It accepts Telstra’s claim that its customer improvement network database—a backlog of faults of immense proportions—is just low-grade routine maintenance tasks. It accepts Telstra’s claim that the $187 million announced for spending in regional Australia in July this year is extra money when in fact it is just normal routine funding that is part of their broader program. It accepts Telstra’s claims that the Seal the CAN debacle, which has seen enormous faults and maintenance burden problems throughout Australia, is just a minor problem that is being dealt with.

It accepts Telstra’s claims that it has new plans that will overcome the problems with its director and service, plus methods of directing work. So the bad old days we are currently living with—where you get two Telstra technicians driving past each other on the road going to and from two fault tasks that are roughly in the same area and spending hours in wasted travel time—are about to end. It accepts Telstra’s claims that it is going to reduce the amount of time it takes to install payphones. It accepts Telstra’s claims that dial-up Internet drop-out problems are not really an issue in regional Australia, that Internet access is just as good in dial-up terms as it is in metropolitan Australia. And it accepts Telstra’s assertions that $800 million less of capital investment this year than three years ago—a steady decline—and 4,000 fewer staff servicing customers in Telstra’s network have had no impact on Telstra’s services.

It also takes Howard government claims at face value. It accepts that Networking the Nation and the National Communications Fund have delivered major benefits for telecommunications throughout Australia, without any cost-benefit analysis and without any serious scrutiny of these piecemeal, inefficient and politically driven programs. It even claims that ADSL prices in Australia are broadly comparable with the rest of the OECD. It says that there are studies which show this, except that it does not cite them. The only study I know of, done by Macquarie Bank recently, says that our ADSL prices are 30 per cent higher than the equivalent in the United States and the United Kingdom.

The survey by the Estens inquiry ignores critical issues. In terms of the future of 3G mobile, there is not a mention. Complex mobile phone contracts with consumers getting conned do not get a mention. The impact of download limits on Internet access and the prices people have to pay as a result are not effectively considered. Drop-outs for dial-up Internet in regional Australia are virtually ignored. The effect of Telstra price increases on school Internet access; deregulation of mobile phones under the government’s price controls; consumer organisations walking out of consumer protection arrangements, like the Australian Communications Industry Forum, because of poor consumer protection processes; declining investment by Telstra in
the network; and declining staff—all of these issues are totally glossed over by the Estens inquiry, virtually ignored and in some cases not mentioned at all.

The inquiry says that it is not supposed to consider the potential sale of Telstra. It is not supposed to express a view on whether this is a good thing or a bad thing. It does, however, deal with some possibilities and express some views about things, such as a golden share arrangement, which implicitly assume that Telstra will be sold. On the one hand it says it is not going to consider the question of selling Telstra but it then proceeds to look at recommendations that implicitly are based on Telstra being sold. If you want to see where golden shares lead you, look at what has happened in New Zealand in the last week or so where Telecom New Zealand Ltd, the Telstra equivalent, has indicated that it is seeking to charge remote customers up to $4,000 per connection. It wants to charge people on a market basis. That is where privatisation ultimately leads you. In the Senate on Monday, Senator Alston held forth at some length about the joys and the beauties of the Estens inquiry and then subsequently admitted that he had not read it. That was a great endorsement for the government’s sincerity and its commitment to regional telecommunications. He is so sincere about it he did not even bother to read the report. He knew what was going to be in it from the start: a total whitewash to get the National Party off the hook. It ignores critical evidence; it ignores the facts. It did precisely what it was set up to do.

During question time over the past few days we have sighted a few examples of submissions to the Estens inquiry. The Minister for Science has mocked the examples and said that they are selective and not really representative. I want to quote a few to indicate how selective they are. These are some of the examples that were not raised. We have the family from Wilmington in South Australia complaining of Telstra having lines across their lawn which have been tangled up by kangaroos, have fallen into the creek and which drop out every time it rains. They have waited months to get the lines repaired and trenched. A woman in Tallangatta in Victoria complained of cable so old and repaired so many times that its local nickname is ‘the string of sausages’. It is causing so many faults that when they get lightning strikes the phone rings! These sorts of examples are rife throughout the 600 submissions that were made to the Estens inquiry. This is typical of the material that was put to the inquiry. We even have material from the minister’s own electorate, from Foster in Victoria; a town that I know well—and this information was not from my relatives, if the minister is concerned. We had a submission from a small businessman who talked about the poor performance by Telstra in repairing faults and about Internet drop-outs which massively increase his phone bills. All of these sorts of issues were in the submissions. We have heard from the Minister for Science that his boss in the Senate did not read the report and he has not read the submissions. The real story of telecommunications in the bush has been completely ignored by the Estens inquiry and is being completely ignored by the Howard government.

A couple of days ago in question time, the Treasurer let slip in one of those bombastic moments, one of those beautiful Peter Costello moments when his tongue runs away with him and his ego really gets out of control—

Mr Martin Ferguson—It really takes over.

Mr TANNER—that is right. He let slip that the government were not sincere about this hurdle—telecommunications in the bush—because he attacked Labor for blocking T2 and for preventing the government from selling all of the remaining shares in Telstra last time, in 1999. Correct me if I am wrong, but I remember the story at the time going something like this: ‘The government are not going to sell the remaining 50.1 per cent of shares in Telstra because we do not think services in the bush are up to scratch; therefore, we will wait until they are up to scratch before we sell.’ The Treasurer let the cat out of the bag a couple of days ago. He indicated that the government’s position, the Liberal Party position, is that they are going to sell and they do not give a damn about services in regional Australia. He even had
the temerity to try to blame the Labor Party for the fact that they were unable to get it through last time. We were opposed to it from the outset and we continue to be opposed to it. We are the only party in this parliament that has stood firm all the way through in saying that Telstra should remain in public ownership.

This week we have also seen confirmation of the government’s intention to sell Telstra regardless of public opinion, and regardless of services in the bush—it is fattening it for privatisation through its commitment to a weaker, looser price control regime that delivers a big bucket of money for Telstra. For a measly $10 million, the Democrats have added $170 million a year to Telstra profits to come straight out of consumers’ pockets. That is according to the government’s own modelling. Our estimate was actually slightly lower. The government’s own modelling shows that these new price controls benefit Telstra by $170 million. But do not take my word for it. Let us think about what the markets say. We received information from Macquarie Bank this morning and what did it say? It said: ‘Great news for Telstra! Buy Telstra shares because the government’s new price controls have got through the Senate.’ The people in the financial markets know what this means. It means more money for Telstra. The Democrats have been conned. They have sold their souls for a tiny additional program—$10 million. And why was Telstra happy? Why was Telstra supporting the new price controls if, as the Democrats claim, Telstra is going to be $115 million worse off as a result of them? Clearly, it is because the Democrats’ claim is wrong.

We have also seen confirmed this week what I have said for months and have been trying to persuade people about for months. The Prime Minister has finally admitted, and the Treasurer and the National Party leader have confirmed, that if Telstra is sold the government will not and cannot spend the proceeds because that blows the budget. The proceeds from the sale of Telstra do not hit the budget bottom line but, if they are spent, the spending does. So to all of those National Party members of parliament and minor party senators who are dreaming grand visions of new Snowy Mountains schemes, of great environmental and infrastructure projects and of billions of dollars of investment in all of these wonderful things from the proceeds of the sale of Telstra: think again. All of the selective little hints, the teasing little seductive lines that you have heard from the Minister for Finance and Administration and the Minister for Trade in the debates on how to spend the money are all lies. It is all fiction. It is all designed to suck you into supporting the sale, to bring you across to the pro-privatisation camp and then to let you down. We will just have a few $100 million programs, little programs, as sops to your consciences. But if you think there is going to be big investment in infrastructure and environmental programs arising out of the sale of Telstra, forget it. It is simply not going to happen.

To top it all off, this week we have had the confirmation that the Telstra sale will be bad not only for the bush but also for the budget. With a low share price, a discount necessary in order to get the sale done, $654 million in sale costs for investment bankers and lawyers in Melbourne and Sydney, $3 billion worth of unfunded superannuation liabilities and a Parliamentary Library study that shows that, after three or four years, the net impact on the budget is negative—that is, the budget goes backwards—because the loss dividends from Telstra outweigh the reduction in public debt interest, the conclusion is that selling Telstra is a disaster for not only regional Australia but also the budget. The one remaining fig leaf, the one remaining argument that the government has put forward, is blown away. It is hardly surprising that the Treasurer would not respond to questions about the impact of the sale of Telstra on the budget.

There is a core values issue at stake in this debate. There is a fundamental differentiation between the conservatives and the Labor Party on this issue. We see telecommunications services as essential services which all Australians need to participate in our society. The government see these services as a luxury. The minister said in the Senate a couple of months ago, ‘If you do not like higher line rentals for your phone, you do not have to be
on the line; you do not have to have a phone.’ He thinks the phone is a luxury; we regard it as an essential service.

A privately owned Telstra would be a giant private monopoly totally dominating telecommunications services, totally dominating the delivery of that essential service upon which all Australians depend. It would be in an environment of weaker, looser price controls and it would be too powerful for any government to effectively regulate in the interests of consumers, in the interests of low-income earners and in the interests of people outside the major cities. A privately owned Telstra would be just like the banks. It would chase the big city markets, the lucrative markets, and neglect its responsibilities to regional Australia and to lower income earners—and people know it. Now we have the prospect of a foreign owned Telstra on the table because the foreign minister has admitted that removing foreign ownership controls on Telstra is on the table for negotiation for a free trade agreement with the United States.

Time after time this week in question time Labor asked the government questions about particular problems in telecommunications. We asked: how will selling Telstra help solve these problems? Not once did the minister give an answer which indicated how, in the government’s view, selling Telstra would fix telecommunications problems in either regional or metropolitan Australia. Not once have we been told how Telstra privatisation would improve telecommunications services for all Australians. We need Telstra in public ownership to guarantee that all Australians have access to decent, affordable telecommunications services regardless of where they live and regardless of their income. That is Labor’s commitment. That is what we stand for, that is what we have stood steadfast for and that is what the Howard government is trying to destroy. (Time expired)

Mr McGAURAN (Gippsland—Minister for Science) (4.33 p.m.)—Here we go again—the great filler! When the Labor Party has nothing else of pressing importance, it relies on Telstra. There were no questions in question time about Telstra. Some of the issues raised by the honourable member for Melbourne during this MPI were raised earlier in the week, but not all of them were. He raised a number of issues that he could easily have cross-examined the government on in one of the over 50 questions the Labor Party had available to it this week. But, no, it is the end of a parliamentary sitting week; we do not sit again for two weeks.

The Labor Party had the opportunity to set a one-hour debate, and what did they do? There is nothing in the health portfolio, the transport portfolio, the regional services or the agriculture portfolios. Of the 30 portfolios for which opposition members shadow the government ministers, there is no matter of great import that must be raised in the House during the MPI. It is a matter of disappointment to me. Instead, they just pull out of the drawer the old Telstra attack. They have done it many times before. I would never accuse the member for Melbourne of being repetitious, but he is coming perilously close to it because it is getting to the point where it is hard for him to get through his 15-minute contribution without referring to his old speech notes—regurgitating, recycling his old phrases and his best lines. I admire him for his persistence. But the fact is that you have nothing new to say.

The Labor opposition have no alternatives and no plans with regard to the Telstra situation, notwithstanding that the member for Melbourne, the shadow minister for communications, has issued a public comment that the present ownership structure of Telstra is unsustainable. In other words, the member for Melbourne concedes the problem but proffers no solution. At one stage earlier this year he suggested, in a thoughtful if not misguided paper, the separation of Telstra. In other words, you break up Telstra. You sell off its most profitable parts—the Yellow Pages—but you keep in place under socialist control by way of a central government the fixed-line network, the infrastructure. You would break up Telstra and privatise its most profitable parts. He has run from that little solution at 100 miles an hour. I do not know how much thought or time he gave to conjuring up that possible solution, but he has abandoned it now. We do not hear a peep from him anymore about the separation of
Telstra. When are we going to hear the Labor Party’s solution? It is obviously to retain the status quo, which the member has said is unsustainable.

Mr Baldwin—They are going to sell it off!

Mr McGauran—The member for Paterson suggested that the real policy of the opposition is to sell off Telstra. Of course it is. Do you think there is anybody in the Australian community who doubts it? Having said it is an unsustainable economic situation, what is the solution? It is no longer that you divide it up, sell off bits and privatise it in part, as the member for Melbourne floated in May this year; it is instead that you sell it. Of course it is. We received assurances, sworn guarantees, that the Commonwealth Bank would never be privatised and nor would Qantas. The Labor Party in government privatised everything that moved. If it was not nailed down, it was privatised. What is more, the Labor Party never took a privatisation policy to—

Mr Tanner—We didn’t sell Telstra!

Mr McGauran—The member for Melbourne lamely interjects to say, ‘But we never sold Telstra.’ You had not got around to it! You were going to! Paul Keating called in John Prescott, the then managing director of BHP, in about 1994 and floated the idea with him. The member for Brand, Kim Beazley, who was minister for communications or Deputy Prime Minister at the time, has never told us his full involvement in that discussion. The Labor Party would have sold Telstra—the point is that they ran out of time—and they would sell it again in the future. They have never asked the Australian people to endorse, ratify or sanction their privatisations. They were always done by stealth and by misleading the Australian people. In about 1994, if my memory serves me correctly, Ralph Willis, the then Labor treasurer, actually wrote to all employees of the Commonwealth Bank at the behest of the Commonwealth Bank’s union—we have the letter—saying, ‘We will not be privatising the Commonwealth Bank.’ Actually, it would have been earlier than that—

Mr Forrest—I was a customer then.

Mr McGauran—the honourable member for Mallee was a customer. We have gone to the 1998 election and the 2001 election with our policy proposals for the privatisation of Telstra. We have not misled anybody; we have sought a mandate from the Australian people and that is how it will always be. We have had a policy at every election, such is our conviction about the need for transparency and honesty with the voters. We put forward our proposal. That stands in stark contrast to the Labor Party, who privatisate by stealth. The point is that the Labor Party cannot be believed on this issue. So the Labor Party have a problem: the press gallery does not take them seriously because they have no alternative, no solution and no plan; the general public do not take them seriously on this issue because of their track record of deception. There is a level of distrust in the general community when it comes to the Labor Party and privatisation. The honourable member for Melbourne has continued his slanderous attacks on the Estens inquiry. The honourable member for Melbourne set out to destroy the credibility and worth of the inquiry before it had even started—

Mr Tanner—It wasn’t hard.

Mr McGauran—that’s right; the honourable member for Melbourne takes delight in blackguarding good and honest people who do a fair job. The Estens inquiry put forward the pluses and the minuses of the performance of Telstra—the positives and the negatives. It was a full, balanced inquiry. They went out and accepted 606 submissions, they had 41 meetings and they have made 39 recommendations, many of which identify the gaps in service or infrastructure in regional and rural areas, which the government is committed to repairing. The Estens inquiry reached a conclusion, which was:

The inquiry is confident that arrangements that have been put in place over the past five years—during the term of this government—together with commercial developments—because of the competition—and the inquiry’s further recommendations will create an environment into the future where re-
regional, rural and remote Australians will be able to benefit fully from advances in telecommunication technology and services.

That is fair; it lays down the challenge to improve services, but confidently predicts that we can solve the problems as they exist in regional and rural Australia. I return to the issue of Labor Party assurances on issues such as privatisation. My friend the member for Paterson has just handed me a quote from Ralph Willis. Ralph Willis was interviewed on Business Sunday on Sunday, 31 October 1993. He said this:

We’ve made it quite clear in the legislation that went through the parliament to authorise this sale that we should not go below the 50.1 per cent mark.

So, in other words, he is saying that the government will retain 50.1 per cent. He continued:

There is a marked difference in going down from 70 per cent to 50 per cent because clearly at 50.1 per cent we still have a majority ownership. We can control the bank if we needed to do so. But to go beyond that, of course, means the control is gone and certainly the government guarantee would go with it. So it is quite a much more significant decision to go beyond 50 per cent than it is to come from 70 to 50 per cent.

Sarah Turner, the interviewer, said:

So, unlike before, this time your commitment is ironclad?

Ralph Willis said:

Absolutely, yes.

It was privatised completely and fully within months. Deceptive conduct; misleading of the public! CountryWide has been established over the last 18 months in regional areas and it is staffed by very dedicated and committed people who provide an excellent service on the ground across the length and breadth of the country. I have CountryWide in Gippsland and the member for Murray has CountryWide in her area. If we have problems we go straight to them. They have people on the ground addressing the issues. Telstra does not deserve to be criticised and ridiculed in the way the Labor Party sets out to do.

What really angers me more than anything else about the Labor Party’s attacks on Telstra’s performance is that in 1991 the Labor government corporatised Telecom; they called it Telstra and gave it a commercial focus. In other words, it was no longer a government department; it was a government business. Under the Corporations Law the board was required to act in the commercial interests of Telstra from the moment Labor did that. Otherwise they were in breach of the Corporations Law. They could not take uneconomic decisions. So from 1991 services to assist disadvantaged areas, individuals and communities throughout regional Australia have been funded by direct budget appropriations, and it will always be thus. That is why the ownership of Telstra is not the deciding point. Even if 50.1 per cent of it remains in government hands, the government will always have to appropriate from the budget—as we have done; $1 billion over the last five years—to bring the standard of services up for people in regional and rural areas. The ownership of Telstra is a furphy.

The issues are the level of service governed by the regulation and competition policies of the government of the day and what direct budget contributions the government gives to Telstra—or any other carrier for that matter—to assist those in disadvantaged regions.

So it is a phoney debate. The debate should centre on what the government is doing with regard to regulation. Look at our track record with the universal service obligation and the guaranteed customer service standards. It should focus on the level of competition and how many carriers and Internet service providers are now out there. We have issued 35 carrier licences in the last five years. As the Estens inquiry acknowledged, competition has driven down prices. The debate should then concentrate on how much the government of the day will lock in to pay Telstra or another carrier to bring up the standard of services. They are the issues the government has addressed over the past five years. That is why the Estens inquiry, in an unbiased and transparent way, could conclude that services have improved markedly. We have come a very long way. We have a way to go yet, but it is achievable. Instead, the member for Melbourne would have you believe that Telstra has gone backwards—that things have got worse—and he selectively quotes from submissions to the
quotes from submissions to the Estens inquiry in support of that contention.

Mr Tanner—I quote all the good ones.

Mr McGauran—But of course: you advertise an inquiry and you invite submissions from people with issues or complaints. Many of them are legitimate; we accept that. We want to assist those people. Of course, we want to know where the areas of concern are. It might be argued—I will not, though—given the number of complaints to the inquiry compared with the number of subscribers and consumers throughout Australia, that it was not an unexpected number.

There were also a number of submissions supportive of Telstra. Members on this side of the House actually put out press releases inviting their constituents to make submissions to the Estens inquiry because we want to know the truth. We want everything on the table, unlike the Labor Party who have one fixed ideological and political position and they will never waver from that. They will never deviate from it. What else have they got going for them? What other principle or policy does the Labor Party hold true to their heart? There is not a single one—not a jot. The only one that they will hang on to is one that is simple and simplistic: their opposition to the full privatisation of Telstra. The government’s position is to wait until we believe regional and rural services are up to scratch before we introduce legislation to the parliament. The legislation has to pass through the parliament and only then would Telstra be privatised, according to the market conditions at that time.

So the Labor Party is looking increasingly shallow, even desperate, because at the end of a parliamentary sitting week, what is its MPI—the crowning debate of the week, the debate that you send the troops home with, with a spring in their step and courage in their hearts? Instead, the Labor Party backbenchers listening to this are going to think, ‘Not again, is that the best we can do?’ Sure, the member for Melbourne is dogged and determined. You have to give him marks for that but he is pushing up hill on this one. You are going to see Labor members exiting this building with their shoulders slumped and their heads hanging low because they are not finishing on a high, not when they have to drag out the old Telstra bogey. It defies logic, and the clear thinking, fair-minded members of the opposition know it. They are hungry to get into an issue of real substance and of differentiation from the government. So David Britton—the man brought in, I understand, to advise the opposition on tactics—will look at the tapes of question time and MPIs this week and, surely, with his experience, background and judgment, he will tell the member for Melbourne and the tactics committee, ‘Don’t bowl up this hairy old chestnut ever again.’

Ms Grierson (Newcastle) (4.47 p.m.)—I speak in support of the matter of public importance put forward by the member for Melbourne, which emphasises to the people of Australia the absolute determination by the Liberal-National Party members of this parliament to fully privatise Telstra. We have just heard the Minister for Science respond and say that it is not important. Wrong, minister. I always worry when the government cannot defend its own actions and can only attack the Labor Party. It reeks of desperation and certainly of policy failure.

For the people of Australia it is a real case of user beware. We are all users of Telstra and we all stand to be losers if Telstra is sold. And Telstra will be sold by this Liberal-National Party government regardless of evidence, regardless of the national interest and regardless of the wishes of the Australian people. The Liberal-National Party members of parliament who sit here in this chamber because of the votes of individuals who rely on them to represent their interests know what their constituents believe about privatising Telstra, but they are not listening and they are not telling. They know that their electors want to be sure that the security that comes through having a good telecommunications carrier serving our nation, and being watched over by the government that has a major share in its ownership, will continue to be there for them. The people of Australia want to know that no matter where they live—no matter whether it is in a capital city, a regional community, a rural town or a remote and isolated location in the far corners of this great southern land—Telstra will pro-
provide for them a reliable, affordable and accessible service.

Australians want to be well and truly hooked, wired and interconnected and they know that, once Telstra is sold, there can be no going back. They want to be sure before anyone puts their security of contact and communication at risk by handing over our national asset lock, stock and barrel to the private sector, that the service they have is guaranteed first class, best practice, affordable and available to all and will continue to be so. Well it is not and it will not be, and the Australian people know that as well. Our service is getting better but our service needs a lot more attention and a lot more investment before it can be described as benchmark or best practice.

The general undercurrent of disquiet shared by Australians about their telecommunications provider has been confirmed over and over again by numerous polls and surveys. The recent polling by the Australian showed that 66 per cent of Australians still do not want to see Telstra fully privatised. In fact only 20 per cent supported privatisation at all. That is only two out of every 10 people in Australia. Even 50 per cent of big business oppose fully privatising Telstra. Now those concerns have been confirmed by the report that the Liberal-National government commissioned themselves, the Estens inquiry. Of the more than 600 submissions to this inquiry over half said that rural services had not reached the expected or demanded performance levels yet. But the report obligingly says that the service is improved and encourages water-tight guarantees being put in place if Telstra should be sold. Well we have heard that before. Another leaky, sloppy approach to public asset sales is looming for the Australian people.

It is important to note that Estens is not providing approval for the full privatisation of Telstra. In fact the Estens report states:
The Inquiry has no view on the future of Telstra.
The report says that further massive investment into Telstra and into telecom infrastructure will be needed. That is a serious matter because without that infrastructure investment Australia will fall seriously behind in the telecommunications industry and that will have major implications for our economic prosperity and competitiveness.

So what is the real situation currently with Telstra? In electorates around Australia, in both private and business life, there have been and continue to be numerous examples of poor or failing service. Anyone arriving at Newcastle regional airport will know that Telstra has some black holes in its services because their mobile phones will instantly drop out. Welcome to the Newcastle regional airport, gateway to half a million people in the Hunter region and the front yard of the electorate of Paterson, which is held by a member of the Liberal government who will speak in this debate. Just a few kilometres down the highway as residents and visitors drive towards Newcastle, the sixth-largest city in Australia, their mobile phone will again drop out.

But of course we would be led to believe that Telstra’s mobile service problems are only really in a few isolated areas in rural Australia. Not so. Who could forget the image of the Minister for Communications, Information Technology and the Arts, Senator Richard Alston, doing a media interview in July in Wongarbon, near Dubbo in outback New South Wales? He was talking about the improved Telstra mobile service pending in rural Australia as his phone dropped out. So the black hole strikes again, although the minister, according to his statement, says the service is light years better. It is just a time warp, apparently. This is the same minister who concedes that he has not read the Estens report and who did not make it to the vote on the Telstra price control disallowance motion yesterday. I repeat: Telstra users beware.

So what about the fixed telephone services—are there any problems there? I quote from a submission by the Hunter Economic Development Corporation to the committee of this parliament, made this year during the inquiry into wireless broadband:
The communities of the Hunter and, in particular, the upper reaches of the valley have poor quality infrastructure. This was evidenced by a report funded through Networking the Nation...
As a coordinator for the Community Technology Centre program ... I travel around most small
towns in the region and receive many complaints and a lot of feedback about poor service delivery in the community. Most of the complaints stem from the poor customer access network. For example, people complain about noisy lines. I do not think it is a secret that a lot of the copper in the ground in rural areas is fairly poor and has probably been there for in excess of 50 years or so.

And what about the provision of Internet services—are they fair and equitable yet? Again I quote from the inquiry:

One of the major complaints—that is, in the Hunter—is that there is poor access or low connection speeds to the Internet. Typically, in some circumstances, that has been as low as 12Ks to 20Ks... It is a very frustrating situation for them. I heard my colleagues from Telstra talk about demand and access. I would suggest that one of the reasons for people not connecting and sticking with it could be frustration.

Other problems present in the customer access network are the ... RIMs, and the pair gain systems. Basically, a lot of those are put in there for cable relief. It is a way of concentrating a lot of connections on one cable pair. If these country towns have access to ADSL—and some of them do... anybody on one of these RIMs or pair gain systems cannot get connected to ADSL; you cannot connect if you are on those sorts of devices.

We have heard over and over again the problems of pair gains in this House. I also draw the attention of the House to correspondence from a constituent of mine residing in Maryland. He says:

We are not in a rural area but our service is not impressive. Because of the quality of the line and our distance from the Wallsend exchange, myself and many of my friends living in my area cannot join this new service. I have a small business and I am using Internet from home, so it is very important for me to be able to have this service. I have contacted Telstra on many occasions but it looks like there are no immediate plans to help people like me. Maryland has grown through the years and its population is reaching 20,000 people. I think this should justify doing something, to provide services like for other areas in Newcastle. We feel being left behind.

Well, they are being left behind. I also share with the House the experience of a technology company which also made the move from Sydney to rural Dungog in the seat of Paterson, again. That company develops leading edge technology and e-commerce software—online technology that drives gateway sites. This company is a successful producer and marketer. Currently, it employs seven people, but it would like to establish a call centre employing 25 people. Ironically, it occupies disused dairy company premises. While the deregulation of the dairy industry resulted in a loss of jobs in Dungog, this high-tech company shows the way forward for rural communities in a globalised world. But the key barrier for this company is largely dictated by Telstra and the service they provide. He says:

We pay more at our current location for a single modem line connection, which we hobble along and just get by on. We pay more for that modem than a full broadband connection via cable in the city with 5 gigabytes of data.

If the problems of Internet access and service cannot be overcome in regional or metropolitan Australia, what hope is there for rural Australia? But of course an economic windfall is coming our way, apparently, if the Liberal and National Party government can be believed. This week in question time, the Treasurer stated:

Subject to services in rural and regional Australia being brought up to scratch—well, they are not there yet—it is government policy to offer the remaining equity in Telstra to Australian shareholders and others.

But I would quote from Ross Gittins’s article, when he does say that there is certainly no evidence that the sale of Telstra will bring about any great dividend. He says:

The moral of the story is: the Howard Government has so much ego riding on its twin obsessions of Telstra’s privatisation and eliminating public debt that it will use any argument it thinks the punters might fall for, no matter how silly or dishonest...

I could not put it better. I do not think the punters will fall for it, and I do not think that Telstra should be fully privatised.

Mr BALDWIN (Paterson) (4.57 p.m.)—It is refreshing to speak on an MPI on the sale of Telstra. We have said—and we have said quite clearly—that there will be no consideration of the further sale of Telstra unless three specific areas are satisfied. First
three specific areas are satisfied. First and foremost is adequacy of service for consumers. I would like to point out to the House that this is the government that has introduced a couple of safeguards: the customer service guarantee, the universal service obligation, untimed local calls and the Telecommunications Industry Ombudsman. Furthermore, under the adequacy of service, if we go back and have a look at the Estens report, it says that it:

...is confident that arrangements that have been put in place over the past five years (including the TSI response), together with commercial developments, and the Inquiry’s further recommendations, will create an environment into the future where regional, rural and remote Australians will be able to benefit fully from advances in telecommunications technology and services.

What it was referring to, of course, was the 2000 Besley inquiry, which concluded that Australians generally have adequate access to a range of high-quality basic and advanced telecommunications services, comparable to leading information economies throughout the world. But it did recommend that some 17 areas be focused on—in particular, the areas of phone installations, repairs, mobile coverage and Internet access.

The coalition has focused on those and has worked to improve those services. In fact, customers in extended zones, covering 80 per cent of Australia’s land mass, now have access to untimed local calls as well as a subsidised two-way Internet service. We remember when Michael Lee, the former minister for communications, did the sweetheart deal and signed away our analog mobile phone service but did not have in place a service that could adequately work in the bush. We had a minister who came from a regional area who had no idea that to replace the analog service would require a totally different technology. It was this government that introduced the CDMA network—unfortunately, after the decision to abolish the analog network. In addition, the mobile phone coverage of nearly 10,000 kilometres of Australian highway has been dramatically improved and we have improved mobile coverage to 132 regional towns with populations of over 500 people and to 55 regional towns with populations of less than 500.

I would like to list some of the towers that have gone into my electorate. When I was elected in 1996, there were two towers put in straightaway for digital telephone—Gloucester and Dungog. Further, we have towers now being planned for Stroud, Smiths Lake, Bluesys Beach, Pacific Palms, Fingal Bay, Anna Bay, Clarence Town and Brandy Hill and an upgrading of services at Nerong, Karuah, Medowie and Williamtown to service the airport. Further, there are an additional 109 new mobile base stations in regional Australia funded from the Networking the Nation program, improved mobile phone coverage to 62 sites on 34 regional highways—and the list goes on.

One of the most impressive things about what has been achieved by this government is competition—competition that has improved the affordability of telephone services in Australia. I refer the House to the ACCC report called Changes to the prices paid for telecommunications services in Australia. That report found that between 1997-98 and 2000-01 the price of residential or standard telephone services dropped 17.4 per cent, the price of business telephone services dropped by 22.6 per cent, the price of mobile telephony dropped by 24.8 per cent, the price of local calls dropped by 27 per cent, the price of national long-distance calls dropped by 22.1 per cent, the price of international calls dropped by some 54.9 per cent and the price of fixed mobile services dropped by 18.1 per cent. This is a government that delivers affordable telephone services to its constituents. It is investments such as these that make this government stand out as one that not only understands but is concerned and committed to people outside the city areas—unlike the previous Labor government.

The previous Labor government wanted to go down the track of selling Telstra. It is no secret, because Graham Richardson wrote of it in his book—what was the name of the book?

Dr Southcott—Whatever it Takes.

Mr BALDWIN—that is the one—Whatever it Takes. He thought that Keating was rather wimpish in his approach in not wanting to go further with the direction of Telstra. We all remember that meeting in 1996 be-
tween Paul Keating and the head of BHP—the one that Kim Beazley, the member for Swan at the time, I think it was, sat on. He wanted to sell off Telstra. It was only this government coming to power the stopped that happening. You see, a sale of Telstra under a Labor government was a sale into a slush fund where the money, to use the proverbial bush saying, was just wet up against the wall. Look at what the Labor Party have done in their history in selling off assets. Look at the Commonwealth Bank—the sale of the Commonwealth Bank raised billions of dollars and where did that money go? It was wet up against the wall. The Commonwealth Serum Laboratories—where did those hundreds of millions of dollars go? They were wet up against the wall. Finally, Qantas—where did that money go? It was wet up against the wall. This is the party that sold the assets of the Australian people without retiring debt and racked up a $98 billion deficit. Even the budget deficit in their last year was $10 billion.

Yes, this government has sold off nearly 50 per cent of Telstra, but what have we done with that money? We have apportioned a small percentage of it to improve services in Telstra and a portion of it to improve the environment, but most of that money went to retire debt—that the Labor Party had racked up in Australia, affecting the livelihoods of our children. I have just noticed today that the unemployment figure in the Hunter has come down to 5.4 per cent. One of the key reasons that has come down to 5.4 per cent is that we have got a stable economy. Why do we have a stable economy? Because we are reducing debt. How did we reduce debt? We had to pay off Labor excesses with a partial privatisation of Telstra.

Nobody wants poor communications. I heard the member for Hunter rabbit on about mobile phone services in the bush. The member for Hunter should go and read the information available to him about satellite telephones. It would not matter how many towers you put in my electorate or his electorate, you are never going to get 100 per cent mobile telephone coverage. Satellite telephones, which do give 100 per cent coverage today, are affordable. They talk about expensive handsets. The handset for a satellite phone today is the price of what a mobile phone was three years ago. The cost of the calls for a satellite phone today is the cost that mobile calls were three years ago. Costs are coming down. The more people take up that technology, the cheaper prices will become and the more affordable for average Australians.

The Labor Party do not have an original idea in their heads. The member for Melbourne came in and talked about how he would not sell off Telstra. When he brought down his report about options of breaking up Telstra in May, I thought that was an original idea, but the reality is that that idea was floated by the former communications minister, Michael Lee, when he spoke about breaking it up and selling it off. The member for Melbourne has come in with a report and agreed on ABC Lateline in May this year that, yes, they would break it up, they would sell it off and they would sell the most profitable parts of it—and part of that was the mobile telephony network.

So when the members for Hunter and Newcastle come in here and talk about mobile phone services, if the Labor Party were going to bust it up and sell the mobile telephony service from it, where would be the infrastructure investment? This government have regulated the industry, made sure that consumers have got the best deal possible and have the future of the children of Australia in mind, because we have reduced debt, allowed businesses to grow and created a stable economy—something that is foreign to the Labor Party. (Time expired)

Mr ANDREN (Calare) (5.07 p.m.)—I was sitting in my office ready for the next debate but I could not hold myself back from making a contribution to this debate. It basically revolves around the government’s, including the National Party’s, support for the full privatisation of Telstra. We have heard during the debate—and quite rightly—the Labor Party being accused of flogging off the silverware to pay off the Bankcard. Telstra is the last piece of substantial silverware on the cupboard. The public in my electorate, and throughout regional Australia, are asking not when Telstra should be sold but why it
should be sold. They see Telstra as an absolute benchmark for determining a continuation of government contributed service. They see it as a service, not something that could or should be flogged off for the purpose of paying off debt, which in turn, as we understand it, could wipe out the bond market—which has even further ramifications.

The Estens inquiry defied the submissions from at least three electorates, but particularly New England and Calare, where we put out a survey. We made it clear that we were opposed to a full sell-off but we allowed contributions detailing the sorts of problems people are having. Of something like 10,000 submissions made to us, which we sent off to Telstra, at least 75 per cent identified poor Internet access, poor mobile coverage and network problems. The previous speaker, the member for Paterson, was talking about the CDMA network. That and CountryWide itself would not have been put in place without the pressure that was delivered to the government and Telstra through some members. I take pride in being one of those members.

I suggest there are many members who turned a blind eye to the problems that were out there until the pressure became such that they had nowhere to go except to find an alternative to analog. CDMA is not it. Hill End and Sofala, which have got their Monkey Hill translator, are not getting the sort of service that people expected there. So CDMA is not the answer to the overall mobile phone problem. In the weekend papers we saw Dr McLachlan talking about the mobile services out at Yeoval. I am told by Telstra that they have no plans on the radar to deliver CDMA or any sort of mobile service to Yeoval, which is about 40 to 50 kilometres north of Orange. And who believes that a 19kbps speed on the land network is sufficient for the sort of decentralisation that we are trying to encourage? The alternative—to pay for a satellite service—is beyond the capacity of the normal household and, indeed, small business.

So let us not have too much hypocrisy about who sold what and when and why, and play this blame game. The people of country Australia have drawn a line in the sand when it comes to Telstra, and they say, ‘No sale of Telstra.’ This nebulous ‘up to scratch’ benchmark, which was thrown into the equation by Ron Boswell earlier this year, means absolutely nothing. The public know you are not going to be able to achieve it.

The DEPUTY SPEAKER (Mr Hawker)—Order! The discussion is now concluded.

WORKPLACE RELATIONS LEGISLATION AMENDMENT BILL 2002

Report from Main Committee

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

Ordered that this bill be considered forthwith.

Main Committee’s amendments—

(1) Clause 2, page 2 (at the end of the table), add:

6. Schedule 2 The day on which this Act receives the Royal Assent

(2) Clause 2, page 2 (at the end of the table, after proposed item 6), add:

7. Schedule 2 The day on which this Act receives the Royal Assent

3. items 1 to

14

8. Schedule 2 Immediately before the commence-

3. items 15 to

ment of items 17, 28 and 41 of Sched-

17

ule 1 to the Employment, Workplace Relations and Small Business Legis-

lation Amendment (Application of Criminal Code) Act 2001

9. Schedule 2 A single day to be fixed by Proclama-

3. item 18 tion, subject to subsection (3)

10. Schedule 2 The later of:

3. item 19 (a) the day on which this Act receives the Royal Assent; and

(b) the commencement of item 2 of Schedule 1 to the Higher Education Legislation Amendment Act (No. 3) 2002

11. Schedule 2 A single day to be fixed by Proclama-

3. items 20 to tion, subject to subsection (3)

22

13. Schedule 3 The day on which this Act receives

3. item 24 the Royal Assent

DEPUTY SPEAKER (Mr Hawker)—Order! The discussion is now concluded.
14. Schedule 3, items 25 to 27
At the same time as the provisions covered by item 11 of this table

15. Schedule 3, item 28
The day on which this Act receives the Royal Assent

16. Schedule 3, item 29
At the end of the period of 6 months beginning on the day on which this Act receives the Royal Assent

17. Schedule 3, item 30
A single day to be fixed by Proclamation, subject to subsection (3)

18. Schedule 3, item 31
The day on which this Act receives the Royal Assent

20. Schedule 3, items 33 to 35
At the same time as the provisions covered by item 23 of this table

21. Schedule 3, item 36
A single day to be fixed by Proclamation, subject to subsection (3)

22. Schedule 3, items 37 to 40
At the same time as the provisions covered by item 13 of this table

23. Schedule 3, items 41 to 45
A single day to be fixed by Proclamation, subject to subsection (3)

24. Schedule 3, items 46 to 48
A single day to be fixed by Proclamation, subject to subsection (3)

25. Schedule 3, items 49 to 51
The day after this Act receives the Royal Assent

26. Schedule 3, items 52 to 54
At the same time as the provisions covered by item 11 of this table

27. Schedule 3, items 55 to 57
Immediately before the commencement of items 38, 39 and 40 of Schedule 3 to the Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002

28. Schedule 3, items 58 to 60
At the same time as the provision covered by item 28 of this table

29. Schedule 3, items 61 to 64
At the same time as the provision covered by item 25 of this table

30. Schedule 3, items 65 to 67
At the same time as the provision covered by item 23 of this table

31. Schedule 3, items 68 to 70
At the same time as the provision covered by item 21 of this table

32. Schedule 3, items 71 to 73
At the same time as the provision covered by item 19 of this table

33. Schedule 3, items 74 to 76
At the same time as the provision covered by item 17 of this table

34. Schedule 3, items 77 to 79
At the same time as the provision covered by item 15 of this table

35. Schedule 3, items 80 to 82
At the same time as the provision covered by item 13 of this table

36. Schedule 3, items 83 to 85
At the same time as the provision covered by item 11 of this table

37. Schedule 3, items 86 to 88
At the same time as the provision covered by item 9 of this table

38. Schedule 3, items 89 to 91
At the same time as the provision covered by item 7 of this table

39. Schedule 3, items 92 to 94
At the same time as the provision covered by item 5 of this table

40. Schedule 3, items 95 to 97
At the same time as the provision covered by item 3 of this table

41. Schedule 3, items 98 to 100
At the same time as the provision covered by item 1 of this table

42. Schedule 3, items 101 to 103
At the same time as the provision covered by item 11 of this table

43. Schedule 3, items 104 to 106
At the same time as the provision covered by item 9 of this table

44. Schedule 3, items 107 to 109
At the same time as the provision covered by item 7 of this table

45. Schedule 3, items 110 to 112
At the same time as the provision covered by item 5 of this table

46. Schedule 3, items 113 to 115
At the same time as the provision covered by item 3 of this table

47. Schedule 3, items 116 to 118
At the same time as the provision covered by item 1 of this table

48. Schedule 3, items 119 to 121
At the same time as the provision covered by item 11 of this table

49. Schedule 3, items 122 to 124
At the same time as the provision covered by item 9 of this table

50. Schedule 3, items 125 to 127
At the same time as the provision covered by item 7 of this table

51. Schedule 3, items 128 to 130
At the same time as the provision covered by item 5 of this table

52. Schedule 3, items 131 to 133
At the same time as the provision covered by item 3 of this table

53. Schedule 3, items 134 to 136
At the same time as the provision covered by item 1 of this table

54. Schedule 3, items 137 to 139
At the same time as the provision covered by item 11 of this table

55. Schedule 3, items 140 to 142
At the same time as the provision covered by item 9 of this table

56. Schedule 3, items 143 to 145
At the same time as the provision covered by item 7 of this table

57. Schedule 3, items 146 to 148
At the same time as the provision covered by item 5 of this table

58. Schedule 3, items 149 to 151
At the same time as the provision covered by item 3 of this table

59. Schedule 3, items 152 to 154
At the same time as the provision covered by item 1 of this table

60. Schedule 3, items 155 to 157
At the same time as the provision covered by item 11 of this table

61. Schedule 3, items 158 to 160
At the same time as the provision covered by item 9 of this table

62. Schedule 3, items 161 to 163
At the same time as the provision covered by item 7 of this table

63. Schedule 3, items 164 to 166
At the same time as the provision covered by item 5 of this table

64. Schedule 3, items 167 to 169
At the same time as the provision covered by item 3 of this table

65. Schedule 3, items 170 to 172
At the same time as the provision covered by item 1 of this table

66. Schedule 3, items 173 to 175
At the same time as the provision covered by item 11 of this table

67. Schedule 3, items 176 to 178
At the same time as the provision covered by item 9 of this table

68. Schedule 3, items 179 to 181
At the same time as the provision covered by item 7 of this table

69. Schedule 3, items 182 to 184
At the same time as the provision covered by item 5 of this table

70. Schedule 3, items 185 to 187
At the same time as the provision covered by item 3 of this table

71. Schedule 3, items 188 to 190
At the same time as the provision covered by item 1 of this table
(1A) If the Minister is satisfied that an organisation referred to in a paragraph of subsection (1) (including a paragraph as previously amended under this subsection or subsection (1B)):
  (a) has changed its name; or
  (b) has merged with another organisation; or
  (c) has been succeeded by another organisation;
      the Governor-General may make regulations amending that paragraph
      so that the paragraph refers to the organisation under its new name, to
      the merged organisation, or to the successor organisation, as the case
      requires.

(1B) If the Minister is satisfied that:
  (a) an organisation referred to in a paragraph of subsection (1) (including a paragraph as previously amended under this subsection or subsection (1A)) has ceased to exist and has not merged with, or been succeeded by, another organisation; and
  (b) there is another organisation that performs a broadly similar role;
      the Governor-General may make regulations amending that paragraph
      of subsection (1) so that the paragraph refers to that other organisation.

(1C) Before deciding that he or she is satisfied for the purposes of subsection (1B), the Minister must consult the members of the Council.

Note: This subsection is not intended to limit by implication the matters the Minister may take into account for the purposes of subsection (1A) or (1B).

9 Subsection 6(4)
Repeal the subsection.

10 Section 7
Omit “his membership by writing signed by him”, substitute “by writing signed by him or her”.

11 At the end of section 8
Add:
(2) If the Minister is satisfied that an organisation which has nominated a member under subsection 6(1) has ceased to exist and has not merged with, or been succeeded by, another organisation, the Minister must terminate the appointment of that member.

12 Section 9
Repeal the section, substitute:

9 Travelling allowance for members
(1) The regulations may provide for a member to receive travelling allowance at a rate specified or identified in the regulations.

(2) Regulations made for the purposes of subsection (1) may identify a rate by reference to the rate of travelling allowance that is payable to a particular class of office holders under a determination of the Remuneration Tribunal as in force at a particular time, or as in force from time to time.

Note: This subsection is not intended to be an exhaustive statement of the ways in which a rate could be identified.

(3) A member is not otherwise entitled to any remuneration or allowances.

13 Subsection 11(4)
Omit “he”, substitute “the Minister”.

14 Subsection 11(4)
Omit “his”, substitute “the Minister’s”.

15 Subsection 12(2)
Repeal the subsection, substitute:

(2) The regulations may provide for a member of a committee to receive travelling allowance at a rate specified or identified in the regulations.

(3) Regulations made for the purposes of subsection (2) may identify a rate by reference to the rate of travelling allowance that is payable to a particular class of office holders under a determination of the Remuneration Tribunal as in force at a particular time, or as in force from time to time.

Note: This subsection is not intended to be an exhaustive statement of the ways in which a rate could be identified.

(4) A member of a committee is not otherwise entitled to any remuneration or allowances.

16 At the end of the Act
Add:
13 Regulations
The Governor-General may make regulations prescribing matters:
(a) required or permitted by this Act to be prescribed; or
(b) necessary or convenient for carrying out or giving effect to this Act.

Part 2—Consequential amendments
Administrative Decisions (Judicial Review) Act 1977
17 Paragraph (l) of Schedule 1

Freedom of Information Act 1982
18 Part 1 of Schedule 2

(5) Page 6, at the end of the Bill (after proposed Schedule 2), add:
Schedule 3—Other amendments
Part 1—Amendments
Defence Act 1903
1 Section 58F (paragraph (d) of the definition of relevant allowances)
After “his”, insert “or her”.

2 Paragraph 58G(2)(c)
Repeal the paragraph, substitute:
(c) a person who was, but is no longer, a member of the Permanent Forces (although the person may be a member of the Reserves).

Note: The Permanent Forces are made up of the Permanent Navy, the Regular Army and the Permanent Air Force which are established respectively by the Naval Defence Act 1910, this Act and the Air Force Act 1923. Those Acts also establish the Naval Reserve, the Army Reserve and the Air Force Reserve, which together make up the Reserves.

3 Subsection 58G(5)
Repeal the subsection, substitute:
(5) A person must not be appointed as a member of the Tribunal if he or she has, at any time during the year preceding the appointment, been a member of the Permanent Forces.

4 Subsection 58H(13)
Omit “him”, substitute “the Minister”.

5 Subsections 58K(1) and (3)
After “he”, insert “or she”.

6 Subsection 58L(2)
Repeal the subsection, substitute:
(2) A person must not continue to hold office as a member of the Tribunal if:
(a) he or she becomes a member of the Permanent Forces (although he or she may become a member of the Reserves); or
(b) he or she becomes the Defence Force Advocate; or
(c) in the case of the President, he or she ceases to be a presidential member of the Commission.

Note: The Permanent Forces are made up of the Permanent Navy, the Regular Army and the Permanent Air Force which are established respectively by the Naval Defence Act 1910, this Act and the Air Force Act 1923. Those Acts also establish the Naval Reserve, the Army Reserve and the Air Force Reserve, which together make up the Reserves.

7 Section 58M
Omit “resign his office by writing signed by him”, substitute “resign his or her office by writing signed by him or her”.

8 Paragraph 58P(1)(b)
Omit “he is acting as President), unable to perform the duties of his office”, substitute “he or she is acting as President), unable to perform the duties of his or her office”.

9 Subsection 58P(2)
Omit “he”, substitute “the person”.

10 Subsection 58P(6)
Omit “he resigns his appointment by writing signed by him”, substitute “the person resigns his or her appointment by writing signed by him or her”.

11 Subsection 58P(7)
After “his” (wherever occurring), insert “or her”.

12 Subsection 58P(7)
Omit “him”, substitute “the person”.
13 Subsection 58P(8)
Omit "or 58K", substitute "58K, 58KA, 58KC or 58U".

14 Subsection 58Q(2)
After "his" (wherever occurring), insert "or her".


15 At the end of item 17 of Schedule 1
Add "(but not the penalty)".

16 At the end of item 28 of Schedule 1
Add "(but not the penalty)".

17 At the end of item 41 of Schedule 1
Add "(but not the penalty or the note)".

Equal Employment Opportunity (Commonwealth Authorities) Act 1987

18 Subsection 3(1) (definition of responsible Minister)
Repeal the definition, substitute:

responsible Minister, for a relevant authority, means:

(a) if the regulations prescribe a Minister as responsible for the authority—that Minister; or

(b) otherwise—the Minister responsible for the authority.

Equal Opportunity for Women in the Workplace Act 1999

19 Subsection 3(1) (definition of higher education institution)
Repeal the definition, substitute:

higher education institution means a university or other institution of higher education that is included in:

(a) the Australian Qualifications Framework Register of Authorities empowered by Government to Accredit Post-Compulsory Education and Training; or

(b) the Australian Qualifications Framework Register of Bodies with Authority to Issue Qualifications; as an institution authorised to issue higher education awards (within the meaning of section 106ZL of the Higher Education Funding Act 1988).

Remuneration Tribunal Act 1973

20 After subsection 7(4A)
Insert:

(4B) The Tribunal may inquire into and determine the travelling allowances to be paid to members of the Australian Industrial Relations Commission established under section 8 of the Workplace Relations Act 1996 for travel within Australia.

21 At the end of paragraphs 7(9)(a) to (ad)
Add "and".

22 After paragraph 7(9)(ae)
Insert:

(af) in the case of travelling allowances payable to a member of the Australian Industrial Relations Commission—be paid in accordance with the determination out of funds that are lawfully available under section 358 of the Workplace Relations Act 1996; and

Workplace Relations Act 1996

24 Subsection 4(1) (paragraph (a) of the definition of public sector employment)
After "Public Service Act 1999", insert "or the Parliamentary Service Act 1999".

25 Paragraph 12(2C)(b)
Repeal the paragraph, substitute:

(b) such travelling allowances as are determined from time to time by the Remuneration Tribunal for travel within Australia; and

(c) such other allowances as are prescribed by the regulations.

26 Paragraphs 21(1)(b), (2)(b), (2A)(b) and (2B)(b)
Repeal the paragraphs, substitute:

(b) such travelling allowances as are determined from time to time by the Remuneration Tribunal for travel within Australia; and

(c) such other allowances as are prescribed by the regulations.

27 Paragraph 23(1)(b)
Repeal the paragraph, substitute:

(b) such travelling allowances as are determined from time to time by the Remuneration Tribunal for travel within Australia; and

(c) such other allowances as are prescribed by the regulations.
28 Paragraph 45(1)(ed)
After “award”, insert “or certified agreement”.

29 After subsection 48(1)
Insert:

(1A) The rules must allow applications under Part VI B, and any ancillary documents relating to those applications, to be made or given to the Commission in electronic form.

(1B) If the rules allow such an application or ancillary document to be given to the Commission in electronic form, then the rules may also allow the Commission to additionally require the original application or ancillary document to be produced to the Commission.

30 After section 48
Insert:

48A President must provide certain information etc. to the Minister
(1) The President must provide to the Minister information, and copies of documents, of the kinds that are prescribed by the regulations, being:

(a) information that is publicly available, or derived from information that is publicly available, relating to:

(i) the Commission’s orders, decisions or actions under this Act; or

(ii) notifications or applications made or given to the Commission under this Act; or

(b) copies of such orders, decisions, notifications or applications.

(2) The President must provide the information or the copies by the time, and in the form, prescribed by the regulations.

31 Subsection 83BE(3)
Omit “83BB(a), (b) or (c)”, substitute “83BB(1)(a), (b) or (c)”.

33 After subsection 170BI(2)
Insert:

(2A) Section 170N does not prevent the Commission from exercising its arbitration powers under Part VI during a bargaining period (within the meaning of Division 8 of Part VI B) for the purposes of this section.

Note: In exercising its arbitration powers, the Commission may adjourn the arbitration until the bargaining period has ended.

35 Subsection 170CD(1) (paragraph (a) of the definition of Commonwealth public sector employee)
After “Public Service Act 1999”, insert “or the Parliamentary Service Act 1999”.

36 Section 170FD
Omit “section 107”, substitute “sections 107 and 108”.

37 At the end of section 170FD
Add:

Note: The Full Bench and the President may deal with certain applications under sections 170JEB and 170JEC (rather than sections 107 and 108).

38 Section 170GD
Omit “section 107”, substitute “sections 107 and 108”.

39 At the end of section 170GD
Add:

Note: The Full Bench and the President may deal with certain applications under sections 170JEB and 170JEC (rather than sections 107 and 108).

40 After section 170JEA
Insert:

170JEB Reference of applications to Full Bench
(1) This section applies to applications under:

(a) Division 2; and

(b) Subdivisions D and E of Division 3.

(2) A reference in this section to a part of an application includes a reference to:

(a) an application so far as it relates to a matter in dispute; or

(b) a question arising in relation to an application.

(3) Where a proceeding in relation to an application is before a member of the Commission, a party to the proceeding or the Minister may apply to the member to have the application, or a part of the application, dealt with by a Full Bench because the application or the part of the application is of such importance that, in the public interest, it should be dealt with by a Full Bench.
(4) If an application is made under subsection (3) to a member of the Commission other than the President, the member must refer the application to the President to be dealt with.

(5) The President must confer with the member about whether the application under subsection (3) should be granted.

(6) The President must grant the application under subsection (3) if the President is of the opinion that the application or the part of the application is of such importance that, in the public interest, it should be dealt with by a Full Bench.

(7) Where the President grants an application under subsection (3), the Full Bench must, subject to subsection (8), hear and determine the application or the part of the application and, in the hearing, may have regard to any evidence given, and any arguments adduced, in proceedings in relation to the application, or the part of the application, before the Full Bench commenced the hearing.

(8) Where the President grants an application under subsection (3) in relation to an application:

(a) the Full Bench may refer a part of the application to a member of the Commission to hear and determine; and

(b) the Full Bench must have regard to the evidence.

170JEC President may deal with certain applications

(1) This section applies to applications under:

(a) Division 2; and

(b) Subdivisions D and E of Division 3.

(2) A reference in this section to a part of an application includes a reference to:

(a) an application so far as it relates to a matter in dispute; or

(b) a question arising in relation to an application.

(3) The President may, whether or not another member of the Commission has begun to deal with a particular proceeding in relation to an application, decide to deal with the application or a part of the application.

(4) If the President decides to deal with the application or a part of the application, then the President must:

(a) hear and determine the application or the part of the application; or

(b) refer the application or the part of the application to a Full Bench.

(5) If the President refers the application or the part of the application to a Full Bench, the Full Bench must hear and determine the application or the part of the application.

(6) In the hearing of an application or a part of an application by the President under subsection (4) or by a Full Bench under subsection (5), the President or Full Bench may have regard to any evidence given, and any arguments adduced, in proceedings in relation to the application, or the part of the application, before the President or Full Bench commenced the hearing.

(7) Where the President has under subsection (4) referred an application to a Full Bench:

(a) the Full Bench may refer a part of the application to a member of the Commission to hear and determine; and

(b) the Full Bench must hear and determine the rest of the application.

(8) The President or a Full Bench may, in relation to the exercise of powers under...
this section, direct a member of the Commission to provide a report in relation to a specified matter.

(9) The member must, after making such investigation (if any) as is necessary, provide a report to the President or Full Bench, as the case may be.

42 Paragraph 170LU(2)(c)
Omit “the Court”, substitute “a court”.

43 At the end of section 170N
Add:
Note: The Commission is also not prevented from exercising its arbitration powers during a bargaining period to deal with certain applications for an order for equal remuneration for work of equal value: see subsection 170BI(2A).

44 At the end of section 170WK
Add:
(2) A Secretary of a Department (within the meaning of the Parliamentary Service Act 1999) may act on behalf of the Commonwealth in relation to AWAs with persons in the Department who are engaged under the Parliamentary Service Act 1999.

45 Section 177A (at the end of the definition of court of competent jurisdiction)
Add:
; or (c) the Industrial Relations Court of South Australia; or (d) any other State or Territory court that is prescribed by the regulations.

46 Subsection 178(1)
Omit “, except in the case of a breach of a bans clause,”.

47 Paragraph 298G(2)(a)
Omit “this”, substitute “the”.

48 Paragraph 298R(d)
Before “has participated”, insert “because the member”.

49 Paragraph 317(2)(c)
Before “put”, insert “fraudulently”.

50 At the end of paragraph 317(2)(g)
Add “without authority”.

51 Paragraph 317(2)(h)
After “ballot paper”, insert “to which the person is not entitled”.

52 Section 358
After “allowances”, insert “(including travelling allowance)”. Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002

53 Item 38 of Schedule 3
Omit “of the Workplace Relations Amendment (Registration and Accountability of Organisations) Act 2002”, substitute “of Schedule 1B to the Workplace Relations Act 1996”.

54 Item 39 of Schedule 3
Omit “of the Workplace Relations Amendment (Registration and Accountability of Organisations) Act 2002”, substitute “of Schedule 1B to the Workplace Relations Act 1996”.

55 Item 40 of Schedule 3
Omit “of the Workplace Relations Amendment (Registration and Accountability of Organisations) Act 2002”, substitute “of Schedule 1B to the Workplace Relations Act 1996”.

Part 2—Application provisions

57 Application of item 28
The amendment made by item 28 applies in relation to decisions of the Commission made before, on or after the commencement of that item.

58 Application of items 33 and 43
The amendments made by items 33 and 43 apply in relation to applications made before, on or after the commencement of those items.

59 Application of items 36 to 40
The amendments made by items 36 to 40 apply in relation to applications made before, on or after the commencement of those items.

60 Application of item 42
The amendment made by item 42 applies in relation to applications made before, on or after the commencement of that item.

61 Application of item 45
The amendment made by item 45 applies in relation to any breach of a term of an award, order or agreement (whether committed before, on or after the commencement of that item).
Question agreed to.
Bill, as amended, agreed to.

Third Reading

Dr STONE (Murray—Parliamentary Secretary to the Minister for the Environment and Heritage) (5.12 p.m.)—by leave—I move:

That this bill be now read a third time.
Question agreed to.
Bill read a third time.

BUSINESS

Rearrangement

Dr STONE (Murray—Parliamentary Secretary to the Minister for the Environment and Heritage) (5.12 p.m.)—I move:

That orders of the day No. 4, Australian Heritage Council Bill 2002; No. 5, Australian Heritage Council (Consequential and Transitional Provisions) Bill 2002; No. 6, Members of Parliament (Life Gold Pass) Bill 2002; and No. 7, Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002 of government business be postponed until a later hour this day.
Question agreed to.

ASSENT

Messages from the Governor-General reported informing the House of assent to the following bills:
Aboriginal Land Rights (Northern Territory) Amendment Bill 2002
Space Activities Amendment Bill 2002
Education Services for Overseas Students Amendment Bill 2002
Vocational Education and Training Funding Amendment Bill 2002
Family and Community Services Legislation Amendment (Budget Initiatives and Other Measures) Bill 2002
Insurance and Aviation Liability Legislation Amendment Bill 2002
Taxation Laws Amendment Bill (No. 3) 2002
Research Agencies Legislation Amendment Bill 2002
Torres Strait Fisheries Amendment Bill 2002

PARLIAMENTARY ZONE

Approval of Proposal

Dr STONE (Murray—Parliamentary Secretary to the Minister for the Environment and Heritage) (5.13 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 11 November 2002, namely: Construction of flagpoles, signage and bollards at Reconciliation Place and sun shading structures at Commonwealth Place.
Question agreed to.

The DEPUTY SPEAKER (Mr Hawker) (5.13 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 additional works at Reconciliation Place and Commonwealth Place.

BILLS RETURNED FROM THE SENATE

The following bills were returned from the Senate without amendment or request:
Criminal Code Amendment (Offences Against Australians) Bill 2002
Australian Animal Health Council (Livestock Industries) Funding Amendment Bill 2002
Health Care (Appropriation) Amendment Bill 2002
Excise Laws Amendment Bill (No. 1) 2002
Excise Tariff Amendment Bill (No. 2) 2002
Taxation Laws Amendment Bill (No. 5) 2002
Broadcasting Legislation Amendment Bill (No. 2) 2002

PROHIBITION OF HUMAN CLONING BILL 2002

Consideration of Senate Message

Bill returned from the Senate with amendments.
Ordered that the amendments be considered at the next sitting.
BROADCASTING LEGISLATION
AMENDMENT BILL (No. 1) 2002
First Reading
Bill received from the Senate, and read a first time.
Ordered that the second reading be made an order of the day for the next sitting.

ENVIRONMENT AND HERITAGE
LEGISLATION AMENDMENT BILL
(No. 1) 2002
Cognate bill:
AUSTRALIAN HERITAGE COUNCIL
BILL 2002
AUSTRALIAN HERITAGE COUNCIL
(CONSEQUENTIAL AND
TRANSITIONAL PROVISIONS)
BILL 2002
Second Reading
Debate resumed from 12 November, on motion by Dr Kemp:
That this bill be now read a second time.
Dr Kemp (Goldstein—Minister for the Environment and Heritage) (5.17 p.m.)—in reply—At this stage of the debate I want to thank those who have participated in the debate on this legislation. The bills before the House, the Environment and Heritage Legislation Amendment Bill (No. 1) 2002, the Australian Heritage Council Bill 2002 and the Australian Heritage Council (Consequential and Transitional Provisions) Bill 2002, provide for the most significant reform of heritage legislation in a quarter of a century. For the first time Australia will be able to give appropriate recognition and protection to places that are significant to the nation as a whole, helping us thereby to better appreciate and understand what we value as Australians. The bills also substantially improve the way in which the Commonwealth looks after its own heritage by adopting best practice measures in relation to identification and management.

The bills do not introduce a series of new measures at the expense of the old. Aspects of the current system which have worked well have either been retained or enhanced. The government has acknowledged concerns about the future of the Register of the National Estate and has agreed to retain it as an ongoing inventory of those special heritage places which, although not necessarily of national significance, are especially loved and valued by local communities around the country. The new Australian Heritage Council, which will replace the current Australian Heritage Commission as the Commonwealth's chief adviser on heritage matters, will be able to enter places in the register in much the same way as the commission is able to do now. In this way, the bills aim to retain the best features of a heritage regime that has served us well for 25 years while adding significant new features to help bring it into the 21st century. The new council, comprising a body of eminent heritage experts, will be established under separate legislation as an independent advisory body to the minister and will also be able to promote the identification, assessment and conservation of heritage on its own initiative.

In the same way that the community rightly expects proper protection of its world heritage sites or its endangered species, it is only appropriate that the federal government demonstrate leadership on the protection of our nationally significant places. It is a sign of a nation's maturity that it is able to duly recognise places that have helped to forge its psyche and identity. Accordingly, it is imperative that we ensure that such places are properly safeguarded for future generations. The government acknowledges this serious responsibility and has developed legislation to ensure that the coming generations will not be deprived of the opportunity to experience those places that helped us to understand our identity.

The legislation is the product of six years consultation and enjoys widespread community support. The Australian Heritage Commission also supports the reforms contained in this legislation. It is also based on a national consensus reflected in the outcomes of the 1997 Council of Australian Governments agreement on Commonwealth-state roles and responsibilities for the environment, which was signed by all levels of government. COAG agreed on the need to rationalise existing Commonwealth-state arrangements for the identification and protection of heritage places and that the Commonwealth’s role
should be focused on places of national heritage significance. These bills therefore will help to address a significant gap in our heritage protection regime. At present, we are only able to protect those very few sites of international significance in Australia. The 13,000 places on the Register of the National Estate remain effectively unprotected. What is called for now is proper protection for heritage places at the national level.

The concerns raised by the opposition in this debate do not relate to improving the protection regime provided by the bills; rather, they simply serve to clutter the administration of the legislation or, worse, to thwart positive conservation outcomes by imposing unworkable demands on the system. The issue has been raised, for example, of the protection of place versus the protection of values. Focusing on heritage values rather than on places allows for flexibility where some elements of the place are not significant, which may be the case with larger natural areas or cultural landscapes. It also increases certainty as to which actions need to be controlled under the EPBC Act. Further, the practical difficulties of protecting a place as well as its values could lead to lost opportunities for heritage protection, particularly in the case of landscapes with natural or Indigenous heritage values. These are landscapes where activities take place that have no impact on heritage values themselves but which would nevertheless be prohibited if the regime applied to the entire place rather than to the values alone.

An issue was raised in relation to the definition of ‘action’. A broader definition of ‘action’ would not necessarily improve the protection of heritage places and would create an anomaly in the regime in so far as World Heritage and other NES matters would be operating under the current definition. Defining ‘action’ more broadly would pose considerable difficulties in relation to a place that is, for example, both a World Heritage site and a place of national heritage significance. Different definitions of ‘action’ related to the same activity would make the act unworkable.

An issue was also raised about the grounds on which a minister can list places under the act. The concern has been suggested that somehow or other the minister will be able to list places by taking into account factors other than heritage significance. Let me clarify this by making it clear that, when including a place on the national list, the minister must only have regard to the heritage values of the place in question. Similarly, the council, when undertaking an assessment, must not consider any matters other than whether the place meets the criterion. The listing process will be open and transparent and include mechanisms for public consultation. However, this does not preclude the government from not entering a place on the national list if it is satisfied that there are overwhelming social or economic reasons for excluding it. In view of the considerable penalties attached in damaging a heritage place without approval, it is imperative that decisions which can have a major impact on the community are made by accountable and elected representatives and not by an advisory body of experts.

Finally, let me comment on the issue of the disposal of Commonwealth property. The sale and lease provisions within the bill are structured to provide Commonwealth agencies with workable options that will ensure the ongoing protection for the Commonwealth heritage values of the place, whether it be covenants, conservation agreements or entry and state heritage registers. Further to this, the government is committed to developing a new Commonwealth disposal policy. It is envisaged that issues such as a consultation requirement for agencies and advanced notice of sales will be addressed in the development of this policy, which will be developed in consultation with key stakeholders. In summary, the bills before the House provide Australia with the new heritage regime it deserves and needs. They herald a major leap forward in the protection of our most significant places and, like the original Australian Heritage Commission Act of 1975, should be supported by all sides of politics.

Question agreed to.

Bill read a second time.
Consideration in Detail

Bill—by leave—taken as a whole.

Mr KELVIN THOMSON (Wills) (5.25 p.m.)—by leave—I move opposition amendments (1) to (120):

(1) Clause 3, page 2 (lines 14 to 16), omit “Council” (wherever occurring), substitute “Commission”.

(2) Schedule 1, item 4, page 4 (line 24), after “National”, insert “or Commonwealth”.

(3) Schedule 1, item 4, page 4 (line 27) to page 5 (line 17), omit “the National Heritage values of a National Heritage place” (wherever occurring), substitute “a National or Commonwealth Heritage place and its associated values”.

(4) Schedule 1, item 4, page 5 (lines 21 to 24), omit “the National Heritage values, to the extent that they are indigenous heritage values, of a National Heritage place” substitute “a National or Commonwealth Heritage place and its associated values”.

(5) Schedule 1, item 4, page 5 (line 28), omit the note, substitute:

Note: For National Heritage place, see subsection 324B; for Commonwealth Heritage place, see subsection 341B(2); for associated values, see sections 324C and 341C.

(6) Schedule 1, item 4, page 5 (line 30) to page 6 (line 10), omit “the National Heritage values of a National Heritage place” (wherever occurring), substitute “a National or Commonwealth Heritage place and its associated values”.

(7) Schedule 1, item 4, page 7 (line 1), after “National”, insert “or Commonwealth”.

(8) Schedule 1, item 4, page 7 (line 6) to page 8 (line 23), omit “the National Heritage values of a National Heritage place” (wherever occurring), substitute “a National or Commonwealth Heritage place and its associated values”.

(9) Schedule 1, item 4, page 8 (line 29) to page 9 (line 4), omit “the National Heritage values, to the extent that they are indigenous heritage values, of a National Heritage place” (wherever occurring), substitute “a National or Commonwealth Heritage place or its associated values, to the extent that they are indigenous heritage values”.

(10) Schedule 1, item 4, page 9 (line 6), omit Note 1, substitute:

Note 1: For National Heritage place, see subsection 324B; for Commonwealth Heritage place, see subsection 341B(2); for associated values, see sections 324C and 341C.

(11) Schedule 1, item 4, page 9 (lines 11 to 12), omit “the National Heritage values of a National Heritage place”, substitute “a National or Commonwealth Heritage place and its associated values”.

(12) Schedule 1, item 4, page 9 (line 13), after “National”, insert “or Commonwealth”.

(13) Schedule 1, item 4, page 9 (lines 20 to 21, omit “the National Heritage values of a National Heritage place”, substitute “a National or Commonwealth Heritage place and its associated values”.

(14) Schedule 1, item 4, page 9 (line 22), after “National”, insert “or Commonwealth”.

(15) Schedule 1, item 4, page 9 (lines 31 to 32, omit “the National Heritage values of a National Heritage place”, substitute “a National or Commonwealth Heritage place and its associated values”.

(16) Schedule 1, page 11 (after line 7), after item 4, insert:

4A Section 26

After “environment” (wherever occurring), insert “or heritage”.

4B Section 27A

After “environment” (wherever occurring), insert “or heritage”.

4C Subsection 28(1)

After “environment”, insert “or heritage”.

(17) Schedule 1, item 11, page 15 (line 1), omit “the National Heritage values of a National Heritage place” (wherever occurring), substitute “a National or Commonwealth Heritage place and its associated values”.

(18) Schedule 1, item 13, page 15 (line 7), after “National”, insert “or Commonwealth”.

(19) Schedule 1, item 13, page 15 (line 9), after “National”, insert “or Commonwealth”.

(20) Schedule 1, item 23, page 19 (lines 12 to 15), omit subparagraphs (ii) and (iii), substitute:

(ii) a National Heritage place and its associated values; or
(iii) a Commonwealth Heritage place and its associated values.

(21) Schedule 1, item 23, page 19 (lines 21 to 24), omit subparagraphs (iii) and (iv), substitute:

(iii) a National Heritage place and its associated values; or

(iv) a Commonwealth Heritage place and its associated values.

(22) Schedule 1, item 27, page 21 (lines 1 to 4), omit subparagraphs (iii) and (iv), substitute:

(iii) a National Heritage place and its associated values; or

(iv) a Commonwealth Heritage place and its associated values.

(23) Schedule 1, item 27, page 21 (lines 11 to 14), omit subparagraphs (iii) and (iv), substitute:

(iii) a National Heritage place and its associated values; or

(iv) a Commonwealth Heritage place and its associated values.

(24) Schedule 1, item 28, page 21 (lines 23 to 26), omit subparagraphs (iii) and (iv), substitute:

(iii) a National Heritage place and its associated values; or

(iv) a Commonwealth Heritage place and its associated values.

(25) Schedule 1, item 28, page 21 (lines 34 to 37), omit subparagraphs (iii) and (iv), substitute:

(iii) a National Heritage place and its associated values; or

(iv) a Commonwealth Heritage place and its associated values.

(26) Schedule 1, item 29, page 22 (lines 6 to 8), omit paragraphs (c) and (d), substitute:

(c) a National Heritage place and its associated values; or

(d) a Commonwealth Heritage place and its associated values.

(27) Schedule 1, item 31, page 24 (after line 15), at the end of section 324D, add:

(4) Before the Governor-General makes regulations for the purposes of this section, the Australian Heritage Commission must:

(a) publish draft criteria for National Heritage values; and

(b) invite submissions from the public, allowing a period of not less than 30 business days for such submissions to be lodged; and

(c) take any submissions received into account in finalising the criteria; and, if the prescribed criteria differ from the draft criteria, the Minister must publish in the Gazette a statement of reasons for the differences.

(28) Schedule 1, item 31, page 24 (line 16) to page 25 (line 19), omit section 324E, substitute:

324E Nominations of places

(1) A person may, in accordance with the regulations (if any), nominate to the Australian Heritage Commission a place for inclusion in the National Heritage List.

(2) The Australian Heritage Commission may:

(a) ask a person who has nominated a place to provide additional information about the place within a specified period; and

(b) reject the nomination if the information is not provided within that period. The period specified must be reasonable.

(3) A member of the Australian Heritage Commission may make a nomination in accordance with this section.

(4) The Australian Heritage Commission may, by publishing a notice in accordance with the regulations, invite nominations of places within a specified theme or region.

(29) Schedule 1, item 31, page 25 (line 20) to page 26 (line 20), omit section 324F, substitute:

324F Emergency listing

(1) Before conducting an assessment of its values, the Australian Heritage Commission may, with the agreement of the Minister, list a place on the National Heritage List if the Commission is satisfied that:

(a) the place has or may have one or more National Heritage values; and

(b) any of those values are under imminent threat.

(2) Within 10 business days after including the place in the National Heritage List,
the Australian Heritage Commission must:

(a) publish a notice in accordance with the regulations stating that the place is included in the National Heritage List and the date on which it was included; and

(b) if the place was nominated by a person—advise the person that the place has been included in the National Heritage List.

(3) The Australian Heritage Commission must complete its assessment within 40 business days after receiving a nomination, unless an extension is given under 324G(1A).

(30) Schedule 1, item 31, page 26 (line 21), omit “Council”, substitute “Commission”.

(31) Schedule 1, item 31, page 26 (lines 22 to 25), omit subsection (1), substitute:

(1) The Australian Heritage Commission may make an assessment of a place’s National Heritage values whether or not the place is the subject of a nomination.

(32) Schedule 1, item 31, page 26 (after line 25), after subsection (1), insert:

(1A) The Minister may, at the request of the Australian Heritage Commission, extend the period allowed under subsection 324F(3) for completing an assessment.

(33) Schedule 1, item 31, page 26 (line 26) to page 27 (line 2), omit subsection (2), substitute:

(2) The Australian Heritage Commission must complete its assessment of a place’s National Heritage values within:

(a) 12 months after it is nominated; or

(b) 40 business days of the place being included in the National Heritage List under section 324F (emergency listing)

(34) Schedule 1, item 31, page 27 (lines 3 to 27), omit “Council” (wherever occurring), substitute “Commission”.

(35) Schedule 1, item 31, page 27 (line 31) to page 28 (line 5), omit “Minister” (wherever occurring), substitute “Australian Heritage Commission”.

(36) Schedule 1, item 31, page 28 (lines 7 to 10), omit subsection (2), substitute:

(2) The notice must be published within 20 business days after the day on which the Australian Heritage Commission completes an assessment of the place’s National Heritage values under section 324G.

(37) Schedule 1, item 31, page 28 (line 13), omit “Minister”, substitute “Australian Heritage Commission”.

(38) Schedule 1, item 31, page 28 (lines 18 to 21), omit subsection (4), substitute:

(4) The Australian Heritage Commission must assess the merits of any comments received that comply with this section.

(39) Schedule 1, item 31, page 28 (line 22), omit “Minister”, substitute “Australian Heritage Commission”.

(40) Schedule 1, item 31, page 28 (line 32) to page 29 (line 3), omit “Minister” (wherever occurring), substitute “Australian Heritage Commission”.

(41) Schedule 1, item 31, page 29 (after line 7), after subsection (1), insert:

(1A) If the Australian Heritage Commission decides not to include a place in the National Heritage List, the Minister may direct the Commission to reconsider its decision. The Australian Heritage Commission must comply with a direction by the Minister to reconsider a decision.

(1B) After reconsidering a decision under subsection (1A), the Australian Heritage Commission must:

(a) include the place in the National Heritage List and publish a notice to that effect in accordance with the regulations; or

(b) advise the person who nominated the place of the Commission’s reconsideration and affirmation of its decision not to include the place in the National Heritage List, and of the reasons for that decision. A notice published under paragraph (a) must include a statement setting out the place’s National Heritage values.

(42) Schedule 1, item 31, page 29 (line 9), at the end of subsection (2), add “A notice published under paragraph (b) must include the reasons for removing the place from the list.”.

(43) Schedule 1, item 31, page 29 (after line 9), after subsection (2), insert:
(2A) In making a decision whether to include a place in the National Heritage List, the Australian Heritage Commission must consider only the National Heritage values of the place.

(44) Schedule 1, item 31, page 32 (lines 3 to 9), omit subsection (1) (but not the note), substitute:

(1) The Minister may remove a place from the National Heritage List only if the Minister is satisfied that it is necessary in the interests of Australia's defence or security to do so.

(1A) The Australian Heritage Commission may remove a place from the National Heritage List only if it is satisfied that the place does not have any National Heritage values.

(45) Schedule 1, item 31, page 32 (lines 12 to 19), omit "Minister" (wherever occurring), substitute "Australian Heritage Commission".

(46) Schedule 1, item 31, page 32 (lines 23 and 24), omit Note 1.

(47) Schedule 1, item 31, page 33 (line 7) to page 34 (line 2), omit section 324M.

(48) Schedule 1, item 31, page 34 (lines 12 to 20), omit "Minister" (wherever occurring), substitute "Australian Heritage Commission".

(49) Schedule 2, item 31, page 34 (line 30), omit "Minister", substitute "Australian Heritage Commission".

(50) Schedule 1, item 31, page 35 (line 4), omit "Minister", substitute "Australian Heritage Commission".

(51) Schedule 1, item 31, page 35 (lines 18 to 23), omit "Council" (wherever occurring), substitute "Commission".

(52) Schedule 1, item 31, page 35 (line 30) to page 36 (line 14), omit subsection (2), substitute:

(2) However, subsection (1) does not apply after the day on which:

(a) a notice is published under section 324H concerning the place; or

(b) an instrument is published in the Gazette under section 324J concerning the place; as the case may be.

(53) Schedule 1, item 31, page 36 (lines 15 to 23), omit "Council" (wherever occurring), substitute "Commission".

(54) Schedule 1, item 31, page 38 (line 9), at the end of subsection (1), add "but such a plan must not be inconsistent with the National and Commonwealth Heritage management principles".

(55) Schedule 1, item 31, page 38 (line 14), at the end of subsection (2), add "but such a place must not be inconsistent with the National and Commonwealth Heritage management principles".

(56) Schedule 1, item 31, page 39 (line 23) to page 40 (line 19), omit section 324Y, substitute:

324Y National Heritage management principles

(1) The Australian Heritage Commission must develop and give to the Minister principles for managing National Heritage. The principles are called the National Heritage management principles.

(2) Before giving a copy of the draft principles to the Minister, the Australian Heritage Commission must publish in the Gazette, in a daily newspaper circulating in each State and self-governing Territory and in accordance with the regulations (if any) a notice:

(a) stating that the Australian Heritage Commission has prepared draft National management principles; and

(b) stating how the draft can be obtained; and

(c) inviting comments on the draft from members of the public; and

(d) specifying the address to which comments may be sent; and

(e) specifying a day (at least 30 days after the last day on which the notice is published in the Gazette or in accordance with the regulation (if any)) by which comments must be sent; and must take any comments received into account in finalising the principles.

(3) The Australian Heritage Commission must give the Minister the National Heritage management principles for approval.

(4) The Minister may approve the National Heritage management principles with or without amendment.

(5) Approved National Heritage management principles are a disallowable in-
strument for the purposes of section 46A of the Acts Interpretation Act 1901.

(6) If the Minister approves the National Heritage management principles with amendments the Minister must cause to be published in the Gazette a statement of reasons for making the amendments.

(7) The regulations may prescribe obligations to implement or give effect to the National Heritage management principles.

(8) A person must comply with the regulations to the extent that they impose obligations on the person.

(57) Schedule 1, item 31, page 40 (lines 21 to 27), omit “Minister and the Australian Heritage Council” (wherever occurring), substitute: “Australian Heritage Commission”.

(58) Schedule 1, item 31, page 41 (lines 11 to page 42 (line 1), omit “Minister” (wherever occurring), substitute: “Australian Heritage Commission”.

(59) Schedule 1, item 31, page 42 (lines 20 to page 43 (line 3), omit “Minister” (wherever occurring), substitute: “Australian Heritage Commission”.

(60) Schedule 1, item 32, page 43 (lines 10 to 13), omit “Minister” (wherever occurring), substitute “Australian Heritage Commission”.

(61) Schedule 1, item 32, page 43 (line 15), omit “The Minister may ask the Australian Heritage Council for”, substitute: “The Australian Heritage Commission must undertake an”.

(62) Schedule 1, item 32, page 44 (lines 7 to 13), omit “Minister” (wherever occurring), substitute “Australian Heritage Commission”.

(63) Schedule 1, item 32, page 45 (after line 4), at the end of section 341D, add:

(4) Before the Governor-General makes regulations for the purposes of this section, the Australian Heritage Commission must:

(a) publish draft criteria for Commonwealth Heritage values; and

(b) invite submissions from the public, allowing a period of not less than 30 days for such submissions to be lodged; and

(c) take any submissions received into account in finalising the criteria; and if the prescribed criteria differ from the draft criteria, the Minister must publish in the Gazette a statement of reasons for the differences.

(64) Schedule 1, item 32, page 45 (line 5) to page 46 (line 7), omit section 341E, substitute:

341E Nominations of places

(1) A person may, in accordance with the regulations (if any), nominate to the Australian Heritage Commission a place for inclusion in the Commonwealth Heritage List.

(2) The Australian Heritage Commission may:

(a) ask a person who has nominated a place to provide additional information about the place within a specified period; and

(b) reject the nomination if the information is not provided within that period. The period specified must be reasonable.

(3) A member of the Australian Heritage Commission may make a nomination in accordance with this section.

(65) Schedule 1, item 32, page 46 (line 8) to page 47 (line 12), omit section 341F, substitute:

341F Emergency listing

(1) Before conducting an assessment of its values, the Australian Heritage Commission may, with the agreement of the Minister, list a place on the Commonwealth Heritage List if:

(a) the place is entirely within a Commonwealth area; and

(b) the Commission is satisfied that the place has or may have one or more Commonwealth Heritage values any of which are under imminent threat.

(2) Within 10 business days after including the place in the Commonwealth Heritage List, the Australian Heritage Commission must:

(a) publish a notice in accordance with the regulations stating that the place is included in the Commonwealth Heritage List and the date on which it was included; and

(b) if the place was nominated by a person—advise the person that the place has been included in the Commonwealth Heritage List.

(3) The Australian Heritage Commission must complete its assessment within 40
business days after receiving a nomination, unless an extension is given under 341F(1A).

(66) Schedule 1, item 32, page 47 (line 13), omit “Council”, substitute “Commission”.

(67) Schedule 1, item 32, page 47 (lines 14 to 17), omit subsection (1), substitute:

(1) The Australian Heritage Commission must complete its assessment of a place’s Commonwealth Heritage values within:

(a) 12 months after it is nominated; or

(b) 40 business days of the place being included in the Commonwealth Heritage List under section 341F (emergency listing).

(68) Schedule 1, item 32, page 47 (after line 17), after subsection (1), insert:

(1A) The Minister may, at the request of the Australian Heritage Commission, extend the period allowed under subsection 341F(3) for completing an assessment.

(69) Schedule 1, item 32, page 47 (lines 18 to 29), omit subsection (2).

(70) Schedule 1, item 32, page 47 (lines 30 to 33), omit subsection (3), substitute:

(3) The Australian Heritage Commission may make an assessment of a place’s Commonwealth Heritage values whether or not the place is the subject of a nomination.

(71) Schedule 1, item 32, page 47 (line 34) to page 48 (line 18), omit “Council” (wherever occurring), substitute “Commission”.

(72) Schedule 1, item 32, page 48 (after line 20), at the end of section 341G add:

(6) The Australian Heritage Commission must provide a copy of an assessment to any person who requests it.

(73) Schedule 1, item 32, page 48 (lines 22 to 30), omit “Minister” (wherever occurring), substitute “Australian Heritage Commission”.

(74) Schedule 1, item 32, page 48 (lines 32 to 35), omit subsection (2), substitute:

(2) The notice must be published within 20 business days after the day on which the Australian Heritage Commission completes an assessment of the place’s Commonwealth Heritage values under section 341F.

(75) Schedule 1, item 32, page 49 (line 3), omit “Minister”, substitute “Australian Heritage Commission”.

(76) Schedule 1, item 32, page 49 (lines 8 to 11), omit subsection (4), substitute:

(4) The Australian Heritage Commission must assess the merits of any comments received that comply with this section.

(77) Schedule 1, item 32, page 49 (line 12), omit “Minister”, substitute “Australian Heritage Commission”.

(78) Schedule 1, item 32, page 49 (line 15), omit “Council”, substitute “Commission”.

(79) Schedule 1, item 32, page 49 (line 23), omit “Minister”, substitute “Australian Heritage Commission”.

(80) Schedule 1, item 32, page 49 (after line 29), after subsection (1), insert:

(1A) If the Australian Heritage Commission decides not to include a place in the Commonwealth Heritage List, the Minister may direct the Commission to reconsider its decision. The Australian Heritage Commission must comply with a direction by the Minister to reconsider a decision.

(1B) After reconsidering a decision under subsection (1A), the Australian Heritage Commission must:

(a) include the place in the Commonwealth Heritage List and publish a notice to that effect in accordance with the regulations; or

(b) advise the person who nominated the place of the Commission’s reconsideration and affirmation of its decision not to include the place in the Commonwealth Heritage List, and of the reasons for that decision. A notice published under paragraph (a) must include a statement setting out the place’s National Heritage values.

(81) Schedule 1, item 32, page 49 (lines 30) to page 50 (line 6), omit “Minister” (wherever occurring), substitute “Australian Heritage Commission”.

(82) Schedule 1, item 32, page 50 (line 7), omit “he or she”, substitute “Australian Heritage Commission”.

(83) Schedule 1, item 32, page 50 (line 16) to page 51 (line 37), omit “Minister” (wherever
occurring), substitute “Australian Heritage Commission”.

(84) Schedule 1, item 32, page 52 (lines 5 to 21), omit subsections (8) and (9).

(85) Schedule 1, item 32, page 53 (lines 3 to 9), omit subsection (1), substitute:

(1) The Minister may remove a place from the Commonwealth Heritage List only if the Minister is satisfied that it is necessary in the interests of Australia’s defence or security to do so.

(1A) The Australian Heritage Commission may remove a place from the Commonwealth Heritage List only if it is satisfied that:

(a) the place is not entirely within a Commonwealth area; or
(b) the place does not have any Commonwealth Heritage values.

(86) Schedule 1, item 32, page 53 (line 10) to page 54 (line 16), omit “Minister” (wherever occurring), substitute “Australian Heritage Commission”.

(87) Schedule 1, item 32, page 54 (line 18) to page 55 (line 13), omit section 341M.

(88) Schedule 1, item 32, page 55 (line 14) to page 56 (line 6), omit section 341N.

(89) Schedule 2, item 32, page 56 (line 8), omit “Minister”, substitute “Australian Heritage Commission”.

(90) Schedule 1, item 32, page 56 (line 17), omit “Minister”, substitute “Australian Heritage Commission”.

(91) Schedule 1, item 32, page 57 (lines 1 to 5), omit “Council”, substitute “Commission”

(92) Schedule 1, item 32, page 57 (lines 13 to 31), omit subsection (2), substitute:

(2) However, subsection (1) does not apply after the day on which:

(a) a notice is published under section 341H concerning the place; or
(b) an instrument is published in the Gazette under section 341J concerning the place; as the case may be.

(93) Schedule 1, item 32, page 57 (lines 32) to page 58 (line 4), omit “Council”, substitute “Commission”

(94) Schedule 1, item 32, page 58 (lines 18 to 26), omit subsection 341S(1), substitute:

(1) Each Commonwealth agency must identify any Commonwealth Heritage place within its ownership or control and, within 3 years after the commencement of this section, develop:

(a) an inventory of; and
(b) a management strategy for; any such places that are in the ownership or control of the agency on or after the commencement of this section.

(1A) A Commonwealth agency must make a written plan to protect and manage the Commonwealth Heritage values of a Commonwealth Heritage place it owns or controls. The agency must do so within 2 years either:

(a) at the time the agency starts owning or controlling the place, in the agency’s heritage strategy under section 341ZA; or
(b) after that time, in the agency’s first such strategy.

Note: However, a Commonwealth agency must not make plans for managing certain places (see section 341U).

(1B) Before making a plan, the agency concerned must cause to be published in the Gazette, in a daily newspaper circulating in each State and self-governing Territory and in accordance with the regulations (if any) a notice:

(a) stating that the agency has prepared a draft of a management plan for a Commonwealth Heritage place; and
(b) stating how the draft can be obtained; and
(c) inviting comments on the draft from members of the public; and
(d) specifying the address to which comments may be sent; and
(e) specifying a day (at least 30 days after last day on which the notice is published in the Gazette or in accordance with the regulations (if any)) by which comments must be sent; and

must take any comments received into account in finalising the plan.

(95) Schedule 1, item 32, page 59 (after lines 19 to 20), omit subsection 341S(7), substitute:

(7) Each Commonwealth agency that acquires ownership or control of a property after the commencement of this section must assess the property for
heritage values in accordance with guidelines developed by the Australian Heritage Commission for the purpose.

(8) A Commonwealth agency that owns or controls a Commonwealth Heritage place must comply with any State or Territory environment, heritage or planning laws that apply generally in the place where the Commonwealth Heritage place is located.

(96) Schedule 1, item 32, page 59 (line 24) to page 60 (line 2), omit “Minister” (wherever occurring), substitute “Australian Heritage Commission”.

(97) Schedule 1, item 32, page 60 (line 7), at the end of subsection (1) add “but such a plan must not be inconsistent with the National and Commonwealth Heritage management principles”.

(98) Schedule 1, item 32, page 61 (lines 3 to 10), omit section 341Y, substitute:

341Y Commonwealth Heritage management principles

(1) The Australian Heritage Commission must develop and give to the Minister principles for managing Commonwealth Heritage. The principles are called the Commonwealth management principles.

(2) Before giving a copy of the draft principles to the Minister, the Australian Heritage Commission must publish in the Gazette, in a daily newspaper circulating in each State and self-governing Territory and in accordance with the regulations (if any) a notice:

(a) stating that the Australian Heritage Commission has prepared draft Commonwealth management principles; and

(b) stating how the draft can be obtained; and

(c) inviting comments on the draft from members of the public; and

(d) specifying the address to which comments may be sent; and

(e) specifying a day (at least 30 days after the last day on which the notice is published in the Gazette or in accordance with the regulation (if any)) by which comments must be sent; and must take any comments received into account in finalising the principles.

(3) The Australian Heritage Commission must give the Minister the Commonwealth Heritage management principles for approval.

(4) The Minister may approve the Commonwealth Heritage management principles with or without amendment.

(5) Approved Commonwealth Heritage management principles are a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901.

(6) If the Minister approves the Commonwealth Heritage management principles with amendments the Minister must cause to be published in the Gazette a statement of reasons for making the amendments.

(7) The regulations may prescribe obligations to implement or give effect to the Commonwealth Heritage management principles.

(8) A person must comply with the regulations to the extent that they impose obligations on the person.

(99) Schedule 1, item 32, page 61 (lines 12 to 17), omit “Minister and the Australian Heritage Council” (wherever occurring), substitute: “Australian Heritage Commission”.

(100) Schedule 1, item 32, page 62 (lines 4 to 12), omit “Minister”, (wherever occurring), substitute: “Australian Heritage Commission”.

(101) Schedule 1, item 32, page 62 (lines 23 to 30), omit “Minister”, (wherever occurring), substitute: “Australian Heritage Commission”.

(102) Schedule 1, item 32, page 63 (lines 9 to 20), omit “Minister”, substitute: “Australian Heritage Commission”.

(103) Schedule 1, item 32, page 63 (lines 21 and 22), omit “The Minister must consult with the Australian Heritage Council in preparing the advice.”.

(104) Schedule 1, item 32, page 63 (lines 23 to 25), omit “Minister”, (wherever occurring), substitute: “Australian Heritage Commission”.

(105) Schedule 1, item 32, page 64 (lines 8 to 35), omit “Minister”, (wherever occurring), substitute: “Australian Heritage Commission”.

(106) Schedule 1, item 32, page 65 (lines 5 to 18), omit “Minister”, (wherever occurring), substitute: “Australian Heritage Commission”.

(107) Schedule 1, item 32, page 65 (lines 19 and 20), omit “The Minister must consult with the Australian Heritage Council in preparing the advice.”

(108) Schedule 1, item 32, page 65 (line 21), omit “Minister”, substitute: “Australian Heritage Commission”.

(109) Schedule 1, item 32, page 66 (lines 6 to 22), omit “Minister”, (wherever occurring), substitute: “Australian Heritage Commission”.

(110) Schedule 1, item 37, page 67 (line 15), omit “Council”, substitute: “Commission”.

(111) Schedule 1, item 39, page 67 (lines 23 to 24), omit “Council” (wherever occurring, substitute: “Commission”.

(112) Schedule 2, item 1, page 71 (lines 10 to 20), omit “Council” (wherever occurring), substitute: “Commission”.

(113) Schedule 2, item 1, page 71 (line 24), at the end of subsection (4A), add: If the Director does not provide the advice on time, the Australian Heritage Commission may consider the advice and include a copy of it in the assessment.

(114) Schedule 2, item 2, page 71 (line 31), omit “Council”, substitute “Commission”.

(115) Schedule 2, item 3, page 72 (lines 3 to 13), omit “Council” (wherever occurring), substitute “Commission”.

(116) Schedule 2, item 4, page 72 (line 24), omit “Council”, substitute “Commission”.

(117) Schedule 3, item 1, page 73 (line 7), at the end of the item heading, add “and the National Heritage List”.

(118) Schedule 3, item 1, page 73 (line 13), omit “Within 6 months after this item commences, the Australian Heritage Commission must”.

(119) Schedule 3, item 1, page 73 (after line 28), after subitem (3), insert:

(3A) Immediately after this item commences, the Australian Heritage Commission must determine that the National Heritage List is taken to include any other place on the Register of the National Estate not included on the Commonwealth Heritage List because of subitem (2). This list is to be known as the Transitional National Heritage List.

(3B) The Transitional National Heritage List ceases to have effect as soon as the Australian Heritage Commission estabishes the National Heritage List under section 324B of the Environment Protection and Biodiversity Conservation Act 1999 which must occur within 6 months after the commencement of this item.

(120) Schedule 3, item 1, page 73 (line 29), after “(2)”, insert “or (3A)”.

The fact that the opposition has moved some 120 amendments to this particular legislation reflects the seriousness with which we treat the heritage legislation and the importance that we attach to getting it right. I wish to take the House in the course of this consideration in detail stage debate through a range of concerns which we have about the heritage legislation, as put forward by the government.

The first issue I want to talk about relates to interim arrangements for heritage protection—which the Minister for the Environment and Heritage touched on in his closing remarks. One of the major deficiencies of the current bills is that, once the legislation comes into force, no places will be listed on either the Commonwealth or national lists. When we asked the Department of the Environment and Heritage about this at estimates, they indicated that in the order of half-a-dozen places a year will be added to the list. You need to compare this with the fact that currently there are some 13,000 places on the Register of the National Estate.

The government had initially undertaken to have all Commonwealth places on the Register of the National Estate immediately placed on the Commonwealth list. Without such protection, Commonwealth properties in transition from Commonwealth to other ownership may be vulnerable to inappropriate developments or actions. For example, there is a long list of Defence properties earmarked by the government for sale that could be affected, such as the Georges River near Sydney or the Myilly Point Heritage Precinct in Darwin or the Norfolk Island crown leased land, an example of particular interest. The government is preparing to convert Commonwealth leasehold land to freehold without full scrutiny under heritage legislation. There have also been examples of Commonwealth properties with heritage...
values being sold off by the government rather than being transferred to the states. Increasingly, states have been required to purchase Commonwealth properties on the open market, regardless of the conservation and heritage values of the places and their need for ongoing management.

The government approach to the disposal of Commonwealth properties has been inconsistent, to say the least. For example, former Commonwealth Defence properties surrounding Sydney Harbour were identified as ‘surplus to requirements’ and impending sale was averted after community backlash within blue ribbon Liberal seats and strong intervention from the Carr state Labor government. This government eventually established the Sydney Harbour Trust and funds the ongoing security, maintenance and planning for culturally and environmentally sensitive development of the areas as public land. It is imperative that the relevant places on the Register of the National Estate are transferred to the Commonwealth Heritage List in order to provide them with appropriate heritage protection, and I am therefore moving amendments to add Commonwealth places on the Register of the National Estate to the Commonwealth Heritage List.

I suppose it is a little ironic that some of the properties we argue about are former or indeed existing Defence properties. One of the interesting things I have noted in the literature is that in highly economically advanced countries the military can be one of the more important protectors of open land spaces. They subject land and air space to exclusion from civilian use. Perhaps, in a sense, unwittingly the military protects vast areas from encroaching agricultural or other developments that have commercially destroyed wilderness places in the past. For example, there is quite a credible case that the United States Army literally rescued biodiversity from oblivion in Yellowstone National Park. The US Army was given sole protective control over the park from 1886 to 1918. Another odd example of this level of protection coming from the military is that of the Korean demilitarised zone, which is a five- to 20-kilometre wide zone south of the demilitarised zone in which commercial encroachment is limited. This zone, and the demilitarised zone that comes with it, has become a haven for rare and endangered species and now constitutes a unique, natural and preserved wildlife habitat ranging across the entire east-west landscape of the Korean Peninsula. Against that background, I want to turn to—

Debate interrupted; adjournment proposed and negatived.

Mr KELVIN THOMSON—I wish to turn to—

Mr ABBOTT (Warringah—Leader of the House) (5.31 p.m.)—I regret the need to do this, but this debate has gone on now for long enough. I move:

That the question be now put.

Question put.

The House divided. [5.35 p.m.]

(The Speaker—Mr Neil Andrew)

AYES

Abbott, A.J.  Anderson, J.D.
Andrews, K.J.  Anthony, L.J.
Bailey, F.E.  Baird, B.G.
Baldwin, R.C.  Bartlett, K.J.
Billsen, B.F.  Bishop, B.K.
Bishop, J.I.  Cadman, A.G.
Cameron, R.A.  Charles, R.E.
Ciobo, S.M.  Cobb, J.K.
Costello, P.H.  Downer, A.J.G.
Dutton, P.C.  Elson, K.S.
Entsch, W.G.  Farmer, P.F.
Forrest, J.A.  Gallus, C.A.
Gambharo, T.  Georgiou, P.
Haase, B.W.  Hardgrave, G.D.
Hartsuyker, L.  Hawker, D.P.M.
Hockey, J.B.  Hull, K.E.
Hunt, G.A.  Johnson, M.A.
Jull, D.F.  Kemp, D.A.
Kelly, J.M.  Ley, S.P.
King, P.E.  Lloyd, J.E.
Lindsay, P.J.  May, M.A.
Macfarlane, I.E.  McGauran, P.J.
McArthur, S.  *  Nairn, G. R.
Moylan, J. E.  Neville, P.C.
Nelson, B.J.  Pearce, C.J.
Panopoulos, S.  Ruddock, P.M.
Pyne, C.
Thursday, 14 November 2002

Schultz, A. Secker, P.D.
Slipper, P.N. Smith, A.D.H.
Somlyay, A.M. Southcott, A.J.
Stone, S.N. Thompson, C.P.
Ticehurst, K.V. Toller, D.W.
Truss, W.E. Tuckey, C.W.
Vale, D.S. Wakelin, B.H.
Williams, D.R. Worth, P.M.

NOES
Andren, P.J. Bevis, A.R.
Byrne, A.M. Corcoran, A.K.
Cox, D.A. Crean, S.F.
Crosio, J.A. Danby, M. *
Ellis, A.L. Emerson, C.A.
Ferguson, L.D.T. Ferguson, M.J.
Fitzgibbon, J.A. George, J.
Gibbons, S.W. Gillard, J.E.
Grierson, S.J. Griffin, A.P.
Hall, J.G. Irwin, J.
Hoare, K.J. Jenkins, H.A.
Jackson, S.M. King, C.F.
Kerr, D.J.C. Lawrence, C.M.
Latham, M.W. Macklin, J.L.
Livermore, K.F. McFarlane, J.S.
McClelland, R.B. McIlvanan, R.F.
McLeay, L.B. Mossfield, F.W.
Melham, D. O’Connor, G.M.
Murphy, J. P. Piherske, T.
Organ, M. Quick, H.V. *
Price, L.R.S. Roxon, N.L.
Ripoll, B.F. Sawford, R.W.
Rudd, K.M. Sercombe, R.C.G.
Sciacca, C.A. Snowdon, W.E.
Sidebottom, P.S. Tanner, L.
Swan, W.M. Wilkie, K.

* denotes teller

Question agreed to.

Mr Kelvin Thomson—Mr Speaker, I rise on a point of order. Aren’t you meant to put the question that the amendments be agreed to?

The SPEAKER—I will deal with the point of order. I hear what the member for Wills is saying but, in fact, what the member for Wills may not be aware of—and I, not unreasonably, anticipated this—is that, under standing order 187, the amendments currently before the House have been moved but not made. That is the instance we are in now. The question shall be put as originally proposed was that the bill be agreed to, and we have just moved that that question be put.

Mr Kelvin Thomson—Further to the point of order, Mr Speaker, what you are suggesting is that the House be asked to vote on the bill without having had the opportunity to vote on the amendments.

The SPEAKER—Can I correct the member for Wills with great respect and indicate that I am not suggesting anything. I am doing what the standing orders oblige me to do, and standing order 187 obliges me, having been asked to put the question, to put the question, which is that the bill be agreed to.

Mr Kelvin Thomson—I seek to move that so much of standing orders be suspended as would prevent me from moving the amendments in order that the amendments can be voted on.

The SPEAKER—I am sure the member for Wills understands that the chair is not seeking to frustrate him but, equally, the chair is in a situation where the House has voted to put the question. The question, therefore, that I am obliged to put without any further debate—because that is what putting the question means and that is what standing order 187 obliges me to do—is the question that the bill be agreed to.

Mr Kelvin Thomson—Mr Speaker—

The SPEAKER—The member for Wills must appreciate the fact that he is out of order. I will hear him, but he must appreciate the fact that I am extending to him licence which is not normally extended.

Mr Kelvin Thomson—It is not a question of licence, Mr Speaker. I have moved my amendments, and I am seeking to have the House vote on the 120 amendments before the House votes on the bill. That is absolutely fundamental in terms of our position in relation to the bill.

The SPEAKER—The member for Wills will resume his seat. The member for Wills must equally understand that I am sitting here with a set of standing orders that I am following to the letter of the law. The question that the question be now put has been passed, and the question that I am therefore now putting is that the bill be agreed to.
Question put.

The House divided. [5.44 p.m.]

(The Speaker—Mr Neil Andrew)

Ayes......... 70
Noes......... 50
Majority..... 20

AYES

Abbott, A.J.     Anderson, J.D.
Andrews, K.J.    Bailey, F.E.     Baldwin, R.C.
Baird, B.G.      Billson, B.F.     Bishop, B.K.
Bishop, J.I.     Cameron, R.A.     Cobb, J.K.
Charles, R.E.    Ciobo, S.M.      Costello, P.H.
Downer, A.J.G.   Dutton, P.C.     Entsch, W.G.
Elson, K.S.      Forrest, J.A. * Australian Capital Territory
Gambaro, T.     Haase, B.W.     Hartseyuker, L.
Hardgrave, G.D.  Hockey, J.B.     Hunt, G.A.
Hawker, D.P.M.   Kemp, D.A.      Kelly, J.M.
Ley, S.P.        Lindsay, P.J.    Macfarlane, I.E.
May, M.A.        McGauran, P.J.   Moylan, J. E.
McArthur, S. *   Moyle, G. R.    Nelson, B.J.
McRae, P.        Neville, P.C.   Panopoulos, S.
Pearce, C.J.     Pyne, C.       Schultz, A.
Ruddock, P.M.    Slipper, P.N.   Somlatch, A.M.
Seeker, P.D.     Smith, A.D.H.   Southcott, A.J.
Thompson, C.P.   Ticehurst, K.V. Tolnner, D.W.
Truss, W.E.      Tuckey, C.W.    Vale, D.S.
Wakelin, B.H.    Williams, D.R. 

NOES

Andren, P.J.     Byrne, A.M.    Cox, D.A.
Crosby, J.A.     Danby, M. *   Emerson, C.A.
Ellis, A.L.      Ferguson, L.D.T.
Fitzgibbon, J.A. George, J.     Gibbons, S.W.
Grierson, S.J.   Hall, J.G.    

Hatton, M.J.     Hoare, K.J.
Irwin, J.        Jackson, S.M.
Jenkins, H.A.    Kerr, D.J.C.
Latham, M.W.     Lawrence, C.M.
Macklin, J.L.    McClelland, R.B.
McFarlane, J.S.  McLeay, L.B.
McMullan, R.F.   Melham, D.
Mossfield, F.W.  Murphy, J. P.
O’Connor, G.M.   Organ, M.
Pilberserk, T.    Price, L.R.S.
Quick, H.V. *    Ripoll, B.F.
Roxon, N.L.      Rudd, K.M.
Sawford, R.W.    Sercombe, R.C.G.
Sidebottom, P.S. Snowdon, W.E.
Swan, W.M.       Tanner, L.
Thomson, K.J.    Wilkie, K.

* denotes teller

Question agreed to.

Third Reading

Dr Kemp—I ask leave of the House to move the third reading forthwith.

Leave not granted.

Mr ABBOTT (Warringah—Leader of the House) (5.52 p.m.)—I move:

That so much of the standing orders be suspended as would prevent the motion for the third reading being moved without delay.

Mr KELVIN THOMSON (Wills) (5.52 p.m.)—The reason we are not going to support this is that we are entitled to have a consideration in detail stage to debate the 120 amendments which this opposition has moved because we regard these as substantial bills which need to be properly debated so that we can protect Commonwealth places such as Point Nepean, Point Cook, the Georges River and Myilly Point in Darwin—a whole host of heritage places which these bills will place at risk if we allow them to go through unamended. If these bills are passed without amendment, the heritage protection for some of this nation’s crucial heritage areas will be diminished as a result.

Mr ABBOTT (Warringah—Leader of the House) (5.53 p.m.)—I move:

That the question be now put.

Question put.

The House divided. [5.57 p.m.]

(The Speaker—Mr Neil Andrew)

Ayes......... 67
Noes......... 49
Majority..... 18
Thursday, 14 November 2002

REPRESENTATIVES

AYES

Abbott, A.J.
Andrews, K.J.
Bailey, F.E.
Baldwin, R.C.
Billson, B.F.
Bishop, J.J.
Cameron, R.A.
Ciobo, S.M.
Costello, P.H.
Dutton, P.C.
Farmer, P.F.
Gallus, C.A.
Georgiou, P.
Hardgrave, G.D.
Hawker, D.P.M.
Hull, K.E.
Johnson, M.A.
Kelly, D.M.
Kemp, D.A.
Ley, S.P.
Lloyd, J.E.
McArthur, S.*
Moylan, J. E.
Nelson, B.J.
Panopoulos, S.
Pyne, C.
Schultz, A.
Slipper, P.N.
Somlyay, A.M.
Thompson, C.P.
Tollner, D.W.
Tuckey, C.W.
Wakelin, B.H.
Worth, P.M.

AYES

Anderson, J.D.
Anthony, L.J.
Baird, B.G.
Bartlett, K.J.
Bishop, B.K.
Cadmam, A.G.
Charles, R.E.
Cobb, J.K.
Downer, A.J.G.
Elson, K.S.
Gambaro, T.
Haase, B.W.
Hockey, J.B.
Hunt, G.A.
Kelly, J.M.
King, P.E.
Lindsay, P.J.
May, M.A.
McGauran, P.J.
Nairn, G. R.
Neville, P.C.
Pearce, C.J.
Randall, D.J.
Secker, P.D.
Smith, A.D.H.
Southcott, A.J.
Ticehurst, K.V.
Truss, W.E.
Vale, D.S.
Williams, D.R.

NOES

Andren, P.J.
Corcoran, A.K.
Crean, S.F.
Danby, M.*
Emerson, C.A.
Ferguson, M.J.
George, J.
Gillard, J.E.
Griffin, A.P.
Hatton, M.J.
Irwin, J.
Jenkins, H.A.
Latham, M.W.
Macklin, J.L.
McFarlane, J.S.
McMullan, R.F.
Mossfield, F.W.
O’Connor, G.M.
Price, L.R.S.

NOES

Bevis, A.R.
Cox, D.A.
Crosio, J.A.
Ellis, A.L.
Ferguson, L.D.T.
Fitzgibbon, J.A.
Gibbons, S.W.
Grierson, S.J.
Hall, J.G.
Houre, K.J.
Jackson, S.M.
Kerr, D.J.C.
Lawrence, C.M.
McClelland, R.B.
McLeay, L.B.
Melham, D.
Murphy, J. P.
Organ, M.
Quick, H.V.*

Ripoll, B.F.
Rudd, K.M.
Sercombe, R.C.G.
Snowdon, W.E.
Tanner, L.
Wilkie, K.
Roxon, N.L.
Sawford, R.W.
Sidebottom, P.S.
Swan, W.M.
Thomson, K.J.

* denotes teller

Question agreed to.

Question put:

That the motion (Mr Abbott’s) be agreed to.

The House divided. [6.05 p.m.]

(The Speaker—Mr Neil Andrew)

Ayes............ 67
Noes............ 49
Majority........ 18

AYES

Abbott, A.J.
Andrews, K.J.
Bailey, F.E.
Baldwin, R.C.
Billson, B.F.
Bishop, J.J.
Ciobo, S.M.
Costello, P.H.
Dutton, P.C.
Farmer, P.F.
Gallus, C.A.
Georgiou, P.
Hardgrave, G.D.
Hawker, D.P.M.
Hull, K.E.
Johnson, M.A.
Kelly, D.M.
Kemp, D.A.
Ley, S.P.
Lloyd, J.E.
McArthur, S.*
Moylan, J. E.
Nelson, B.J.
Panopoulos, S.
Pyne, C.
Schultz, A.
Slipper, P.N.
Somlyay, A.M.
Thompson, C.P.
Tollner, D.W.
Tuckey, C.W.
Wakelin, B.H.
Worth, P.M.

AYES

Anderson, J.D.
Anthony, L.J.
Baird, B.G.
Bartlett, K.J.
Bishop, B.K.
Cadmam, A.G.
Charles, R.E.
Cobb, J.K.
Downer, A.J.G.
Elson, K.S.
Gambaro, T.
Haase, B.W.
Hockey, J.B.
Hunt, G.A.
Kelly, J.M.
King, P.E.
Lindsay, P.J.
May, M.A.
McGauran, P.J.
Nairn, G. R.
Neville, P.C.
Pearce, C.J.
Randall, D.J.
Secker, P.D.
Smith, A.D.H.
Southcott, A.J.
Ticehurst, K.V.
Truss, W.E.
Vale, D.S.
Williams, D.R.

NOES

Andren, P.J.
Corcoran, A.K.
Crean, S.F.
Danby, M.*
Emerson, C.A.
Ferguson, M.J.
George, J.
Gillard, J.E.
Griffin, A.P.
Hatton, M.J.
Irwin, J.
Jenkins, H.A.
Latham, M.W.
Macklin, J.L.
McFarlane, J.S.
McMullan, R.F.
Mossfield, F.W.
O’Connor, G.M.
Price, L.R.S.

NOES

Bevis, A.R.
Cox, D.A.
Crosio, J.A.
Ellis, A.L.
Ferguson, L.D.T.
Fitzgibbon, J.A.
Gibbons, S.W.
Grierson, S.J.
Hall, J.G.
Houre, K.J.
Jackson, S.M.
Kerr, D.J.C.
Lawrence, C.M.
McClelland, R.B.
McLeay, L.B.
Melham, D.
Murphy, J. P.
Organ, M.
Quick, H.V.*
Mr ABBOTT (Warringah—Leader of the House) (6.06 p.m.)—I move:
That the question be now put.

Question put.
The House divided. [6.11 p.m.]

(The Speaker—Mr Neil Andrew)

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<tr>
<th>AYES</th>
<th>NOES</th>
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<td>Kelly, J.M.</td>
<td>Kemp, D.A.</td>
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<td>King, P.E.</td>
<td>Ley, S.P.</td>
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<td>Lindsay, P.J.</td>
<td>Lloyd, J.E.</td>
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<td>May, M.A.</td>
<td>McArthur, S.</td>
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<td>McClelland, R.B.</td>
<td>McFarlane, J.S.</td>
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<td>McMillan, R.F.</td>
<td>McLeay, L.B.</td>
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<td>Mossfield, F.W.</td>
<td>Melham, D.</td>
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<td>O'Connor, G.M.</td>
<td>Murphy, J.P.</td>
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<td>Price, L.R.S.</td>
<td>Organ, M.</td>
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<td>Ripoll, B.F.</td>
<td>Quick, H.V.</td>
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<td>Rudd, K.M.</td>
<td>Roxon, N.L.</td>
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<td>Sawford, R.W.</td>
<td>Schultz, A.</td>
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<td>Sercombe, R.C.G.</td>
<td>Slipper, P.N.</td>
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<td>Snowdon, W.E.</td>
<td>Somlyay, A.M.</td>
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<td>Tanner, L.</td>
<td>Thompson, C.P.</td>
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<td>Thomson, K.J.</td>
<td>Tollner, D.W.</td>
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<tr>
<td>Wilkie, K.</td>
<td>Tuckey, C.W.</td>
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</table>

* denotes teller
Thursday, 14 November 2002

REPRESENTATIVES

Question put.
The House divided. [6.16 p.m.]
(The Speaker—Mr Neil Andrew)

Ayes……….. 65
Noes……….. 40
Majority……… 25

AYES
Abbott, A.J. Anderson, J.D.
Andrews, K.J. Anthony, L.J.
Bailey, F.E. Baird, B.G.
Baldwin, R.C. Bartlett, K.J.
Billson, B.F. Bishop, B.K.
Bishop, J.I. Cadman, A.G.
Cameron, R.A. Charles, R.E.
Ciobo, S.M. Cobb, J.K.
Costello, P.H. Downer, A.J.G.
Dutton, P.C. Elson, K.S.
Farmer, P.F. Forrest, J.A. *
Gallus, C.A. Gambaro, T.
Georgiou, P. Haase, B.W.
Hardgrave, G.D. Hartsuyker, L.
Hockey, J.B. Hull, K.E.
Hunt, G.A. Johnson, M.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.
May, M.A. McArthur, S. *
Moylan, J. E. Nairn, G. R.
Nelson, B.J. Neville, P.C.
Panopoulos, S. Pearce, C.J.
Pyne, C. Ruddock, P.M.
Schultz, A. Seeker, P.D.
Sliper, P.N. Smith, A.D.H.
Somlyay, A.M. Southcott, A.J.
Thompson, C.P. Ticehurst, K.V.
Tollner, D.W. Truss, W.E.
Tuckey, C.W. Vale, D.S.
Wakelin, B.H. Williams, D.R.
Worth, P.M.

NOES
Andren, P.J. Bevis, A.R.
Corcoran, A.K. Cox, D.A.
Crosio, J.A. Danby, M. *
Ellis, A.L. Emerson, C.A.
Ferguson, L.D.T. Fitzgibbon, J.A.
George, J. Gibson, S.W.
Grierson, S.J. Griffin, A.P.
Hall, J.G. Hatton, M.J.
Hoare, K.J. Irwin, J.
Jackson, S.M. Jenkins, H.A.
Kerr, D.J.C. Lawrence, C.M.

McFarlane, J.S. McLeay, L.B.
Melham, D. Mossfield, F.W.
Murphy, J. P. O’Connor, G.M.
Organ, M. Price, L.R.S.
Quick, H.V. * Ripoll, B.F.
Roxon, N.L. Sawford, R.W.
Sercombe, R.C.G. Sidebottom, P.S.
Snowdon, W.E. Tanner, L.
Thomson, K.J. Wilkie, K.

* denotes teller

Question agreed to.
Bill read a third time.

AUSTRALIAN HERITAGE COUNCIL BILL 2002

Declaration of Urgency

Mr ABBOTT (Warringah)—Leader of the House) (6.18 p.m.)—I declare the Australian Heritage Council Bill 2002 an urgent bill.

The SPEAKER—The question is that the bill be considered an urgent bill. Those of that opinion say aye, to the contrary no. I think the ayes have it.

Opposition members—No! The noes have it.

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

Mr Leo McLeay—Mr Speaker, I rise on a point of order. This is a new bill.

The SPEAKER—The member for Watson makes a valid point of order. I will allow time for the division to be extended. There was no intervening debate, but I had overlooked the fact that we had moved to a new bill. The bills will be rung for four minutes.

Question put.
The House divided. [6.23 p.m.]
(The Speaker—Mr Neil Andrew)

Ayes……….. 62
Noes……….. 40
Majority……… 22

AYES
Abbott, A.J. Anderson, J.D.
Andrews, K.J. Anthony, L.J.
Bailey, F.E. Baird, B.G.
Baldwin, R.C. Bartlett, K.J.
Billson, B.F. Bishop, B.K.
Bishop, J.I. Cadman, A.G.
Cameron, R.A. Charles, R.E.
Ciobo, S.M. Cobb, J.K.
Mr ABBOTT (Warringah—Leader of the House) (6.28 p.m.)—I move:

That the question be now put.

Question put.

The House divided. [6.30 p.m.]

(The Speaker—Mr Neil Andrew)

Ayes………… 62

Noes………… 40

Majority……… 12

AYES

Abbott, A.J. Anderson, J.D. 
Andrews, K.J. Anthony, L.J. 
Bailey, F.E. Baird, B.G. 
Baldwin, R.C. Bartlett, K.J. 
Billson, B.F. Bishop, B.K. 
Bishop, J.I. Cadman, A.G. 
Cameron, R.A. Charles, R.E. 
Ciobo, S.M. Cobb, J.K. 
Dutton, P.C. Evans, J.S. 
Farmer, P.F. Forrest, J.A. * 
Gambaro, T. Georgiou, P. 
Haase, B.W. Georgiou, P. 
Halsey, L. Hockey, J.B. 
Hare, K.E. Hunt, G.A. 
Johnson, M.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. Mallon, J.E. 
McArthur, S. * Moylan, J.E. 
Nairn, G. R. Nelson, B.J. 
Neville, P.C. Panopoulos, S. 
Pearce, C.J. Pyne, C. 
Ruddock, P.M. Schultz, A. 
Secker, P.D. Slipper, P.N. 
Smith, A.D.H. Somlyay, A.M. 
Southcott, A.J. Thompson, C.P. 
Ticehurst, K.V. Tollner, D.W. 
Truss, W.E. Tuckey, C.W. 
Vale, D.S. Wakelin, B.H. 
Williams, D.R. Worth, P.M. 

NOES

Andren, P.J. Bevis, A.R. 
Corcoran, A.K. Cox, D.A. 
Crosio, J.A. Danby, M. * 
Ellis, A.L. Emerson, C.A. 
Ferguson, L.D.T. Fitzgibbon, J.A. 
George, J. Gibbons, S.W. 
Grierson, S.J. Griffin, A.P. 
Hall, J.G. Hatton, M.J. 
Hoare, K.J. Irwin, J. 
Jackson, S.M. Jenkins, H.A. 
Kerr, D.J.C. Lawrence, C.M. 
McFarlane, J.S. McLeay, L.B. 
Melham, D. Mossfield, F.W. 
Murphy, J. P. O’Connor, G.M. 
Organ, M. Price, L.R.S. 
Quick, H.V. * Ripoll, B.F. 
Roxon, N.L. Sawford, R.W. 
Sercambie, R.C.G. Sidebottom, P.S. 
Snowdon, W.E. Tanner, L. 
Thomson, K.J. Wilkie, K. 

* denotes teller

Question agreed to.

Allotment of Time

Mr ABBOTT (Warringah—Leader of the House) (6.28 p.m.)—I move:

That the time allotted for the remaining stages of the bill be until 6.35 p.m. this day.

Mr KELVIN THOMSON (Wills) (6.28 p.m.)—This is a totally inadequate—
Question agreed to.

The SPEAKER—The question now is that the motion as moved by the Leader of the House that all stages of the debate be concluded at 6.35 p.m. be agreed to.

Question put.

The House divided. [6.34 p.m.]
(The Speaker—Mr Neil Andrew)

Ayes............ 62
Noes............ 40
Majority........ 12

AYES
Abbott, A.J.  Anderson, J.D.
Andrews, K.J.  Anthony, L.J.
Bailey, F.E.  Baird, B.G.
Baldwin, R.C.  Bartlett, K.J.
Billson, B.F.  Bishop, B.K.
Bishop, J.I.  Cadman, A.G.
Cameron, R.A.  Charles, R.E.
Ciobo, S.M.  Cobb, J.K.
Dutton, P.C.  Elson, K.S.
Farmer, P.F.  Forrest, J.A. *
Gamboro, T.  Georgiou, P.
Haase, B.W.  Hardgrave, G.D.
Hartsuyker, L.  Hockey, J.B.
Hull, K.E.  Hunt, G.A.
Johnson, M.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.  May, M.A.
McArthur, S. *  Moylan, J. E.
Nairn, G. R.  Nelson, B.J.
Neville, P.C.  Panopoulos, S.
Pearce, C.J.  Pyne, C.
Ruddock, P.M.  Schultz, A.
Secker, P.D.  Slipper, P.N.
Smith, A.D.H.  Somlyay, A.M.
Southcott, A.J.  Thompson, C.P.
Ticehurst, K.V.  Tolbert, D.W.
Truss, W.E.  Tuckey, C.W.

NOES
Andren, P.J.  Bevis, A.R.
Corcoran, A.K.  Cox, D.A.
Crosio, J.A.  Danby, M. *
Ellis, A.L.  Emerson, C.A.
Ferguson, L.D.T.  Fitzgibbon, J.A.
George, J.  Gibbons, S.W.
Grierson, S.J.  Griffin, A.P.
Hall, J.G.  Hatton, M.J.
Hoare, K.J.  Irwin, J.
Jackson, S.M.  Jenkins, H.A.
Kerr, D.J.C.  Lawrence, C.M.
McFarlane, J.S.  McLeay, L.B.
Melham, D.  Mossfield, F.W.
Murphy, J. P.  O’Connor, G.M.
Organ, M.  Price, L.R.S.
Quick, H.V. *  Ripoll, B.F.
Roxon, N.L.  Sawford, R.W.
Sercombe, R.C.G.  Sidebottom, P.S.
Snowdon, W.E.  Tanner, L.
Thomson, K.J.  Wilkie, K.

* denotes teller

Question agreed to.

Second Reading

Debate resumed from 27 June, on motion by Dr Kemp:

That this bill be now read a second time.

The SPEAKER—The time allotted for all stages of the debate has expired. The question is that the bill be now read a second time.

Question put.

The House divided. [6.36 p.m.]
(The Speaker—Mr Neil Andrew)

Ayes............ 62
Noes............ 40
Majority........ 12

AYES
Abbott, A.J.  Anderson, J.D.
Andrews, K.J.  Anthony, L.J.
Bailey, F.E.  Baird, B.G.
Baldwin, R.C.  Bartlett, K.J.
Billson, B.F.  Bishop, B.K.
Bishop, J.I.  Cadman, A.G.
Cameron, R.A.  Charles, R.E.
Ciobo, S.M.  Cobb, J.K.
Dutton, P.C.  Elson, K.S.
Farmer, P.F.  Forrest, J.A. *
Gamboro, T.  Georgiou, P.
Haase, B.W.  Hardgrave, G.D.
Hartsuyker, L.  Hockey, J.B.
Hull, K.E.  Hunt, G.A.
Johnson, M.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.  May, M.A.
McArthur, S. *  Moylan, J. E.
Nairn, G. R.  Nelson, B.J.
Neville, P.C.  Panopoulos, S.
Pearce, C.J.  Pyne, C.
Ruddock, P.M.  Schultz, A.
Secker, P.D.  Slipper, P.N.
Smith, A.D.H.  Somlyay, A.M.
Southcott, A.J.  Thompson, C.P.
Ticehurst, K.V.  Tolbert, D.W.
Truss, W.E.  Tuckey, C.W.

NOES
Andren, P.J.  Bevis, A.R.
Corcoran, A.K.  Cox, D.A.
Crosio, J.A.  Danby, M. *
Ellis, A.L.  Emerson, C.A.
Ferguson, L.D.T.  Fitzgibbon, J.A.
George, J.  Gibbons, S.W.
Grierson, S.J.  Griffin, A.P.
Hall, J.G.  Hatton, M.J.
Hoare, K.J.  Irwin, J.
Jackson, S.M.  Jenkins, H.A.
Kerr, D.J.C.  Lawrence, C.M.
McFarlane, J.S.  McLeay, L.B.
Melham, D.  Mossfield, F.W.
Murphy, J. P.  O’Connor, G.M.
Organ, M.  Price, L.R.S.
Quick, H.V. *  Ripoll, B.F.
Roxon, N.L.  Sawford, R.W.
Sercombe, R.C.G.  Sidebottom, P.S.
Snowdon, W.E.  Tanner, L.
Thomson, K.J.  Wilkie, K.

* denotes teller
Question put.
The House divided. [6.39 p.m.]
(The Speaker—Mr Neil Andrew)

Ayes.........62
Noes.........40
Majority.......22

AYES

Abbott, A.J.  Anderson, J.D.
Andrews, K.J.  Anthony, L.J.
Bailey, F.E.  Baird, B.G.
Baldwin, R.C.  Bartlett, K.J.
Billson, B.F.  Bishop, B.K.
Bishop, J.J.  Cadman, A.G.
Cameron, R.A.  Charles, R.E.
Cobbo, S.M.  Cobb, J.K.
Dutton, P.C.  Elson, K.S.
Farmer, P.F.  Forrest, J.A. *
Gambaro, T.  Georgiou, P.
Haase, B.W.  Hardgrave, G.D.
Hartsuyker, L.  Hockey, J.B.
Johnson, M.A.  Hunt, G.A.
Kelly, D.M.  Jull, D.F.
Kelly, J.M.  Kemp, P.E.
King, P.E.  Lindsay, P.J.
Lloyd, J.E.  May, M.A.
McArthur, S. * Moylan, J. E.
Nairn, G. R.  Nelson, B.J.
Neville, P.C.  Panopoulos, S.
Pearce, C.J.  Pyne, C.
Ruddock, P.M.  Schultz, A.
Secker, P.D.  Slipper, P.N.
Smith, A.D.H.  Somlyay, A.M.
Southcott, A.J.  Thompson, C.P.
Ticehurst, K.V.  Tolner, D.W.
Truss, W.E.  Tuckey, C.W.
Vale, D.S.  Wakelin, B.H.
Wills, D.R.  Worth, P.M.

NOES

Andren, P.J.  Bevis, A.R.
Corcoran, A.K.  Cox, D.A.
Crosio, J.A.  Danby, M. *
Ellis, A.L.  Emerson, C.A.
Ferguson, L.D.T.  Fitzgibbon, J.A.
George, J.  Gibbons, S.W.
Grierson, S.J.  Griffin, A.P.
Hall, J.G.  Hatton, M.J.
Hoare, K.J.  Irwin, J.
Jackson, S.M.  Jenkins, H.A.
Kerr, D.J.C.  Lawrence, C.M.
McFarlane, J.S.  McLeay, L.B.
Melham, D.  Mossfield, F.W.
Murphy, J. P.  O’Connor, G.M.
Organ, M.  Price, L.R.S.
Quick, H.V. * Ripoll, B.F.
Roxon, N.L.  Sawford, R.W.
Sercombe, R.C.G.  Sidebottom, P.S.
Snowdon, W.E.  Tanner, L.
Thomson, K.J.  Wilkie, K.

* denotes teller

Question agreed to.
Bill read a second time.

Third Reading

The SPEAKER—The question is that this bill be now read a third time.

Mr Melham—Mr Speaker—
The SPEAKER—The reason the honourable member for Banks was not recognised by me was that the time allotted for all stages of the debate had expired.
Thursday, 14 November 2002

Representatives

Murphy, J. P.  O’Connor, G.M.
Organ, M.  Price, L.R.S.
Quick, H.V.  Ripoll, B.F.
Roxon, N.L.  Sawford, R.W.
Sercombe, R.C.G.  Sidebottom, P.S.
Snowdon, W.E.  Tanner, L.
Thomson, K.J.  Wilkie, K.

Schultz, A.  Secker, P.D.
Slipper, P.N.  Smith, A.D.H.
Somlyay, A.M.  Southcott, A.J.
Thompson, C.P.  Ticehurst, K.V.
Tollner, D.W.  Truss, W.E.
Tuckey, C.W.  Vale, D.S.
Wakelin, B.H.  Williams, D.R.
Worth, P.M.

* denotes teller

Question agreed to.

Bill read a third time.

**AUSTRALIAN HERITAGE COUNCIL (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2002**

Declaration of Urgency

Mr ABBOTT (Warringah—Leader of the House) (6.40 p.m.)—I declare the Australian Heritage Council (Consequential and Transitional Provisions) Bill 2002 an urgent bill.

The SPEAKER—The question is that the bill be declared an urgent bill.

Question put.

The House divided. [6.44 p.m.]

(The Speaker—Mr Neil Andrew)

Ayes.............  61
Noes.............  37
Majority........  24

**AYES**

Abbott, A.J.  Andrews, K.J.
Anthony, L.J.  Bailey, F.E.
Baird, B.G.  Baldwin, R.C.
Bartlett, K.J.  Billson, B.F.
Bishop, B.K.  Bishop, J.I.
Cadman, A.G.  Cameron, R.A.
Charles, R.E.  Ciobo, S.M.
Cobb, J.K.  Dutton, P.C.
Elson, K.S.  Farmer, P.F.
Forrest, J.A.  Gambbaro, T.
Georgiou, P.  Haase, B.W.
Hardgrave, G.D.  Hartsuyker, L.
Hockey, J.B.  Hull, K.E.
Hunt, G.A.  Johnson, M.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.
May, M.A.  McArthur, S. *
Moylan, J. E.  Nairn, G. R.
Nelson, B.J.  Neville, P.C.
Panopoulos, S.  Pearce, C.J.
Pyne, C.  Ruddock, P.M.

**NOES**

Andren, P.J.  Bevis, A.R.
Cox, D.A.  Crosio, J.A.
Danby, M.  Ellis, A.L.
Emerson, C.A.  Ferguson, L.D.T.
Fitzgibbon, J.A.  George, J.
Gibbons, S.W.  Grierson, S.J.
Griffin, A.P.  Hall, J.G.
Hatton, M.J.  Hoare, K.J.
Irwin, J.  Jackson, S.M.
Jenkins, H.A.  Kerr, D.J.C.
Lawrence, C.M.  McFarlane, J.S.
McLeay, L.B.  Melham, D.
Mossfield, F.W.  Murphy, J. P.
O’Connor, G.M.  Organ, M.
Price, L.R.S.  Quick, H.V.  *
Ripoll, B.F.  Roxon, N.L.
Sidebottom, P.S.  Snowdon, W.E.
Tanner, L.  Thomson, K.J.
Wilkie, K.

* denotes teller

Question agreed to.

**Allotment of Time**

Mr ABBOTT (Warringah—Leader of the House) (6.49 p.m.)—I move:

That the times allotted in connection with the bill be as follows: for all stages until 6.56 p.m. this day.

Mr KELVIN THOMSON (Wills) (6.50 p.m.)—That is a completely inadequate length of debate for us to discuss this government’s downgrading of heritage protection in this country.

Mr ABBOTT (Warringah—Leader of the House) (6.50 p.m.)—I move:

That the question be now put.

Question put.

The House divided. [6.51 p.m.]

(The Speaker—Mr Neil Andrew)

Ayes.............  61
Noes.............  37
Majority........  24
AYES
Abbott, A.J. Andrews, K.J.
Anthony, L.J. Bailey, F.E.
Baird, B.G. Baldwin, R.C.
Bartlett, K.J. Billson, B.F.
Bishop, B.K. Bishop, J.I.
Cadam, A.G. Cameron, R.A.
Charles, R.E. Ciobo, S.M.
Cobb, J.K. Dutton, P.C.
Elson, K.S. Farmer, P.F.
Forrest, J.A. * Gambaro, T.
Georgiou, P. Haase, B.W.
Hardgrave, G.D. Hartson, L.
Hockey, J.B. Hull, K.E.
Hunt, G.A. Johnson, M.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.
May, M.A. McArthur, S. *
Moylan, J. E. Nairn, G. R.
Nelson, B.J. Neville, P.C.
Panopoulos, S. Pearce, C.J.
Pyne, C. Secker, P.D.
Schultz, A. Smith, A.D.H.
Slipper, P.N. Southcott, A.J.
Somlyay, A.M. Ticehurst, K.V.
Thompson, C.P. Truss, W.E.
Tollner, D.W. Vale, D.S.
Tuckey, C.W. Williams, D.R.
Wakelin, B.H. Worth, P.M.

* denotes teller

Question agreed to.
Thursday, 14 November 2002

The SPEAKER—I remind the member for Wills that, as he is aware, there was already a question before the chair. I could have interrupted him earlier but chose to allow him to speak out the time allocated for the debate. The time allotted for all stages of the bill has now expired and the question is that this bill be now read a second time.

Question put.
The House divided. [7.00 p.m.]

(The Speaker—Mr Neil Andrew)

Ayes……………… 61
Noes……………… 36
Majority……….. 25

AYES

Abbott, A.J. Andrews, K.J.
Anthony, L.J. Bailey, F.E.
Baird, B.G. Baldwin, R.C.
Bartlett, K.J. Billson, B.F.
Bishop, B.K. Bishop, J.I.
Cadman, A.G. Cameron, R.A.
Charles, R.E. Ciobo, S.M.
Cobb, J.K. Dutton, P.C.
Elson, K.S. Farmer, P.F.
Forrest, J.A. * Gambaro, T.
Georgiou, P. Haase, B.W.
Hardgrave, G.D. Hartsuyker, L.
Hockey, J.B. Hull, K.E.
Hunt, G.A. Johnson, M.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.
May, M.A. * McArthur, S. *
Moylan, J. E. Neville, P.C.
Nelson, B.J. Pearce, C.J.
Panopoulos, S. Ruddock, P.M.
Pyne, C. Secker, P.D.
Schultz, A. Smith, A.D.H.
Slipper, P.N. Southcott, A.J.
Somlyay, A.M. Ticehurst, K.V.
Thompson, C.P. Truss, W.E.
Tollner, D.W. Vale, D.S.
Tuckey, C.W. Williams, D.R.
Wakelin, B.H. Worth, P.M.

NOES

Andren, P.J. Bevis, A.R.
Cox, D.A. Crosio, J.A.
Danby, M. * Ellis, A.L.
Emerson, C.A. Ferguson, L.D.T.
Mr ABBOTT (Warringah—Leader of the House)  (7.05 p.m.)—I move:

That this bill be now read a third time.

Question put.

The House divided. [7.07 p.m.]

Ayes. ………… 61
Noes. ………… 36

Majority……… 25

AYES

Abbott, A.J. Andrews, K.J.
Anthony, L.J. Bailey, F.E.
Baird, B.G. Baldwin, R.C.
Bartlett, K.J. Billson, B.F.
Bishop, B.K. Bishop, J.I.
Cadman, A.G. Cameron, R.A.
Charles, R.E. Ciobo, S.M.
Cobb, J.K. Dutton, P.C.
Elkon, K.S. Farmer, P.F.
Forrest, J.A. * Gambaro, T.
Georgiou, P. Haase, B.W.
Hardgrave, G.D. Hartsuyker, L.
Hockey, J.B. Hull, K.E.
Hunt, G.A. Johnson, M.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.
May, M.A. McArthur, S. *
Moylan, J. E. Nairn, G. R.
Nelson, B.J. Neville, P.C.
Panopoulos, S. Pearce, C.J.
Pyne, C. Raddock, P.M.

Schultz, A. Secker, P.D.
Slipper, P.N. Smith, A.D.H.
Somyay, A.M. Southcott, A.J.
Thompson, C.P. Ticehurst, K.V.
Toller, D.W. Truss, W.E.
Tuckey, C.W. Vale, D.S.
Walakin, B.H. Williams, D.R.
Worth, P.M.

NOES

Andren, P.J. Bevis, A.R.
Cox, D.A. Crosio, J.A.
Danby, M. * Ellis, A.L.
Emerson, C.A. Ferguson, L.D.T.
Fitzgibbon, J.A. George, J.
Gibbons, S.W. Grierson, S.J.
Griffin, A.P. Hall, J.G.
Hatton, M.J. Hoare, K.J.
Irwin, J. Jackson, S.M.
Jenkins, H.A. Kerr, D.J.C.
McFarlane, J.S. McLeay, L.B.
Melham, D. Mossfield, F.W.
Organ, M. Price, L.R.S.
Quick, H.V. * Ripoll, B.F.
Roxon, N.L. Sidebottom, P.S.
Snowdon, W.E. Tanner, L.
Thomson, K.J. Wilkie, K.

* denotes teller

Question agreed to.

Bill read a second time.

Third Reading

Mr ABBOTT (Warringah—Leader of the House)  (7.05 p.m.)—I move:

That this bill be now read a third time.

Question put.

The House divided. [7.07 p.m.]

Ayes. ………… 61
Noes. ………… 36

Majority……… 25

AYES

Abbott, A.J. Andrews, K.J.
Anthony, L.J. Bailey, F.E.
Baird, B.G. Baldwin, R.C.
Bartlett, K.J. Billson, B.F.
Bishop, B.K. Bishop, J.I.
Cadman, A.G. Cameron, R.A.
Charles, R.E. Ciobo, S.M.
Cobb, J.K. Dutton, P.C.
Elkon, K.S. Farmer, P.F.
Forrest, J.A. * Gambaro, T.
Georgiou, P. Haase, B.W.
Hardgrave, G.D. Hartsuyker, L.
Hockey, J.B. Hull, K.E.
Hunt, G.A. Johnson, M.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.
May, M.A. McArthur, S. *
Moylan, J. E. Nairn, G. R.
Nelson, B.J. Neville, P.C.
Panopoulos, S. Pearce, C.J.
Pyne, C. Raddock, P.M.

Schultz, A. Secker, P.D.
Slipper, P.N. Smith, A.D.H.
Somyay, A.M. Southcott, A.J.
Thompson, C.P. Ticehurst, K.V.
Toller, D.W. Truss, W.E.
Tuckey, C.W. Vale, D.S.
Walakin, B.H. Williams, D.R.
Worth, P.M.

NOES

Andren, P.J. Bevis, A.R.
Cox, D.A. Crosio, J.A.
Danby, M. * Ellis, A.L.
Emerson, C.A. Ferguson, L.D.T.
Fitzgibbon, J.A. George, J.
Gibbons, S.W. Grierson, S.J.
Griffin, A.P. Hall, J.G.
Hatton, M.J. Hoare, K.J.
Irwin, J. Jackson, S.M.
Jenkins, H.A. Kerr, D.J.C.
McFarlane, J.S. McLeay, L.B.
Melham, D. Mossfield, F.W.
Organ, M. Price, L.R.S.
Quick, H.V. * Ripoll, B.F.
Roxon, N.L. Sidebottom, P.S.
Snowdon, W.E. Tanner, L.
Thomson, K.J. Wilkie, K.

* denotes teller

Question agreed to.

The SPEAKER—Before I call the Clerk, it is understood that the opposition wishes to incorporate in Hansard those of its amendments which have been circulated but not moved at the expiration of time. There being no objection, the chair will allow that course to be followed.

The amendments read as follows—

(1) Long title, page 1 (line 3), omit “Council”, substitute “Commission”.

(2) Clause 1, page 1 (line 6), omit “Council”, substitute “Commission”.

Mr Andren—Mr Speaker, I ask whether the amendment circulated in my name can be included in Hansard. Might I say this has been a travesty of parliamentary process.

The SPEAKER—The Leader of the House has indicated that he is happy to have those amendment incorporated.

The amendment read as follows—

(1) Schedule 1, item 4, page 3 (line 19), after “1999”, add “”, or the Register of the Na-
tional Estate, under the *Australian Heritage Council Act 2002*”.

Bill read a third time.

**MEMBERS OF PARLIAMENT (LIFE GOLD PASS) BILL 2002**

**Consideration of Senate Message**

Consideration resumed from 22 October.

*Senate’s requested amendments—*

1. Clause 4, page 5 (lines 14 and 15), omit the definition of *spouse*, substitute:

   *spouse* in relation to a person includes another person who, although not legally married to the person, lives with the person on a bona fide domestic basis as the husband or wife of the person.

*The SPEAKER* (7.08 p.m.)—Before the House considers message No. 131 from the Senate, it is my duty as Speaker to draw the attention of the House to the constitutional question this message raises. When similar circumstances have arisen in the past, successive Speakers have advised the House of the constitutional principles involved and the House has invariably endorsed their statements. The message purports to repeat the request for an amendment contained in message No. 121, which the House rejected at its sitting on 16 October 2002. The House of Representatives has never accepted that the Senate has a right to repeat and thereby press or insist on a request for an amendment in a bill which the Senate is not able to amend itself.

It is a matter of constitutional propriety between the houses based on the provisions of sections 53 to 57 of the Constitution. Legal opinions supporting the argument that the Constitution does not empower the Senate to press a request have been advanced by Quick and Garran, who were intimately involved in the development of the Constitution, and by eminent constitutional lawyers past and present. Respectfully, I agree with those opinions but do not propose to repeat the arguments which are summarised in *House of Representatives Practice*. It rests with the House as to whether it will consider message No. 131 insofar as it purports to press the request that was contained in message No. 121.

**Mr ABBOTT (Warringah—Leader of the House) (7.10 p.m.)**—I move:

*That:*

1. the House endorses the statement of the Speaker in relation to the constitutional questions raised by Message No. 131 transmitted by the Senate in relation to the Members of Parliament (Life Gold Pass) Bill 2002; and
2. the House refrains from the determination of its constitutional rights in respect of Senate message No. 131.

**Mr ABBOTT (Warringah—Leader of the House) (7.11 p.m.)**—I move:

*That the question be now put. Question put.*

The House divided. [7.15 p.m.]

(7.15 p.m.)

*The Speaker—Mr Neil Andrew*  

**AYES**

Abbott, A.J.  
Anthony, L.J.  
Baird, B.G.  
Bartlett, K.J.  
Bishop, B.K.  
Cadman, A.G.  
Charles, R.E.  
Cobb, J.K.  
Elson, K.S.  
Forrest, J.A.*  
Georgiou, P.  
Hartsuyker, L.  
Hull, K.E.  
Johnson, M.A.  
Kelly, D.M.  
King, P.E.  
Lindsay, P.J.  
May, M.A.  
Moylan, J.E.  
Nelson, B.J.  
Panopoulos, S.  
Schultz, A.  
Sliper, P.N.  
Southcott, A.J.  
Ticehurst, K.V.  
Truss, W.E.  
Vale, D.S.  
Williams, D.R.

Andrews, K.J.  
Bailey, F.E.  
Baldwin, R.C.  
Billson, B.F.  
Bishop, I.J.  
Cameron, R.A.  
Ciobo, S.M.  
Dutton, P.C.  
Farmer, P.F.  
Gambaro, T.  
Hardgrave, G.D.  
Hockey, J.B.  
Hunt, G.A.  
Jull, D.F.  
Kelly, J.M.  
Ley, S.P.  
Lloyd, J.E.  
McArthur, S.*  
Nairn, G. R.  
Neville, P.C.  
Pyne, C.  
Secker, P.D.  
Somlyay, A.M.  
Thompson, C.P.  
Tolner, D.W.  
Tuckey, C.W.  
Wakelin, B.H.  
Worth, P.M.
Mr Abbott (Warringah—Leader of the House) (7.23 p.m.)—I move:

That the question be now put.

Question put.

The House divided. [7.24 p.m.]

(The Speaker—Mr Neil Andrew)

<table>
<thead>
<tr>
<th>Ayes</th>
<th>51</th>
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<tbody>
<tr>
<td>Noes</td>
<td>36</td>
</tr>
<tr>
<td>Majority</td>
<td>15</td>
</tr>
</tbody>
</table>

AYES


NOES


Mr Hockey—Mr Speaker, I raise a point of order. The member for Calare left the chamber after consulting with the Clerk of the House about the purpose of this bill. I am wondering if you could clarify again for the House the intent of this motion?

The SPEAKER—The question is that the question be put and the member for Calare is free to vote at any point as is appropriate or to leave the chamber if he so chooses.

Question agreed to.

The SPEAKER—The question now is that the House agrees to the motion moved by the minister, which effectively endorses the statement made by the Speaker in relation to the constitutional questions raised by message No. 131.

Mr Abbott (Warringah—Leader of the House) (7.22 p.m.)—I move:

That the requested amendment which the Senate has purported to press be not made.

And I move that the question be now put.

Mr Snowdon—You should just wait.

The SPEAKER—The question now is that the House agrees to the motion moved by the minister, which effectively endorses the statement made by the Speaker in relation to the constitutional questions raised by message No. 131.

Mr Snowdon (Lingiari) (7.23 p.m.)—We should be in no doubt that this is discriminatory action by the government—
Thursday, 14 November 2002

Representatives

Roxon, N.L. Sidebottom, P.S.
Snowdon, W.E. Tanner, L.
Thomson, K.J. Wilkie, K.

* denotes teller

In division—

Mrs Crosio—Mr Speaker, the member for Barker is eating in the parliament!

Mr Sidebottom—You have to share.

The SPEAKER—The member for Barker is acting outside the standing orders.

Mr Sidebottom—Throw him out!

The SPEAKER—If it comes to that, so is the member for Braddon, I suppose.

Question agreed to.

The SPEAKER—The question now is that the requested amendments which the Senate has purported to press be not made.

Question put.

The House divided. [7.30 p.m.]

(The Speaker—Mr Neil Andrew)

Ayes…………… 51
Noes…………… 36
Majority……… 14

AYES
Abbott, A.J. Anthony, L.J.
Bailey, F.E. Baird, B.G.
Baldwin, R.C. Bartlett, K.J.
Bishop, B.K. Bishop, J.I.
Cadman, A.G. Cameron, R.A.
Ciobo, S.M. Cobb, J.K.
Dutton, P.C. Elson, K.S.
Farmer, P.F. Forrest, J.A. *
Gambaro, T. Hardgrave, G.D.
Hartsuyker, L. Hockey, J.B.
Hull, K.E. Hunt, G.A.
Johnson, M.A. Jull, D.F.
Kelly, D.M. Kelly, J.M.
King, P.E. Ley, S.P.
Lindsay, P.J. Lloyd, J.E.
May, M.A. McArthur, S. *
Moylan, J. E. Nairn, G. R.
Nelson, B.J. Neville, P.C.
Panopoulos, S. Pyne, C.
Schultz, A. Secker, P.D.
Sliper, P.N. Somlyay, A.M.
Southcott, A.J. Thompson, C.P.
Ticehurst, K.Y. Tollner, D.W.
Truss, W.E. Vale, D.S.
Wakelin, B.H. Williams, D.R.
Worth, P.M.

NOES
Bevis, A.R. Cox, D.A.
Crosio, J.A. Danby, M. *
Ellis, A.L. Emerson, C.A.
Ferguson, L.D.T. Fitzgibbon, J.A.
George, J. Gibbons, S.W.
Grierson, S.J. Griffin, A.P.
Hall, J.G. Hatton, M.J.
Hoare, K.J. Irwin, J.
Jackson, S.M. Jenkins, H.A.
Kerr, D.J.C. Lawrence, C.M.
McFarlane, J.S. McLeay, L.B.
Melham, D. Mossfield, F.W.
Murphy, J. P. O’Connor, G.M.
Organ, M. Price, L.R.S.
Quick, H.V. * Ripoll, B.F.
Roxon, N.L. Sidebottom, P.S.
Snowdon, W.E. Tanner, L.
Thomson, K.J.

* denotes teller

Question agreed to.

Committees

Standing Committee on Publications

Report

Mrs DE-ANNE KELLY (Dawson) (7.31 p.m.)—On behalf of the member for Canning, I present the report of the Publications Committee, sitting in conference with the Publications Committee of the Senate.

Mr Melham—I move that the member be not further heard.

The SPEAKER—I have recognised the member for Dawson, who is presenting a report. The provision to prevent someone from being further heard is related to the debating provisions. The member for Dawson is presenting a report; for that reason she is entitled to be heard.

Mrs DE-ANNE KELLY—Thank you, Mr Speaker. Copies of the report are being circulated. I ask leave of the House to move that the report be agreed to.

Leave not granted.

Mr Abbott—I move that the report be agreed to.

Mr Melham—Mr Speaker, I rise on a point of order. The point of order is that the minister was not called. I would suggest that, if the minister wants to gag me, he should be first called. I understand that he has the right
to gag me, but he was not called. We are doing this because of the disruptive tactics of the—

The SPEAKER—The member for Banks has raised a point of order and he may be right. I do not recall whether I recognised the minister or not. I am not disputing the member for Banks’s recollection of events; nonetheless, it is not unreasonable for the minister to move as he has moved.

Mr Melham—I accept that, Mr Speaker. My point of order is—and I have been in this place, as you know, for 12½ years—that the minister was not called. I do not think the minister can challenge this.

Mr Leo McLeay—On the point of order, Mr Speaker: as you know, you had called the member for Banks. The member for Banks was attempting to make a point, and the minister jumped up and started to say something or other—no-one knew what. But he had not been called. I would think that the member for Banks had the call and that he can now proceed with what he was saying.

The SPEAKER—I was about to deal with the point of order raised by the member for Watson because—I hope, excusably—I may not have called the minister. In that context the member for Banks has the call.

Mr Melham—We are doing this because of the disruptive tactics of the Leader of the House; he is acting disgracefully—

Mr Abbott—I wish to address the House on indulgence, Mr Speaker. I obviously have—

Mr Melham—I raise a point of order, Mr Speaker. The minister has asked for indulgence—

The SPEAKER—I remind the member for Banks that I have not granted the minister indulgence—

Honourable members interjecting—

The SPEAKER—So was the member for Banks! I recognise the Minister for Employment and Workplace Relations and Leader of the House.

Mr Abbott—Thank you, Mr Speaker, I am grateful for your indulgence.

The SPEAKER—I indicate to the minister that I have not extended indulgence to him. I would have thought it would facilitate—

Mr Abbott—I am seeking your indulgence because—

The SPEAKER—The minister may proceed.

Mr Abbott (Warringah—Leader of the House) (7.34 p.m.)—I am advised by the member for Dawson, who is representing the Publications Committee, that if the matter she is dealing with is not dealt with now it will be impossible in the period before the next sitting for these reports to be printed. I put it to members opposite that these reports are important to the parliament and important to members opposite, and I think it would facilitate the proceedings of the House if the member for Dawson were allowed to proceed.

The SPEAKER—The Leader of the House has sought indulgence and put a point of view to the House for the House’s consideration.

Mrs Crosio—I would like to also clarify for the House, with the same indulgence you have granted the Leader of the House—

The SPEAKER—The member for Prospect must seek indulgence.

Mrs Crosio—I am seeking indulgence.

The SPEAKER—The member for Prospect has indulgence.

Mrs Crosio (Prospect) (7.35 p.m.)—I thank you most kindly for that, Mr Speaker. I would like to say to the House that, at 10 past five tonight, I approached the Government Whip, who approached the Leader of the House. We only required 30 minutes of environment debate. That was not granted. If the member for Dawson has a problem with the Publications Committee, why couldn’t it have been brought up at 10 past five?

The SPEAKER—The Leader of the House sought to indicate to the House that it would facilitate both sides of the House if the member for Dawson were heard.

Mr Melham—Leave is not granted.

The SPEAKER—This is not a matter of granting leave; it is a matter of me recognising whoever rises. In this case it is the member for Banks.
Mr Melham—Thank you, Mr Speaker. I rise on a point of order. The reason we are doing this, again, is that this Leader of the House is out of control. What we have here is a situation—

The SPEAKER—The member for Banks knows that, if he expects the call from the House, he needs to be addressing a specific issue.

Mr Melham—in terms of the publication, the reason—

The SPEAKER—I do not have a motion before the House about the Publications Committee because the member for Dawson had not concluded her remarks. The member for Banks will resume his seat.

Mr ABBOTT (Warringah—Leader of the House) (7.37 p.m.)—Given what has been said, we will not proceed with the Publications Committee matter.

ADJOURNMENT

Mr ABBOTT (Warringah—Leader of the House) (7.37 p.m.)—I move:

That the House do now adjourn.

Question put.

The House divided. [7.42 p.m.]

(The Speaker—Mr Neil Andrew)

Ayes............. 51
Noes............. 32
Majority......... 19

AYES


NOES


* denotes teller

In division—

Mr Hockey—Mr Speaker, the last division that was held in this House, which the member for Calare did not attend, was in fact a substantive division about the members’ gold pass entitlements.

Mr Melham—The record shows that; what is this about?

The SPEAKER—I have already responded to the Minister for Small Business and Tourism and indicated that the voting pattern of the member for Calare is not the business of the Chair.

Mr Bevis—Was he out with the member for Dunkley?

Mr Kerr—Come on, that is small minded.

Mr Hockey—When push comes to shove—

Mr Kerr—I want to make a point of order that the comments made by the minister are very small minded, given that—
The **SPEAKER**—The member for Denison does not have a point of order. There are other forms of the House.

Question agreed to.

**House adjourned at 7.47 p.m.**

**NOTICES**

The following notices were given:

**Mr Albanese** to present a bill for an act to amend the Governor-General Act 1974 in relation to the annual report prepared under section 19 of the Act, and for related purposes.

**Mr Lloyd** to move:

That this House:

(1) acknowledges the service and bravery of all Australian veterans involved in operation Jaywick during WWII;

(2) notes that:

(a) the upcoming 60th anniversary of Operation Jaywick on 26-27 September 2003;

(b) Australia Post’s successful and popular policy of producing special issue commemorative stamps; and

(c) Australia Post’s policy to only recognise anniversaries of 50 years or multiples of 50 years in such commemorative stamp issues; and

(3) urges Australia Post to review this policy to enable the issue of a 60th anniversary commemorative stamp series in honour of the veterans of Operation Jaywick.
The DEPUTY SPEAKER (Mr Jenkins) took the chair at 9.40 a.m.

STATEMENTS BY MEMBERS

Braddon Electorate: Cradle Coast Authority

Mr SIDEBOTTOM (Braddon) (9.40 a.m.)—It gives me great pleasure to comment on the Cradle Coast Authority in my electorate of Braddon on the north-west coast of Tasmania. This came into being about four years ago and is funded under the auspices of nine local municipal councils. We have had a fairly chequered history in terms of parochialism in my area, but I congratulate the councils for putting together this joint authority. As I said, it is funded by the local councils in partnership with the state government and, of course, just recently, with the Commonwealth government through the Sustainable Regions Program. They have put together an economic development plan based on numerous studies in the past about areas that need assistance in order to grow our economy and to start to enjoy a rising standard of living in Tasmania. It was great to see the economic indices improving in the last economic report given by the Tasmanian Treasurer.

The six shortlisted regional priorities undertaken by the Cradle Coast Authority related to participation in education, training and employment, investment in existing growth industries, value adding of traditional industries, creation of new long-term industries, protection of the natural environment and reversing the population decline. Twelve million dollars over three years is targeted towards these areas, and that shortlist is now being put into areas of strategic targeting comprising $2 million allocated to stronger learning pathways; $3 million to a tourism investment program and development in tourism; $3 million to food industry value adding, which is so important in my very fertile area of the north-west coast; and $3 million to wind farm related industry clusters. Wind farming is a burgeoning industry in my electorate and will get bigger now that Basslink has been signed off. We have wind farms popping up all over the north-west coast, which will add to and complement our hydro schemes and provide energy for Victoria, which so desperately needs it during the summer. Finally, $500,000 has been allocated to natural resource management careers, and $500,000 to family and business migration.

The idea of allocating this $12 million over three years—and I congratulate this government for at least trying to look at a different model in the provision of priorities for regions—was, in fact, based on the Braddon Plan of the Labor Party at the last federal election. The government has pinched a good idea—and why wouldn’t you, if it can work for regions like mine that are doing it hard? I congratulate the Cradle Coast Authority on this initiative and look forward to working with it very positively, as I always do, to see economic development in our region continue to prosper even further.

Environment: Wentworth Group

Dr STONE (Murray—Parliamentary Secretary to the Minister for the Environment and Heritage) (9.43 a.m.)—I want to commend the Wentworth Group for their Blueprint for a living continent document that they have recently produced. It is a very important benchmark for where we need to go in Australia to achieve a sustainable environment. I am concerned, though, that, while they have addressed the environmental and economic aspects of the triple
bottom line, the social aspects still need a lot more development and understanding. We need a holistic approach to this if we are to achieve in Australia the sorts of outcomes all of us wish for. For example, a sustainable environment depends on the existence of a social system which sustains institutions and a culture which delivers to the people a life worth living in that location—it is a closed loop. The social system needs to deliver generations of motivated, skilled and committed people who can appropriately manage the land for the lifetimes it will take for its recovery. You cannot be green if you are in the red, and you cannot pull up your socks if you have none. The regions with the most degraded natural capital are the places with the least sustainable communities—as the young leave, the local economy shrinks and community infrastructure deteriorates or is withdrawn. Calling out a greater voluntary or cooperative effort in these circumstances is not effective.

This is not to dismiss the extraordinary efforts of volunteer Landcare and other groups trying to protect land and habitat. However, too many of them report the burnout and frustration caused by having too few hands to do the work. While grants for fence posts, seedlings and wire are essential for the survival of such groups, so too are funds for facilitators, coordinators or even secretaries, paid at an acceptable salary and for a reasonable period of time, to coordinate, facilitate and do the legwork that was once done by volunteers.

Addressing an unsustainable social system in regional Australia requires specifically designed programs or adjustments to universal approaches that compensate for the rurality impacts. The manifestation of these impacts include: declining school retention rates; poorer levels of access, participation and completion rates in higher education; poorer health; higher suicide rates; teenage pregnancies; and lower socioeconomic status compared with the total population. We have examples now where we understand through, for example, our ecosystem services that you can deliver incomes to some farms that are beyond the food and fibre incomes that traditionally have delivered them a livelihood. That is now being explored through Natural Heritage Trust funding, and BushTender in north-east Victoria is one such example. Indigenous protected areas are doing similar work.

I call on all Australians to understand that for people to manage the landscape they need to have a life worth living. That requires some very serious understanding of their need to work cooperatively and to work across a whole catchment or a whole landscape. That is a new paradigm and it requires a great deal of very important thinking. I commend the Wentworth Group and I ask them to go further.

Ms MACKLIN (Jagajaga) (9.46 a.m.)—I am very pleased to be here in the Main Committee this morning to congratulate one of the great government schools in my electorate, Eltham High School, which Deputy Speaker Jenkins would be very familiar with. Eltham High School, which Deputy Speaker Jenkins would be very familiar with. Eltham High School has just received two awards in Australia’s Best Schools competition. Nearly 300 schools were nominated and Eltham High School was the only school across the country to receive a listing in two categories. That is a really outstanding result for this fantastic school.

The first category in which the school received an award was for schools which display a high level of overall achievement in several areas that have been sustained over time. Eltham High School certainly fits into that category, whether for academic or extracurricular activities. It has a great record both inside and outside the classroom. I have seen the outstanding
work that the students produce in their written material, in debating and public speaking, in mathematics and in science extensions. The school really encourages the students to pursue their interests in these areas. In the creative areas of photography, media and visual and performing arts, the students are encouraged in the most active way possible to explore all means of expression. A couple of weeks ago I was at the school and it had the best display you could possibly imagine of outstanding art and craft works, which really shows the community the talent that exists at the school.

The second category in which the school received an award recognised schools that excel in a particular area. Eltham High School received this award for its outstanding music department, headed by Mr Ken Waterworth. The music program involves about a quarter of the students at the school and is widely recognised as being exceptional. The children in the music department participate in both the Melbourne Bands Festival and the Royal South Street Eisteddfod, and they have won a number of awards. As Principal Paul Rose says, the school’s music program is second to none in Australia. I certainly endorse that statement.

Music is very important in our family. I know how proud parents can be when their children are involved in their school music programs. When the children at Eltham High School perform it is an absolute joy to listen to the music they produce. It is outstanding. It is appropriate that this great school has received these awards because it does encourage participation so much. It is a wonderful government high school. I congratulate everyone at Eltham High School for their achievements. (Time expired)

Environment: Envirofund

Mr JOHNSON (Ryan) (9.50 a.m.)—I rise today to make the House aware of some great work that has been made possible through the Howard government’s Envirofund initiative in my electorate of Ryan. Thanks to the Envirofund, four community groups in Ryan have been offered more than $57,078 to help protect our local environment. The environment certainly occupies the thinking of the good people of Ryan, and I am delighted to be able to inform them of the government’s funding for four projects. Every member of the House knows that the environment is everybody’s business, and that is what Envirofund acknowledges. Directly funding local community groups harnesses a community’s local knowledge, expertise and enthusiasm and brings together lots of people in the community to achieve a very positive outcome for the community.

I have pleasure in informing the House about the four projects that have received funding. The Western Edge Revegetation of Smith’s Rainforest group is run by a Ryan resident, Mr John Smith, and he has received some $6,000. The Pullenvale Forest Park and Moggill Wetlands extension project, headed by the Pullenvale Catchments Group, has received almost $18,423. The habitat restoration that is taking place between Brisbane and the D’Anguilar Range, which is coordinated by the Moggill Creek Catchment management group, has received some $16,154. A group which is enhancing the protection of a significant koala habitat in the electorate of Ryan has received some $16,240. That group is run by the Moggill Koala Hospital Association.

Through the $20 million that has been provided by the Australian government, Envirofund is making a tremendous contribution. It is continuing to help communities come together to address local issues and protect the natural resources that are in the community, which makes a difference to the quality of living for the people in our communities. The Howard govern-
ment is committed to supporting local communities in their efforts to develop local solutions. This is about giving people the authority to have some control over their communities. To date, some 400,000 Australian volunteers have been involved in more than 12,000 Natural Heritage Trust projects, many of which are in the electorate of Ryan.

The government’s Envirofund is a new community-focused component of the Howard government’s $2.7 billion Natural Heritage Trust, and I am pleased to advise the people of Ryan that I am working very hard in this parliament to promote the environment. I will be coming up with a few initiatives in the new year that will further promote the environment and the people of Ryan’s very strong interest in it.

**Agriculture: Sugar Industry**

Mr Swan (Lilley) (9.52 a.m.)—The Howard government’s sugar tax is a tax on Australian families and Australian jobs, and it is a huge kick in the guts for Golden Circle, which is one of the largest employers in the north-eastern suburbs of Brisbane and one of Australia’s most progressive companies. The government would like the community to believe that only a new tax can save the sugar industry. What will save the sugar industry is a genuine commitment from the federal government, which simply does not exist.

As a son of sugarcane farmers from Bli Bli, I have always had a commitment to the sugar industry and understand its importance to the regional economy of Queensland. It is just a pity that the Howard government, and members of the National Party particularly, do not have the same commitment. The sugar industry want the tax because they know this government will not provide the funding for it in any other way. But the truth is that the sugar tax will hit Australian families and manufacturers hard for five years.

The tax will have a particularly dramatic impact on Golden Circle, which employs up to 1,500 workers in the north-eastern suburbs of Brisbane and sustains hundreds of small businesses in that area. This company provides a livelihood for hundreds and thousands of people in the north-eastern suburbs, but it is also owned by primary producers. It is taking the fight up to the multinationals on the supermarket shelves—whether it is jams, canned fruit or their new range of baby products. What will the Howard government’s sugar tax do to Golden Circle? It will kick it in the guts, as I said before. At $30 per tonne, this sugar tax will cost Golden Circle $750,000 a year—funds that will come out of the pockets of Golden Circle’s growers and owners, who are the farmers of the near regions. What has the government done to defend those growers? Nothing. What has the member for Fisher done to defend those growers? Nothing. What has the member for Hinkler done to defend those growers? Nothing. At a time of severe drought across most of Australia, the Howard government has introduced a sugar tax that will punish one group of farmers to benefit another. That is simply un-Australian.

Golden Circle, the grower owned cooperative, either cuts the dividends back to its growers—the farmers—or passes the cost on to the consumer; but it cannot pass the sugar tax on because that will only benefit imported products. Here we have a proud Australian owned company, a proud supporter of Australian primary producers, being discriminated against by this government and in particular the National Party. So $750,000 a year will be the hit to Golden Circle. If the Howard government were serious about the sugar industry, it would do what federal Labor proposed earlier this year, and what the Beattie government in Queensland is doing, and that is to find the resources out of consolidated revenue—but it does not have...
that commitment. This government, under this Treasurer and this Prime Minister, is taxing Australians out of existence. This government will say that anyone who opposes its taxing does not support the sugar industry. Well, we do, and we support the farmers, which is what the National Party is supposed to do but does not. Why punish the people who consume and value-add Australian sugar? Is that really an incentive for them to continue to support the industry? We need to support the industry, not sell it out. (Time expired)

Hinkler Electorate: Links for Excellence in Engineering Program

Mr NEVILLE (Hinkler) (9.56 a.m.)—On a more positive note, Gladstone’s burgeoning industrial boom has sparked an exciting new partnership between local secondary schools and various engineering enterprises in the city. Spearheaded by Toolooa State High School, Comalco and NRG, the Links for Excellence in Engineering program is a visionary collaboration which will tap the vast reserves of engineering knowledge and practical skills contained in the region and deliver those skills to local secondary students thinking of a career in the engineering sector. Other key participants include the Central Queensland TAFE, Central Queensland University, Boyne Smelters and the Office of State Development.

The core facility will be the Gladstone Skills Engineering Centre, which will provide real life engineering experience while training students, with the aim of becoming Australia’s best-practice model for school-industry partnerships in engineering and manufacturing. The epicentre of this project will be the creation of an off-site campus at the NRG power station in Gladstone which will mirror the demands and expectations of a real workplace. The opportunity to create this state-of-the-art facility came through negotiations with NRG, which mothballed its apprenticeship training centre some years ago when the company outsourced apprenticeship training. By accessing industry-standard machinery and equipment, Gladstone secondary school students will develop high-level planning, communication and teamwork skills that they will require in the workforce. With $10 billion worth of projects on Gladstone’s drawing board, the centre is both timely and relevant.

Through its community fund, Comalco has already provided $237,500 towards the creation of the centre. Additional funds are being sought from ANTA. Comalco’s CEO Sam Walsh has made the centre his pet project. Pleasingly, the centre has triggered the possibility of creating further specialised school based training facilities in Gladstone, a construction program at Gladstone State High School and a business centre at Tannum Sands State High School. I congratulate the participating bodies and their representatives for their vision: Roger Atkins, Toolooa’s principal; Bill Fry, the TAFE director; Bob Prater, Head of Campus at CQU Gladstone; and Mark Greenaway, the coordinator from NRG. The Links for Excellence in Engineering program is indeed an exemplary project, and I am sure it will provide a stellar creche for Australia’s future engineering workforce.

The DEPUTY SPEAKER (Mr Jenkins)—Order! In accordance with standing order 275A the time for members’ statements has concluded.

WORKPLACE RELATIONS LEGISLATION AMENDMENT BILL 2002
Second Reading

Debate resumed from 26 June, on motion by Mr Abbott:

That this bill be now read a second time.
Mr McCLELLAND (Barton) (9.59 a.m.)—It is fortunate that I am on time because I think we are running slightly early.

The DEPUTY SPEAKER (Mr Jenkins)—The Main Committee is very efficient!

Mr McCLELLAND—The primary purpose of the Workplace Relations Legislation Amendment Bill 2002, when first presented in the House in July this year, was the transfer of the operational responsibility for the Seafarers Safety, Rehabilitation and Compensation Authority from the Department of Employment and Workplace Relations to Comcare. The opposition indicated at that time that it was something we would be able to support.


All in all, the Seacare Authority has an important responsibility in ensuring the safety and wellbeing of those persons who work in the Australian maritime industry. It does this by protecting seafarers from risks to their health and safety and by ensuring that those who are injured at work receive appropriate rehabilitation and compensation. The authority itself employs no staff. It has seven members, six of whom are appointed by the minister. The chairperson of the authority is Mr Geoff Gronow, a lawyer, and the deputy chairperson is Mr John Rowling, who is the Assistant Secretary of the Safety and Compensation Policy Branch of the Department of Employment and Workplace Relations. Furthermore, there are four members selected from the industry, two of whom represent employers, namely, Mr Warwick Norman and Mr Malcolm Herndon; and two from the employees’ side, Mr Paddy Crumlin and Mr Martin Byrne. Mr Crumlin is the national secretary of the Maritime Union of Australia and Mr Byrne is the assistant federal secretary of the Australian Institute of Marine and Power Engineers. The last of the seven members is Mr Clive Davidson, who is the chief executive officer of the Australian Maritime Safety Authority.

Labor supports the current compositional arrangements of the Seacare Authority. We say that it is appropriate that industry bodies such as the Seacare Authority draw on those who represent the employees’ interests through their unions, as well as industry representatives and other specialists in the field. It is also pleasing to note that there have been no work related fatalities under the Seacare scheme over the last financial year. Indeed, the industry has been fatality free for the last seven years. Unfortunately, however, it is the case that it is a dangerous industry, and the accident and dangerous occurrence rate and the incidence of injury continue at relatively high levels. The latest annual report says that the maritime industry has a greater incidence of compensable injuries than other high risk industries such as mining, construction, transport and storage. Its rate is considerably higher than the Australian average. Again, this reflects not the endeavours of those involved in overseeing the industry safety but rather the dangerous nature of the industry to which I have referred.

Until 1997, the Seacare Authority was placed within the Department of Transport and Regional Services. In November 1997, with a shift in ministerial responsibilities, the operational
responsibility for the Seacare Authority was transferred to the Department of Employment and Workplace Relations, as it is now known. However, with the Department of Employment and Workplace Relations under the current minister, the government proposes that the Seacare Authority should move again, this time to Comcare. I can indicate that my office has consulted with representatives on the Seacare board and also with legal advocates who commonly do this sort of work, and they concur with the government’s proposal.

Labor supports an arrangement whereby the Seacare Authority, which has responsibility for the occupational health and safety and workers compensation issues, will be more closely aligned to the Commonwealth’s principal provider of such services, Comcare. This will allow greater scope for the sharing of ideas, expertise and resources, and as such this part of the bill is to be commended.

In October this year, the minister wrote to my office to foreshadow various amendments to the bill that would be principally of a minor or technical nature and would be directed at amending anomalies, updating obsolete provisions and smoothing out legislative hitches in acts of parliament that come under the minister’s portfolio responsibilities. After discussions with the minister’s office, all of the provisions now contained in the amendments that are to be moved by the government are agreed to by Labor.

As stated earlier, some of the amendments are simply to update obsolete provisions or modernise the language of the relevant act, such as amendments to the National Labour Consultative Council Act 1977. Some amendments will delegate provisions that require updating regulations from time to time. This approach has much to commend it in the context of these particular regulations because it will allow necessary changes to legislative instruments to be made more expeditiously in circumstances where they are essentially of a non-controversial nature. Other amendments remove sexist language, substituting gender neutral language. While this move is largely symbolic, it is nonetheless important. The changes dealing with the Criminal Code merely undo hitches which may have criminalised what should be lawful activities, such as casting a vote in a union ballot, and in other circumstances providing appropriate defences and qualifications.

It should be noted that there are some amendments which perhaps exceed what could be called minor and technical, but they are sound and we believe they should be supported. For instance, I indicate our support for amendments that will allow for full benches of the Australian Industrial Relations Commission to deal at first instance with applications for equal remuneration and orders to give effect to certain articles in the Termination of Employment Convention. Till now, such applications were to be dealt with by a single member of the commission, even though many such applications had a potentially groundbreaking effect on the nation’s industrial laws. We believe it is appropriate that such significant matters receive the attention of a full bench of the commission from the start, not just under an appeal procedure.

I should also mention an alteration to section 170N of the Workplace Relations Act which will allow equal remuneration applications to proceed even during a bargaining period. We believe this makes sense. The important objective of ensuring that female workers are not treated in a lesser fashion than their male colleagues should not be put on hold simply because enterprise bargaining is occurring. There are also other alterations, which I will not specifically address. In our opinion, they all have merit and are supported.
In concluding, I wish to indicate that the Australian Labor Party will continue to support balanced, fair and sensible legislative proposals from the government. I extend my thanks to the minister and his department for their cooperation and the information provided to my office in consultations over this bill.

Mr RANDALL (Canning) (10.08 a.m.)—It is my pleasure to speak today on the Workplace Relations Legislation Amendment Bill 2002, as it relates to further refinement and reform in an area of industrial relations which brings greater efficiency to the workplace. The main purpose of this bill is to effect a statutory transfer of operational responsibility for the Seacare Authority from the Department of Employment and Workplace Relations to Comcare. There are three reasons for these new arrangements. First, there are sound operational and governance reasons for these decisions, in that the location of the Seacare Authority with Comcare will avoid potential conflicts of interest that occur from time to time within this department where officers who provide secretariat support for the authority also provide policy advice to the government on the Seacare scheme.

Second, the current arrangements are considered to be inefficient, given that a small departmental secretariat is attempting to support a small industry scheme when Comcare has the staff and expertise across the full range of workers compensation and occupational health and safety issues. That expertise should serve to reduce costs for both the government and the employers in the Seacare scheme.

Third, there are natural synergies between the Comcare and Seacare schemes. Both are industry based schemes and the core business of each is injury prevention and the administration of OH&S, compensation and rehabilitation programs. Comcare already supports the Seacare scheme in relation to, firstly, the conduct of the internal review function on compensation decisions under the seafarers act; secondly, approval of rehabilitation providers; and, thirdly, the provision of impairment policy and assessment guidance for medical practitioners used in assessing injured seafarers.

The minister has provided an assurance that the Seacare scheme will continue to be separate and autonomous. The Seafarers Safety, Rehabilitation and Compensation Authority considered that there would be advantages to the authority and the industry in the new co-location with Comcare. The new administrative arrangements involving Comcare actually took effect on 1 July this year. However, the statutory scheme, which still refers to the department, has not yet been amended. The major purpose of this bill is to update the legislation to reflect these administrative changes.

Back to the amendments. I will just give some background to this legislation. The background is that there are a number of Commonwealth statutes relating to occupational health and safety, workers compensation and rehabilitation. However, in terms of workplace legislation there are two major Commonwealth schemes. The first relates to Commonwealth employees and the second covers seafarers, and this is the subject of the amendments of this proposed bill. In relation to Commonwealth employees, the object of the Occupational Health and Safety (Commonwealth Employment) Act 1991 is preventative in nature and includes securing the health, safety and welfare of Commonwealth employees and employees of Commonwealth authorities.

Commonwealth workers injured in the course of their employment are provided with workers compensation benefits and rehabilitation programs under the Safety, Rehabilitation
and Compensation Act 1988, the SRC Act. Among other things, the act establishes a Safety, Rehabilitation and Compensation Commission, the SRCC. The commission has 10 members who meet at least three times per year. It carries out regulatory functions under the SRC Act, such as providing advice to the minister, producing guidelines for determination of Comcare premiums and issuing policy guidelines.

The committee also has functions under the OH&S (Commonwealth Employment) Act. For example, it is required to ensure that statutory obligations are complied with, provides ministerial advice, advises employers and employees about occupational health and safety, collects and analyses occupational health and safety information, formulates occupational health and safety policies and strategies and accredits courses.

Underpinning both statutory schemes is Comcare. Comcare was established under the SRC Act. Its functions include managing workers compensation claims made by Commonwealth employees. Importantly, too, it provides administrative support for both the SRC Act and the OH&S (Commonwealth Employees) Act. For example, Comcare has a statutory duty to supply secretariat services, assistance and staff to the SRCC, which has neither its own staff nor its own budget.

The seafarers scheme is the second of the two. The Seafarers Rehabilitation and Compensation Act 1992, the seafarers act, is part of a Commonwealth legislative scheme covering occupational health, workers compensation and rehabilitation for certain seafarers. The seafarers act is concerned with workers compensation and rehabilitation. It applies to seafarers or trainees employed on prescribed ships engaging in intraterritorial, interstate and overseas trade or commerce.

The Commonwealth occupational health and safety statute relevant to the maritime industry is the Occupational Health and Safety (Maritime Industry) Act 1993, otherwise known as the maritime industry act. It is designed to address the causes of workplace accidents and thus reduce workplace injury. A major element in this act is a consultative framework to enable ship operators and maritime industry workers to cooperate in developing a safer working environment and better work practices, and the duties of care to be observed by all who work onboard ships and in offshore industry and mobile units, such as drilling rigs.

The complementary relationship between the seafarers act and the maritime industry act is underscored by the fact that the Seafarers Safety, Rehabilitation and Compensation Authority, better known as the Seacare Authority, which is established under the seafarers act, also has responsibilities under the maritime industry act. Under the seafarers act, the authority’s functions include monitoring the operations of the act, promoting high standards of claims management and effective rehabilitation procedures, cooperating with other bodies to reduce the incidence of work related injuries, formulating occupational health and safety policies, accrediting occupational health and safety courses and, again, providing advice to the minister. Additional functions conferred on the authority by the maritime industry act include ensuring that statutory obligations imposed by the act are complied with, advising operators and employees on occupational health and safety matters, collecting and reporting on information relating to occupational health and safety and, again, formulating policies and advising the minister.

Like the Safety, Rehabilitation and Compensation Commission, the Seacare Authority is a part-time body which does not employ its own staff. It has seven members and its costs have
to be met through the budget of the Department of Employment and Workplace Relations. The Department of Employment and Workplace Relations has provided policy and administrative and secretariat support to the Seacare Authority. The appropriation for the administration of the seafarers act in the department’s portfolio budget statements 2002-03 is $202,000. From the date that the proposed amendments come into effect, the appropriation will be transferred to Comcare.

The opposition spokesman has referred to some additional amendments, of which I will also make some brief mention. There is a proposed series of miscellaneous amendments to the bill. I go to the effect of these amendments. The first amendment includes moves to modernise the National Labour Consultative Council Act 1977 to ensure its relevance and durability by renaming the ‘National Labour Consultative Council’ the ‘National Workplace Relations Consultative Council’, updating the purpose and membership provisions, clarifying the travelling allowance provisions and enabling regulations to be made for the purposes of the act. The second amendment clarifies the intention that an ex-Australian Defence Force member—an ex-ADF member—be able to be appointed to the Defence Force Remuneration Tribunal while being a member of the Reserves. It also clarifies the scope of the acting member provisions and removes sexist language, which the member for Barton referred to.

The third amendment corrects unintended and unforeseen consequences arising from the enactment of the Employment, Workplace Relations and Small Business Legislation Amendment (Application of Criminal Code) Act 2001. The next amendment amends the Remuneration Tribunal Act 1973 and the Workplace Relations Act 1996 to transfer to the Remuneration Tribunal the power to determine rates of travelling allowance for travel within Australia by presidential members and commissioners of the Australian Industrial Relations Commission, better known as ‘the commission’. The rates are currently prescribed by the AIRC under the Workplace Relations Act 1996.

A further amendment allows the commission to deal with applications for orders for equal remuneration during a bargaining period. The next amendment allows the full bench or the president of the commission to deal with certain applications arising outside the context of an industrial dispute. A further amendment requires the rules of the commission to allow for electronic lodgment of applications under part 6B of the Workplace Relations Act, including applications for certification of agreements. The second last amendment requires the president of the commission to provide information and documents as specified in regulations to the minister. The final amendment I wish to refer to makes other clarifications and corrects a number of minor typographical and drafting errors.

I am pleased to speak on this uncontroversial bill because it does what is intended. It is supported, as we know, by the opposition in that it streamlines and makes more efficient the operation of the seafarers scheme and will result in increased budgetary and working efficiency. I commend the bill and the amendments to the House.

Mr CADMAN (Mitchell) (10.20 a.m.)—The objective of the Workplace Relations Legislation Amendment Bill 2002 is to transfer the responsibility of compensation and occupational health and safety from a seafarers specific organisation to Comcare. I think it is a very sensible proposal, brought into being partly because of the difficulties that have been experienced by the Seacare Authority in providing effective insurance for some of their activities. Moving into Comcare will allow effective coverage. The insurance arrangements for employ-
ees under the SRC Act were in doubt. The Seacare Authority commented in an issues paper that the Seafarers Act is largely modelled on the SRC Act. Many of the 2001 amendments to that act are also potentially necessary and relevant to the Seafarers Act. So there are a number of changes that are necessary to the seafarers act relating to insurance provisions.

The Minister for Employment and Workplace Relations has advised the authority that there are three reasons for the new arrangements. Firstly, there are sound operational and governance reasons for this decision to locate the Seacare Authority with Comcare. To me that makes a lot of sense because they basically do the same thing. We are putting seafarers within the Comcare ambit. I guess that is partly because Australian seafarers travel to international waters and so it is pretty hard for an authority or an effective mechanism to extend the reach of the Commonwealth to provide protection under Australian law. Comcare can do that. I think that is sensible. The second reason the minister has given for the changes is that the current arrangements are inefficient because there is a small departmental secretariat involved and that small secretariat has to provide the full range of occupational health and safety coverage necessary for seafarers. Thirdly, the minister’s advice is that there is a natural synergy between Comcare and seafarer schemes. Both are industry based. The administration of occupational health and safety and compensation rehabilitation programs are all part of the daily process of Comcare.

I think this is good legislation. Having been involved in the Ships of shame inquiry—the significant inquiry that was done by a committee of the parliament to establish some of the working conditions of seafarers, both foreign and Australian—my view is that the legislation removes some of the special treatment that seafarers have had but does not reduce their entitlements in any way. So it makes a lot of sense. This is part of a package of sensible reform on which the government has embarked. In the last financial year of the Labor government real wages growth was zero. Over the life of the accord there was a five per cent decline in real wages. That is not acceptable.

This government has been able to bring people employee entitlements. When companies have gone broke, the government has been able to increase real wages. Over the life of this government the lowest paid workers have received safety net increases of $82, a 7.9 per cent increase in real terms compared with the 14.9 per cent reduction in real average wages over the term of the Labor government.

This legislation for seafarers fits in well with a package of changes made by the current government and I know that there are more changes planned. Even the Employee Entitlements Support Scheme, which is so strongly criticised by members opposite, has provided $360 million for employees under entitlement protection schemes. It has never happened before. The Labor Party had 13 years to get it right but did not. It took an incoming coalition government to solve the problem and provide almost 80 per cent of eligible workers with 100 per cent of what they are owed. Good stuff; they had no alternate schemes on the horizon. The legislation will bring seafarers within the ambit of Comcare, which is another sensible change. This will provide them with all the protection they need, solve the difficulty of insurance for employers and ensure that employers and employees are protected by that process. So what we will have in Australia will be a much fairer system.

Looking ahead, I am pleased to see that the Democrats have agreed to the changes that we needed to have. The fair dismissal bill has also been finally acknowledged by the Democrats,
so there are more changes there. The prohibition of compulsory union fees is something that
the government is keen to introduce; it is very sensible legislation. The following changes
have produced positive results and great benefits to the average working person in Australia:
secret ballots for protection, a genuine bargaining bill, a fair termination process, the trans-
mission of business and giving the IRC power to order certified agreements that do not trans-
mitt with a business, registration and accountability of organisations, improved remedies for
unprotected action, simplification of agreement making and even some of the past activities
and simplification of a number of matters that may be taken into account as part of an award.
I compliment the government for the changes they have made. In the area where I live and
work there is great activity at the moment and that can be sheeted home not only to a very
buoyant economy but also to a more sensible working environment.

It is sad to see that the Premier of Victoria wants to change that process and go back to the
past. Even a member of the Grollo family—everybody in this place knows that the Grollo
reputation of doing deals with the union movement is legend—has said, ‘We do not want to
go back to those bad old days. We want to stick with the changes that have been achieved as
they are much more sensible.’ The final straw that broke the camel’s back was the building
unions recently deciding that they were going to go on strike because a couple of casual
workers were terminated under the process that was outlined in their employment agreement.
They were casual employees on 24 hours notice, but when they were put off in the appropriate
manner a strike was called.

Coming up to an election I guess the Premier of Victoria is vulnerable, but with his vulner-
ability he is gutless and will not stand for the things he should. He knows what is right. You
can say what you like: we have not had trouble on the waterfront, nor have we had trouble
with the Seamen’s Union in any way, because sensible things have been done. The sensible
things include changes like this one that we are dealing with today that is moving the whole
of the seafaring authority administration across to Comcare. That is one of the benefits of the
changes by this sensible government, and it is time that the Australian Labor Party understood
that, because they are out on their own. Even the 50 per cent rule will not change anything. It
will not change the control by the union movement of the Australian Labor Party.

Opposition members interjecting—

Mr CADMAN—You can identify how much control there is by the reaction we are getting
in the committee today. It is almost a pavlovian response: you say something critical of the
union movement and they respond to the bell ringing.

I am concluding my remarks by saying that this is sensible legislation. We have all agreed
to it. It is a great shame that the Australian Labor Party cannot bend a little to see what the
majority of Australians want—that they should fail to take their orders from the union move-
ment, the CFMEU and that bunch that are so active in Victoria, and come to this parliament to
bring about changes that benefit the workers they claim they represent.

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Min-
ister Assisting the Prime Minister for the Public Service) (10.31 a.m.)—in reply—I would like
to thank members for their contributions to this debate. As has been pointed out, the Work-
place Relations Legislation Amendment Bill 2002 is a non-controversial bill. It is a bill which
is proceeding by agreement. It changes the act to provide that the administrative and opera-
tional support provided to the Seacare scheme should in the future be provided by Comcare
rather than by the Department of Employment and Workplace Relations itself. I particularly welcome the contribution of the shadow minister, who in his typical, thorough style went through all the provisions of the bill, and indeed the amendments that I am about to move, and gave a very clear explanation. I also thank the member for Canning, who similarly gave a very clear explanation of the provisions of the bill. Then, of course, the member for Mitchell livened up proceedings a little bit. It is good to have a bit of vigour here in the Main Committee.

I think we have had a useful debate. It probably ought to be said that sometimes the importance of these housekeeping amendments gets lost. Nevertheless, we do need to keep our legislation up to date and relevant. I think this debate demonstrates that there are many things that we can agree on and other things that we can compromise on in this House, and this bill is an illustration of how constructive things can be under the right circumstances. I commend the bill to the chamber.

Question agreed to.

Bill read a second time.

Consideration in Detail

Bill—by leave—taken as a whole.

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (10.34 a.m.)—by leave—I present a supplementary explanatory memorandum to the bill and move government amendments (1) to (5):

(1) Clause 2, page 2 (at the end of the table), add:

6. Schedule 2 The day on which this Act receives the Royal Assent

(2) Clause 2, page 2 (at the end of the table, after proposed item 6), add:

7. Schedule 3, items 1 to 14 The day on which this Act receives the Royal Assent

8. Schedule 3, items 15 to 17 Immediately before the commencement of items 17, 28 and 41 of Schedule 1 to the Employment, Workplace Relations and Small Business Legislation Amendment (Application of Criminal Code) Act 2001

9. Schedule 3, item 18 A single day to be fixed by Proclamation, subject to subsection (3)

10. Schedule 3, item 19 The later of:
(a) the day on which this Act receives the Royal Assent; and
(b) the commencement of item 2 of Schedule 1 to the Higher Education Legislation Amendment Act (No. 3) 2002

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<td>13. Schedule 3, item 24</td>
<td>The day on which this Act receives the Royal Assent</td>
<td></td>
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<tr>
<td>14. Schedule 3, items 25 to 27</td>
<td>At the same time as the provisions covered by item 11 of this table</td>
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<tr>
<td>15. Schedule 3, item 28</td>
<td>The day on which this Act receives the Royal Assent</td>
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<tr>
<td>16. Schedule 3, item 29</td>
<td>At the end of the period of 6 months beginning on the day on which this Act receives the Royal Assent</td>
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<tr>
<td>17. Schedule 3, item 30</td>
<td>A single day to be fixed by Proclamation, subject to subsection (3)</td>
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<tr>
<td>18. Schedule 3, item 31</td>
<td>The day on which this Act receives the Royal Assent</td>
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<tr>
<td>19. Schedule 3, item 32</td>
<td>At the same time as the provision covered by item 12 of this table</td>
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<tr>
<td>20. Schedule 3, item 33</td>
<td>A single day to be fixed by Proclamation, subject to subsection (3)</td>
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<tr>
<td>21. Schedule 3, item 34</td>
<td>At the same time as the provision covered by item 12 of this table</td>
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<td>22. Schedule 3, item 35</td>
<td>At the same time as the provision covered by item 13 of this table</td>
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<td>23. Schedule 3, items 36 to 40</td>
<td>A single day to be fixed by Proclamation, subject to subsection (3)</td>
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<td>24. Schedule 3, item 41</td>
<td>At the same time as the provision covered by item 12 of this table</td>
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<td>25. Schedule 3, item 42</td>
<td>The day on which this Act receives the Royal Assent</td>
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<td>26. Schedule 3, item 43</td>
<td>At the same time as the provision covered by item 20 of this table</td>
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<td>27. Schedule 3, item 44</td>
<td>At the same time as the provision covered by item 13 of this table</td>
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<tr>
<td>28. Schedule 3, item 45</td>
<td>A single day to be fixed by Proclamation, subject to subsection (3)</td>
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<tr>
<td>29. Schedule 3, items 46 to 48</td>
<td>The day on which this Act receives the Royal Assent</td>
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<tr>
<td>30. Schedule 3, items 49 to 51</td>
<td>The day after this Act receives the Royal Assent</td>
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<tr>
<td>31. Schedule 3, item 52</td>
<td>At the same time as the provisions covered by item 11 of this table</td>
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<tr>
<td>32. Schedule 3, items 53 to 55</td>
<td>Immediately before the commencement of items 38, 39 and 40 of Schedule 3 to the Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002</td>
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<tr>
<td>33. Schedule 3, item 56</td>
<td>At the same time as the provision covered by item 12 of this table</td>
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<td>34. Schedule 3, item 57</td>
<td>At the same time as the provision covered by item 15 of this table</td>
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<td>35. Schedule 3, item 58</td>
<td>At the same time as the provision covered by item 20 of this table</td>
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<tr>
<td>36. Schedule 3, item 59</td>
<td>At the same time as the provisions covered by item 23 of this table</td>
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<tr>
<td>37. Schedule 3, item 60</td>
<td>At the same time as the provision covered by item 25 of this table</td>
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<tr>
<td>38. Schedule 3, item 61</td>
<td>At the same time as the provision covered by item 28 of this table</td>
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</table>

(3) Clause 2, page 2 (line 7), omit “item 3”, substitute “item 3, 9, 11, 12, 17, 20, 23 or 28”.

(4) Page 6, after line 3, at the end of the Bill, add:

**Schedule 2—Changing the name of the National Labour Consultative Council, and other matters relating to the Council**

**Part 1—Main amendments**

**National Labour Consultative Council Act 1977**

1 **Title**

Omit “Labour”, substitute “Workplace Relations”.

2 **Section 1**


3 **Section 3 (definition of Council)**

Omit “Labour”, substitute “Workplace Relations”.
4 Section 4
Omit “Labour”, substitute “Workplace Relations”.

Note: The heading to section 4 is altered by omitting “Labour” and substituting “Workplace Relations”.

5 Subsection 5(1)
Omit “industrial relations matters, and manpower matters,”, substitute “workplace relations matters”.

6 Paragraph 6(1)(d)
Omit “the Australian Chamber of Manufactures”, substitute “the Business Council of Australia”.

7 Paragraph 6(1)(e)
Omit “the Metal Trades Industry Association of Australia”, substitute “the Australian Industry Group”.

8 After subsection 6(1)
Insert:

(1A) If the Minister is satisfied that an organisation referred to in a paragraph of subsection (1) (including a paragraph as previously amended under this subsection or subsection (1B)):
(a) has changed its name; or
(b) has merged with another organisation; or
(c) has been succeeded by another organisation;
the Governor-General may make regulations amending that paragraph of subsection (1) so that the paragraph refers to the organisation under its new name, to the merged organisation, or to the successor organisation, as the case requires.

(1B) If the Minister is satisfied that:
(a) an organisation referred to in a paragraph of subsection (1) (including a paragraph as previously amended under this subsection or subsection (1A)) has ceased to exist and has not merged with, or been succeeded by, another organisation; and
(b) there is another organisation that performs a broadly similar role;
the Governor-General may make regulations amending that paragraph of subsection (1) so that the paragraph refers to that other organisation.

(1C) Before deciding that he or she is satisfied for the purposes of subsection (1B), the Minister must consult the members of the Council.

Note: This subsection is not intended to limit by implication the matters the Minister may take into account for the purposes of subsection (1A) or (1B).

9 Subsection 6(4)
Repeal the subsection.

10 Section 7
Omit “his membership by writing signed by him”, substitute “by writing signed by him or her”.

11 At the end of section 8
Add:
(2) If the Minister is satisfied that an organisation which has nominated a member under subsection 6(1) has ceased to exist and has not merged with, or been succeeded by, another organisation, the Minister must terminate the appointment of that member.

12 Section 9
Repeal the section, substitute:

9 Travelling allowance for members
(1) The regulations may provide for a member to receive travelling allowance at a rate specified or identified in the regulations.

(2) Regulations made for the purposes of subsection (1) may identify a rate by reference to the rate of travelling allowance that is payable to a particular class of office holders under a determination of the Remuneration Tribunal as in force at a particular time, or as in force from time to time.

Note: This subsection is not intended to be an exhaustive statement of the ways in which a rate could be identified.

(3) A member is not otherwise entitled to any remuneration or allowances.

13 Subsection 11(4)
Omit “he”, substitute “the Minister”.

14 Subsection 11(4)
Omit “his”, substitute “the Minister’s”.

15 Subsection 12(2)
Repeal the subsection, substitute:

(2) The regulations may provide for a member of a committee to receive travelling allowance at a rate specified or identified in the regulations.

(3) Regulations made for the purposes of subsection (2) may identify a rate by reference to the rate of travelling allowance that is payable to a particular class of office holders under a determination of the Remuneration Tribunal as in force at a particular time, or as in force from time to time.

Note: This subsection is not intended to be an exhaustive statement of the ways in which a rate could be identified.

(4) A member of a committee is not otherwise entitled to any remuneration or allowances.

16 At the end of the Act
Add:

13 Regulations
The Governor-General may make regulations prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient for carrying out or giving effect to this Act.

Part 2—Consequential amendments

Administrative Decisions (Judicial Review) Act 1977

17 Paragraph (l) of Schedule 1

Freedom of Information Act 1982
18 Part 1 of Schedule 2


(5) Page 6, at the end of the Bill (after proposed Schedule 2), add:

Schedule 3—Other amendments

Part 1—Amendments

Defence Act 1903

1 Section 58F (paragraph (d) of the definition of relevant allowances)

After “his”, insert “or her”.

2 Paragraph 58G(2)(c)

Repeal the paragraph, substitute:

(c) a person who was, but is no longer, a member of the Permanent Forces (although the person may be a member of the Reserves).

Note: The Permanent Forces are made up of the Permanent Navy, the Regular Army and the Permanent Air Force which are established respectively by the Naval Defence Act 1910, this Act and the Air Force Act 1923. Those Acts also establish the Naval Reserve, the Army Reserve and the Air Force Reserve, which together make up the Reserves.

3 Subsection 58G(5)

Repeal the subsection, substitute:

(5) A person must not be appointed as a member of the Tribunal if he or she has, at any time during the year preceding the appointment, been a member of the Permanent Forces.

4 Subsection 58H(13)

Omit “him”, substitute “the Minister”.

5 Subsections 58K(1) and (3)

After “he”, insert “or she”.

6 Subsection 58L(2)

Repeal the subsection, substitute:

(2) A person must not continue to hold office as a member of the Tribunal if:

(a) he or she becomes a member of the Permanent Forces (although he or she may become a member of the Reserves); or

(b) he or she becomes the Defence Force Advocate; or

(c) in the case of the President, he or she ceases to be a presidential member of the Commission.

Note: The Permanent Forces are made up of the Permanent Navy, the Regular Army and the Permanent Air Force which are established respectively by the Naval Defence Act 1910, this Act and the Air Force Act 1923. Those Acts also establish the Naval Reserve, the Army Reserve and the Air Force Reserve, which together make up the Reserves.

7 Section 58M

Omit “resign his office by writing signed by him”, substitute “resign his or her office by writing signed by him or her”.

REPRESENTATIVES MAIN COMMITTEE
8 Paragraph 58P(1)(b)
Omit “he is acting as President), unable to perform the duties of his office”, substitute “he or she is acting as President), unable to perform the duties of his or her office”.

9 Subsection 58P(2)
Omit “he”, substitute “the person”.

10 Subsection 58P(6)
Omit “he resigns his appointment by writing signed by him”, substitute “the person resigns his or her appointment by writing signed by him or her”.

11 Subsection 58P(7)
After “his” (wherever occurring), insert “or her”.

12 Subsection 58P(7)
Omit “him”, substitute “the person”.

13 Subsection 58P(8)
Omit “or 58K”, substitute “, 58K, 58KA, 58KC or 58U”.

14 Subsection 58Q(2)
After “his” (wherever occurring), insert “or her”.


15 At the end of item 17 of Schedule 1
Add “(but not the penalty)”.

16 At the end of item 28 of Schedule 1
Add “(but not the penalty)”.

17 At the end of item 41 of Schedule 1
Add “(but not the penalty or the note)”.

Equal Employment Opportunity (Commonwealth Authorities) Act 1987

18 Subsection 3(1) (definition of responsible Minister)
Repeal the definition, substitute:

responsible Minister, for a relevant authority, means:

(a) if the regulations prescribe a Minister as responsible for the authority—that Minister; or
(b) otherwise—the Minister responsible for the authority.

Equal Opportunity for Women in the Workplace Act 1999

19 Subsection 3(1) (definition of higher education institution)
Repeal the definition, substitute:

higher education institution means a university or other institution of higher education that is included in:

(a) the Australian Qualifications Framework Register of Authorities empowered by Government to Accredit Post-Compulsory Education and Training; or
(b) the Australian Qualifications Framework Register of Bodies with Authority to Issue Qualifications;
as an institution authorised to issue higher education awards (within the meaning of section 106ZL of the Higher Education Funding Act 1988).

Remuneration Tribunal Act 1973
20 After subsection 7(4A)
Insert:
(4B) The Tribunal may inquire into and determine the travelling allowances to be paid to members of the Australian Industrial Relations Commission established under section 8 of the Workplace Relations Act 1996 for travel within Australia.

21 At the end of paragraphs 7(9)(a) to (ad)
Add “and”.

22 After paragraph 7(9)(ae)
Insert:
(af) in the case of travelling allowances payable to a member of the Australian Industrial Relations Commission—be paid in accordance with the determination out of funds that are lawfully available under section 358 of the Workplace Relations Act 1996; and

Workplace Relations Act 1996
23 After paragraph 3(h)
Insert:
(ha) requiring the Commission to take into account the circumstances of employers and employees in small business in performing its functions and in exercising its powers under this Act (including through appropriate changes to its principles, procedures and rules); and

24 Subsection 4(1) (paragraph (a) of the definition of public sector employment)
After “Public Service Act 1999”, insert “or the Parliamentary Service Act 1999”.

25 Paragraph 12(2C)(b)
Repeal the paragraph, substitute:
(b) such travelling allowances as are determined from time to time by the Remuneration Tribunal for travel within Australia; and
(c) such other allowances as are prescribed by the regulations.

26 Paragraphs 21(1)(b), (2)(b), (2A)(b) and (2B)(b)
Repeal the paragraphs, substitute:
(b) such travelling allowances as are determined from time to time by the Remuneration Tribunal for travel within Australia; and
(c) such other allowances as are prescribed by the regulations.

27 Paragraph 23(1)(b)
Repeal the paragraph, substitute:
(b) such travelling allowances as are determined from time to time by the Remuneration Tribunal for travel within Australia; and
(c) such other allowances as are prescribed by the regulations.

28 Paragraph 45(1)(ed)
After “award”, insert “or certified agreement”.


29 After subsection 48(1)
Insert:

(1A) The rules must allow applications under Part VIB, and any ancillary documents relating to those applications, to be made or given to the Commission in electronic form.

(1B) If the rules allow such an application or ancillary document to be given to the Commission in electronic form, then the rules may also allow the Commission to additionally require the original application or ancillary document to be produced to the Commission.

30 After section 48
Insert:

48A President must provide certain information etc. to the Minister
(1) The President must provide to the Minister information, and copies of documents, of the kinds that are prescribed by the regulations, being:
(a) information that is publicly available, or derived from information that is publicly available, relating to:
(i) the Commission’s orders, decisions or actions under this Act; or
(ii) notifications or applications made or given to the Commission under this Act; or
(b) copies of such orders, decisions, notifications or applications.
(2) The President must provide the information or the copies by the time, and in the form, prescribed by the regulations.

31 Subsection 83BE(3)
Omit “83BB(a), (b) or (c)”, substitute “83BB(1)(a), (b) or (c)”.

32 At the end of paragraph 88A(d)
Add:
; and (iii) takes into account the circumstances of employers and employees in small business.

33 After subsection 170BI(2)
Insert:

(2A) Section 170N does not prevent the Commission from exercising its arbitration powers under Part VI during a bargaining period (within the meaning of Division 8 of Part VIB) for the purposes of this section.
Note: In exercising its arbitration powers, the Commission may adjourn the arbitration until the bargaining period has ended.

34 At the end of section 170CA
Add:

(3) The Commission must, in performing its functions and in exercising its powers under this Division, take into account the circumstances of employers and employees in small business.

35 Subsection 170CD(1) (paragraph (a) of the definition of Commonwealth public sector employee)
After “Public Service Act 1999”, insert “or the Parliamentary Service Act 1999”.

36 Section 170FD
Omit “section 107”, substitute “sections 107 and 108”.

37 At the end of section 170FD

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REPRESENTATIVES MAIN COMMITTEE
Add:
Note: The Full Bench and the President may deal with certain applications under sections 170JEB and 170JEC (rather than sections 107 and 108).

38 Section 170GD
Omit “section 107”, substitute “sections 107 and 108”.

39 At the end of section 170GD
Add:
Note: The Full Bench and the President may deal with certain applications under sections 170JEB and 170JEC (rather than sections 107 and 108).

40 After section 170JEA
Insert:

170JEB Reference of applications to Full Bench
(1) This section applies to applications under:
(a) Division 2; and
(b) Subdivisions D and E of Division 3.
(2) A reference in this section to a part of an application includes a reference to:
(a) an application so far as it relates to a matter in dispute; or
(b) a question arising in relation to an application.
(3) Where a proceeding in relation to an application is before a member of the Commission, a party to the proceeding or the Minister may apply to the member to have the application, or a part of the application, dealt with by a Full Bench because the application or the part of the application is of such importance that, in the public interest, it should be dealt with by a Full Bench.
(4) If an application is made under subsection (3) to a member of the Commission other than the President, the member must refer the application to the President to be dealt with.
(5) The President must confer with the member about whether the application under subsection (3) should be granted.
(6) The President must grant the application under subsection (3) if the President is of the opinion that the application or the part of the application is of such importance that, in the public interest, it should be dealt with by a Full Bench.
(7) Where the President grants an application under subsection (3), the Full Bench must, subject to subsection (8), hear and determine the application or the part of the application and, in the hearing, may have regard to any evidence given, and any arguments adduced, in proceedings in relation to the application, or the part of the application, before the Full Bench commenced the hearing.
(8) Where the President grants an application under subsection (3) in relation to an application:
(a) the Full Bench may refer a part of the application to a member of the Commission to hear and determine; and
(b) the Full Bench must hear and determine the rest of the application.
(9) The President or a Full Bench may, in relation to the exercise of powers under this section, direct a member of the Commission to provide a report in relation to a specified matter.
(10) The member must, after making such investigation (if any) as is necessary, provide a report to the President or Full Bench, as the case may be.
(11) The President may, before a Full Bench has been established for the purpose of hearing and determining, under this section, an application or part of an application, authorise a member of the Commission to take evidence for the purposes of the hearing, and:

(a) the member has the powers of a person authorised to take evidence under subsection 111(3); and

(b) the Full Bench must have regard to the evidence.

170JEC President may deal with certain applications

(1) This section applies to applications under:

(a) Division 2; and

(b) Subdivisions D and E of Division 3.

(2) A reference in this section to a part of an application includes a reference to:

(a) an application so far as it relates to a matter in dispute; or

(b) a question arising in relation to an application.

(3) The President may, whether or not another member of the Commission has begun to deal with a particular proceeding in relation to an application, decide to deal with the application or a part of the application.

(4) If the President decides to deal with the application or a part of the application, then the President must:

(a) hear and determine the application or the part of the application; or

(b) refer the application or the part of the application to a Full Bench.

(5) If the President refers the application or the part of the application to a Full Bench, the Full Bench must hear and determine the application or the part of the application.

(6) In the hearing of an application or a part of an application by the President under subsection (4) or by a Full Bench under subsection (5), the President or Full Bench may have regard to any evidence given, and any arguments adduced, in proceedings in relation to the application, or the part of the application, before the President or Full Bench commenced the hearing.

(7) Where the President has under subsection (4) referred an application to a Full Bench:

(a) the Full Bench may refer a part of the application to a member of the Commission to hear and determine; and

(b) the Full Bench must hear and determine the rest of the application.

(8) The President or a Full Bench may, in relation to the exercise of powers under this section, direct a member of the Commission to provide a report in relation to a specified matter.

(9) The member must, after making such investigation (if any) as is necessary, provide a report to the President or Full Bench, as the case may be.

41 After subsection 170LA(1)

Insert:

(1A) In performing those functions, the Commission must also take into account the circumstances of employers and employees in small business.

42 Paragraph 170LU(2)(c)

Omit “the Court”, substitute “a court”.

43 At the end of section 170N
Add:

Note: The Commission is also not prevented from exercising its arbitration powers during a bargaining period to deal with certain applications for an order for equal remuneration for work of equal value: see subsection 170BR(2A).

44 At the end of section 170WK
Add:

(2) A Secretary of a Department (within the meaning of the Parliamentary Service Act 1999) may act on behalf of the Commonwealth in relation to AWAs with persons in the Department who are engaged under the Parliamentary Service Act 1999.

45 Section 177A (at the end of the definition of court of competent jurisdiction)
Add:

; or (c) the Industrial Relations Court of South Australia; or
(d) any other State or Territory court that is prescribed by the regulations.

46 Subsection 178(1)
Omit “, except in the case of a breach of a bans clause.”.

47 Paragraph 298G(2)(a)
Omit “this”, substitute “the”.

48 Paragraph 298R(d)
Before “has participated”, insert “because the member”.

49 Paragraph 317(2)(c)
Before “put”, insert “fraudulently”.

50 At the end of paragraph 317(2)(g)
Add “without authority”.

51 Paragraph 317(2)(h)
After “ballot paper”, insert “to which the person is not entitled”.

52 Section 358
After “allowances”, insert “(including travelling allowance)”.

Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002

53 Item 38 of Schedule 3
Omit “of the Workplace Relations Amendment (Registration and Accountability of Organisations) Act 2002”, substitute “of Schedule 1B to the Workplace Relations Act 1996”.

54 Item 39 of Schedule 3
Omit “of the Workplace Relations Amendment (Registration and Accountability of Organisations) Act 2002”, substitute “of Schedule 1B to the Workplace Relations Act 1996”.

55 Item 40 of Schedule 3
Omit “of the Workplace Relations Amendment (Registration and Accountability of Organisations) Act 2002”, substitute “of Schedule 1B to the Workplace Relations Act 1996”.

Part 2—Application provisions

56 Application of items 23, 32, 34 and 41
The amendments made by items 23, 32, 34 and 41 apply in relation to any proceedings before the Commission (whether instituted before, on or after the commencement of those items).

**57 Application of item 28**

The amendment made by item 28 applies in relation to decisions of the Commission made before, on or after the commencement of that item.

**58 Application of items 33 and 43**

The amendments made by items 33 and 43 apply in relation to applications made before, on or after the commencement of those items.

**59 Application of items 36 to 40**

The amendments made by items 36 to 40 apply in relation to applications made before, on or after the commencement of those items.

**60 Application of item 42**

The amendment made by item 42 applies in relation to applications made before, on or after the commencement of that item.

**61 Application of item 45**

The amendment made by item 45 applies in relation to any breach of a term of an award, order or agreement (whether committed before, on or after the commencement of that item).

As with the original bill, these amendments have opposition support. As the shadow minister indicated, they were fully discussed earlier with the opposition. I thank the shadow minister and his office for the constructive spirit in which these amendments have been considered. There is a range of them, but I will simply highlight three which I think are the most important in practice. One amendment will update the membership provisions of the National Workplace Relations Consultative Council, taking into account the changes that have occurred in employer groups over the last few years. Another will enable the Remuneration Tribunal, not the minister, to determine the rates of travelling allowance for members of the Australian Industrial Relations Commission. A further amendment will require the rules of the commission to provide for electronic lodgment of applications. Again these are housekeeping measures. Nevertheless, they are important and necessary, and I am pleased that that has been recognised by the opposition. I commend the amendments to the House.

Question agreed to.

Bill, as amended, agreed to.

Ordered that the bill be reported to the House with amendments.

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**COMMITTEES**

**Education and Training Committee**

**Report**

Debate resumed from 21 October, on motion by Mr Bartlett:

That the House take note of the paper.

Mr SNOWDON (Lingiari) (10.36 a.m.)—Let me say at the outset how pleased I am this morning to be able to participate in this discussion on the report entitled *Boys: getting it right: report on the inquiry into the education of boys* presented by the Standing Committee on Education and Training. Uncharacteristically, even though I was not a member of this committee, I want to commend the committee—
Mr Cadman—that’s terrific. Thank you.

Mr Snowdon—it is my pleasure. I commend it for its work and for what generally, I think, is a very good report. While I cannot say I agree with everything in it, I can say that the thrust of it and the subject itself ought to be brought to the attention of a broad section of our community, particularly those people who are responsible for making decisions in the education sector. So I commend the committee and its members for the work they have put into their deliberations and for the excellent report which has been drafted by the committee secretariat. As colleagues of mine were on that committee, I make that commendation personally. Uncharacteristically, as I say—I would not normally do that, but in this case it is warranted.

Prior to entering this place, I was for some time a schoolteacher. I am the father of two young boys. The subject that this report addresses is something I am very concerned about, not necessarily because of my own children but because of what I see in our communities generally—and that is right across the board. It is worth pointing out that we have seen much social change over the last 20 years—in fact, the last 50 years—whereby relationships within our community have changed. I might say that due credit for that must be given to those people who ran and drove the campaign of feminism, which has brought about the empowerment of many women and given them a great deal of freedom—although there is still a way to go in that area.

On the other side of the coin, though, there is a real question about men’s identity. I notice that the majority of us here in this chamber are male, and we have a view of our own identities. But I just wonder how our view of our identity as males is shared by other people in our community, and I think understanding what it is to be male is a real issue. I think this report partly addresses that issue.

It is certainly clear that many males do not have a clear idea of what it means to be a man. For young people, particularly young people in schools, there are few clear models of what it is to be a man in contemporary society. Modelling is a very important learning process for children. Exposure to different examples of behaviour gives children an idea of what types of behaviour are appropriate. Many commentators have noted the conflict between social stereotypes for males and social values. There is the social concept of the very masculine man—the hero who is uncommunicative and withdrawn—which conflicts with current social values of being articulate, educated and having excellent communication skills. This creates some obvious problems and adds to the confusion that exists for boys and young men. Whether we like it or not, gender identity is central to our sense of who we are. Given that the meaning of being male in contemporary society is so unclear, I do not think the findings in this report are all that surprising. I want to see young men fully engaged in our society and given a place within it where they can contribute effectively.

The level of disaffection of our young people is soaring. The best indicators of this disaffection and disengagement are the horrendous levels of youth suicide, particularly in regional and rural Australia. The poor performance of boys at school is very concerning. However, it is only one indicator of a wider social issue that this parliament must start to address. The report paints a clear picture of boys’ underperformance in many areas of education. In terms of the literacy levels in primary schools, the National School English Literacy Survey of 1996 found that on average boys do not perform as well as girls in each of the aspects of literacy: reading, writing, speaking and listening. Furthermore, the difference between boys and girls is greatest.
in the lower socioeconomic groups. National literacy benchmark data in 1999 for years 3 and 5 show that girls consistently outperform boys.

In terms of year 12 retention rates, it is clear that increased education is associated with decreased unemployment; that is, keeping kids in school increases their likelihood of getting gainful employment. The cost of leaving school before a person reaches year 12 has been estimated to be $74,000 over the duration of their lifetime. Nationally, the retention rates for boys and girls were equal in 1975. In 2000, the gender gap in school retention was 12.6 percentage points.

I also draw to the attention of the House one of the most striking features of the entire report: the school retention rates in the Northern Territory. While the national rate of school retention to year 12 in 2000 was 72.3 per cent, in government schools in the Northern Territory only 27.2 per cent of boys and 35.2 per cent of girls complete year 12. In non-government schools, 50 per cent of boys and 68.2 per cent of girls complete year 12. This is slightly better but still appalling in comparison with the national average. These figures in comparison with the national rate of 72 per cent are an indictment of successive governments that have failed to provide adequate educational opportunities for all Territorians. You might be thinking, ‘Have you taken into account the Aboriginal factor?’ But what difference does it make? The fact is that only 27 per cent of boys in Northern Territory government schools finished year 12 in the year 2000. The education system should be structured in such a way as to address the cultural values of particular sections of our community. This is particularly so when it comes to Indigenous Australians. It is very clear that the education system in the Northern Territory has not come to terms with its obligations to fully comprehend and provide appropriate educational services for Indigenous Territorians, and particularly for Indigenous males. On countless occasions I have been on my feet in this place berating both sides of politics for their failure to address the real disadvantage faced by people in the Territory every day. I find myself doing it again, but I will not stop working for justice for people in this situation, and most particularly for equal treatment and fair and equal outcomes in terms of education. This situation is not surprising and is indicative of general social trends.

At one level, the data showing that boys are not doing as well as girls at school is not surprising; the poor performance of boys reflects broader social trends, not debatable psychological differences inherent to boys and girls. The development of gender identification is one of the most prominent and important processes of development. By the age of three, children have a strong sense of what is appropriate gender based behaviour. For some boys, particularly those in lower socioeconomic groups, appropriate career choices do not involve higher education. Historically, boys’ career choices have involved apprenticeships and manual or unskilled labour. However, it is now evident that these types of job opportunities are rapidly diminishing. These changes in opportunity have coincided with a definite change in socially acceptable careers seen as appropriate for boys.

As mentioned earlier, the last 50 years have seen a revolution in gender relations. Society has rightly and very effectively redefined what it means to be a woman, but it has been slower at redefining what it means to be a man. For some men this has resulted in a crisis of identity. We are now at a point at which we must actively redefine what sort of behaviour is appropriate for men. This process is already happening, but it is one that we in parliament have so far avoided. The men’s movement is evidence of this change. It involves men asserting their identity as men in a way that respects women and acknowledges the value of both genders.
The idea that someone like Steve Biddulph, author of such books as *Raising Boys*, could draw hundreds of men to a men’s meeting would have been laughed at 10 years ago. In the Indigenous field, Mick Dobson’s recent address to an Indigenous men’s conference is evidence that Indigenous men are striving to forge new standards of what it means to be male in the 21st century. The impetus for this movement has been a great deal of pain and confusion, which to some degree may be reflected in the poor performance of boys at school.

The report includes some very important internal contradictions that need to be mentioned. It has not decided whether gender identity is something that should be encouraged or dissuaded. At one point, the report comes close to stating that gender identification should be dissuaded. Point 3.20 states:

... that boys and girls, men and women, should be consigned to particular roles in society merely by virtue of their sex is rejected.

Gender roles and gender identity are interconnected ideas. This statement is akin to saying that boys and girls are no more than individuals and should be treated as such. And yet the report then goes on to treat boys and girls as legitimate groups by making recommendations that affect boys and girls differentially. I contend that it is not treating boys as boys and girls as girls that is the problem; it is a debate about what it is to be a boy or a girl. Once we have worked that out in a socially acceptable way we can move on to treating them as such. We need to actively redefine where boys and girls differ and the ways in which we should treat them as equals.

I also note that the report, when discussing the effects of family structure on boys’ levels of educational attainment, says ‘government policy is relatively ineffective in influencing such things as family structures’. I contend that this is a cop-out. The casualisation of the work force has dramatically affected family life, increasing stress on fathers and mothers. This parliament should not underestimate its ability to lead and effect social change. If there is one positive thing the government should be doing, it is helping to build stronger families and making better fathers — fathers who can communicate effectively with their children and who can help them navigate through an increasingly complex society with a seemingly overwhelming number of choices. This can be done through giving boys the skills they need to be successful people: teaching them to be better communicators and more effective in resolving disputes. The problem is not psychological; it is sociological.

I am very cautious of this report’s implicit emphasis on inherent learning differences between boys and girls. This emphasis mirrors the report’s emphasis on the individual rather than on social gender identity which is inherently collectively based. The emphasis on different learning styles suggests that boys’ underachievement at school is psychological and can be addressed almost exclusively by changing curriculums and teaching styles. There is a general assumption that girls are innately more verbal than boys. It is true that girls score higher than boys on verbally based tasks and boys score higher on visuo-spatial tasks, although the cause of this difference has been a hot topic of debate in psychological literature for the last 40 years. What is clear in the literature is that the difference between boys and girls in these tasks, particularly visuo-spatial tasks, has dramatically decreased over the past 30 years. This suggests that the difference in learning style preference is based on socialisation. The problems faced by boys in contemporary society are generally socially based; that is, causes are not psychological but social. The danger in psychologising these problems is that, as leaders
of this society, we are effectively able to escape any responsibility that we might have to shape and effect social change.

Boys in contemporary society need good role models of what it is to be a man. The great lack of male teachers in the primary and secondary education systems means there are very few, everyday male role models for many boys. The representation of men and women and their relationships is very important. There are many boys now who lack adult role models or whose experience of adult men is of those who are uncommunicative, violent or abusive. The socialisation of boys within families and schools is increasingly distorted by the increasing absence of appropriate and constructive male role models. These boys come to rely on alternative and usually unbalanced models of masculinity which abound in the media and popular culture. These alternative models readily display such qualities as restricted emotionality, excessive self-reliance and non-relation attitudes towards sexuality. Media depictions of sporting heroes display a very restricted view of masculinity, including being extremely competitive, tough and stoic. Masculinity is much broader than this; but how are we to teach our boys this if there is no-one to model this behaviour for them?

The report correctly identifies the need to get more male teachers into schools, particularly into primary schools. If there is one recommendation that should be implemented with urgency, it is the one to engage more males in the schooling system. Boys need to see that it is not unmasculine to be caring or to show that they are hurting or are troubled. Further, boys need to know that it is okay to be loving in the broadest sense. If there is one thing that I want to be able to model and teach my boys, it is this: it is masculine for men to love and be loved.

Mr CADMAN (Mitchell) (10.51 a.m.)—It was a pleasure to be involved in the report of the inquiry of the House of Representatives Standing Committee on Education and Training into the education of boys, Boys: getting it right. I want to thank my colleagues, many of whom are here today, for the opportunity to join them after the parliament reconvened last year and to continue as a member of the committee. As a father of three boys, it was an invaluable experience and one on an issue that has concerned me for some time. Indeed, I have seen my wife crying at times because she felt that our sons were being disadvantaged by a system which she, as a teacher, did not understand. As a highly qualified individual in the education area, she was unable to identify the factors that she felt were disadvantaging our sons as compared with females. She did not feel resentful towards the education of females; she just felt that there was an unfairness in the system for our sons. I think the committee identified with its first recommendation the real reasons why the establishment—the institution of education—has appeared to have got it wrong. The committee’s first recommendation is that:

... the Minister for Education, Science and Training act to have MCEETYA revise and recast Gender Equity: A Framework for Australian Schools into a new policy framework which is consistent with The Adelaide Declaration on the National Goals for Schooling in the Twenty-First Century and reflects the positive values expressed in that document:

I think this is the crux of what we came to, because it is fair and it is positive. Recommendation 1 continued:

- the framework should provide an overarching policy structure for joint and distinctive boys’ and girls’ education strategies which—
  - address boys’ and girls’ social and educational needs in positive terms;
allow for school and community input to address local circumstances;

- the achievement of the goals and values expressed in the framework and the boys’ and girls’ education strategies should be evaluated against a range of social, employment and educational indicators; and

- these indicators should be used by MCEETYA to inform changes in policy and practice to ensure the social and educational needs of boys and girls are being met.

It is not just about young people or students generally but boys and girls being considered as individuals. I think that the more we can individualise and meet the needs of a person being educated, the more we are likely to achieve. The more an individual’s deficiencies and abilities are understood, the better equipped the teacher will be to present a relevant and worthwhile teaching program to properly meet that person’s needs and maximise their potential. I quote from the report again: 

*Gender Equity: A Framework for Australian Schools* was formulated to account for these concerns and the document states clearly “that boys have needs that are not being met effectively by schools.” However, *Gender Equity: A Framework for Australian Schools* is not a fundamental re-examination of the gender equity strategy intended to tackle boys’ education issues from the ground up as happened for girls. In fact, a footnote to the introduction exhorts people to read the *National Action Plan for the Education of Girls 1993-1997* as a companion document.

Therefore, right at the very base of this process we have an unwillingness to look at the educational needs of boys as being something that is distinctive and, in fact, just lumps both genders together as if they were identical. They may be equal, but they are not identical.

During the hearings it was surprising that, when asked, witnesses could not provide evidence or quantitative research to support the introduction of the 1997 gender equity framework. One of the flaws in education that I feel most strongly about is changes being implemented and not evaluated or monitored so that we can find out where we have come from and where we are heading. We seem, in many instances, to come up with an emotional response to what is perceived to be a problem, write a program for that, make a statement, change the system but not then evaluate the process. In every other walk of life we tend to do that, but in education generally we do not and that is a shortcoming that I would like to see changed in education in Australia.

The factual circumstances identified in this report make it a serious national problem which we must do something about. Let us look at the achievement of boys and girls in terms of the raw data and the key indicators: in measures of early literacy, 3.4 per cent fewer year 3 boys and 4.4 per cent fewer year 5 boys in 2000 achieved the national benchmark than girls; the retention rate for year 12 boys was 11 points lower than the retention rate for girls in 2001; and girls were achieving higher average marks in the majority of subjects at year 12 and the gap between girls’ and boys’ total marks had widened markedly. For example, in New South Wales in 2001, the average tertiary entrance score for girls was 19 percentage points higher than it was for boys—and you can track it over a period going back to about 1987, when you can see the difference starting. In admissions to higher education, 56 per cent of university commencements are female. And there are other indicators—suspensions, expulsions, truancy, even juvenile delinquency—you can run through which indicate that boys are not achieving as well as girls.

I would like to draw the committee’s attention to a quote from Dr Kenneth Rowe, principal research fellow of ACER, regarding literacy, where he says:
As for specialist maths or four unit mathematics at year 12, a content analysis has demonstrated that on average the level of the nomenclature and the sophisticated verbal reasoning skills that are required for us to even understand what the problem is is on average four times greater than that required in Australian history and English literature. So not only does the student have to understand what is being asked, they must translate it then into a mathematical logarithm and justify or explicate the solution. That is an anti-male process because, as the committee identified, the level of boys’ language skills is not generally as high as it is with girls. Therefore, an additional penalty has even been built into subjects such as science and mathematics.

I trust that governments, state and federal, will look carefully at the recommendations the committee has brought forward. Not only is the policy basis identified as being off track and wrongly oriented; it is also not fair to all children in the education system. The national economic potential is being demeaned and lessened because we are not taking advantage of the potential of all of our citizens and all of our young people. We are creating measurable social problems such as truancy, juvenile crime and delinquency. The recommendations for literacy and numeracy, which are foundational and most important, run through the connection between schools, teachers and male role models in the teaching system. The report comes forward with a controversial but sound proposal on HECS programs for equal numbers of male and female teachers. That is a recovery type requirement. It would not normally be seen as radical, except that the number of males within the teaching service has declined so much. The report recommends that the Commonwealth work in conjunction with the states and territories to provide the changes that are needed.

The recommendations bear some analysis and cannot be read separately from the report. The report, I think, is a very good report. I would like to pay tribute to the chairman, Kerry Bartlett, for the skills that he brought to the process, and also to the deputy chairman, Mr Sawford, for his cooperation, knowledge and experience in this area, both as a teacher and as a member of this committee. Your contribution was very valuable, Rod. The committee was a parliamentary committee in the best sense of the term. The report was struggled over. I think that is a good thing, because a report where you struggle over the wording and struggle to get the concepts right and clearly expressed is often the best report. It forces you to go right to the substance of the evidence that is taken, analyse it carefully and present it by way of the parliament, saying to the citizens of Australia, ‘This we believe. This is our considered opinion after having gathered every bit of evidence we could.’

This was not a prejudiced or biased process. We had a couple of wonderfully gifted female members of parliament help us, so it was not a gender favoured process. The recommendations were our sincere conclusions as a parliamentary committee. The staff were wonderful. The opportunity of comparing the Australian system with the New Zealand system was a bonus. We found that in New Zealand and internationally they have identified the same problems that we have identified in Australia, and they are struggling with remedies as well.

The committee was willing to go right to the core of the thing and look at the gender equity problem and the way it is being expressed. We do not wish to offend women. We maintain that women have been disadvantaged. We want to make sure that they are not disadvantaged again. The committee believes we should continue to make sure that girls are not disadvantaged, but that we should not neglect boys in the process. This is not a process which says, ‘It has been the girls’ time and now it is the boys’ time.’ It says, ‘The girls have reached a level of achievement which is wonderful to see. It is wonderful to see young women achieving what
they are achieving, but not to see boys fail.’ We could be accused of neglecting boys’ interests if we continue with the populist or politically correct line of saying that the gender equity process we have established should not be challenged or changed. We need to do that. We need to go to the root of the problem, change the curricula, the processes and the teacher education program and make sure that male and female teachers understand the different cognitive processes of boys and girls. Boys and girls learn in different ways, and teachers need to be aware of that. It is not something that depends on more male teachers; it depends on people understanding.

I conclude with the anecdote that we had in Queensland from a male teacher who took the adventurous step in his school of splitting the sexes for one year. He taught the boys. He said that it was the greatest challenge he ever had because their attention span was so short, their activity levels were so high and the range of topics that they wanted to examine made it extremely demanding for him. When I questioned him about whether he wanted to continue it for another year, he said, ‘No, I’d rather have a mixed class next year because the pressure levels to retain that high level of teacher input will drop with the girls coming in, as they are more word focused and will be able to take the concepts that I offer the class much more easily than the boys.’ I thank the secretariat and my colleagues for a very valuable exercise.

Ms GRIERSON (Newcastle) (11.06 a.m.)—The tabling of the report Boys: getting it right by the House of Representatives Standing Committee on Education and Training is most welcome and I congratulate the committee on this quality contribution. The report has been a response to a perception that boys are underachieving in education and do seem in our society to be struggling to find positive ways to express their special identity. The report found that there are many research measures and indicators to confirm and demonstrate that with regard to the achievement of boys in education the perception is reality.

The 2000 statistics show that in literacy fewer boys than girls in year 3 and year 5 achieved the national benchmark. The 2001 statistics revealed that the retention rate for boys—that is, the number who stayed on at high school and completed their senior secondary studies—was 11 percentage points lower than that for girls. Comparison of the results in years 10 and 12 between boys and girls show that girls are outperforming boys in the majority of subjects and that the gap between their scores is widening. Girls now take up 56 per cent of admission places at universities in Australia, but boys are still figuring very well at the tertiary level, based on vocational skills at certificate level. Also, let us not forget that, post education, girls still have some problems with careers that are dominated by men and that the glass ceiling, post education, is still real.

In schools around Australia boys also dominate the suspension and truancy rates, as well as the remedial learning and behaviour programs. Although 80 per cent of students suspended from schools are boys, some would suggest, and I would agree, that ethnicity and social circumstances are major determinants, as well as gender, and that these factors also need to be looked at when trying to address these outcomes. But that was not the role of this committee. The aforementioned indicators combined should be sufficient to set off alarm bells with educationists and with government departments and ministers.

However, the committee also noted in its inquiry the worrying trend in social outcomes and indicators for boys. These social indicators show that boys figure at a significantly higher level in suicide rates, instances of substance abuse and self-harm, in motor vehicle deaths and
injuries and in juvenile crime. Although the inquiry report necessarily confines its terms of reference to the role of education in impacting on the quality of life and outcomes for boys, it goes without saying, but is always worth repeating, that turning boys into fine men must encompass many areas of social action as well.

Although not a member of the Standing Committee on Education and Training, I have had almost three decades of experience in education as a teacher, a trainer of new teachers and a principal, so the report is of particular interest to me and to the many parents and teachers of boys in my electorate of Newcastle. For me, the recommendations do pass the scrutiny of experience but I know that many of my former colleagues in education will say, ‘We have been telling governments this for so long. We welcome the recommendations but we want action, resources, commitment and leadership by the federal government.’ I agree with them entirely.

The recommendations are important, and so they must be appreciated by this parliament to successfully guide government action. Discussion, then, is necessary. To my former colleagues I say this: although I know how frustrating it is that this government seems slow to respond to the ever-changing needs in education, let us take every opportunity to remind them of the dimensions of the problems faced every day in schools around Australia. This report’s recommendations, although resulting from an inquiry into boys’ education performance and needs, also respond to those wider challenges.

In that spirit, the report recommends a national policy framework that provides for joint and complementary education strategies for boys and girls but also emphasises the need for education strategies that deal effectively with the nature of learning by individuals as well as by gender. The report also recognised the need for parent training, teacher training and professional development, the importance of literacy for educational and vocational success, and the very apparent need to introduce incentives for merit based appointment of more men in the profession of teaching.

Fortunately, the recommendations are not about advantaging one group over another. They are not about making boys more like girls, or vice versa. The report is in no way tokenistic to the issues of gender and education but emphasises the need for approaches to education that are gender complementary as well as gender specific. In the gender education debate there have been critics who would say that girls were overassisted in early gender policy initiatives and therefore boys were overlooked. This is a simplistic view, but I note that submissions to the inquiry point out that, in responding to underperformance by girls, girls were actively encouraged to take on the success areas dominated by boys at the time. Those included sport, mathematics and science, leadership, self-esteem and similar programs. Obviously this approach did assist girls to lift their collective performance outcomes, but no doubt this success did have a significant impact on boys, as they struggled with some of the current social challenges and changes to education generally.

The report makes 24 recommendations, but I take the opportunity to emphasise just some of those that my experience as an educator suggests are paramount and urgent if young people in Australia, particularly boys, are to achieve their potential and make valued and positive contributions to their personal relationships, their community and this nation.

Recommendation 2 deals with pre-service and in-service training and emphasises teachers’ understanding of individual and gender based learning styles. Certainly 30 years experience tells me that girls and boys are different, and that is something we all should celebrate. The
recommendation includes joint funding for this approach to teacher training. I impress upon members that, when a teacher is effectively able to respond to the learning styles and needs of each child that they have responsibility for, success is more easily assured. But that is very hard; learning styles are different and learning styles change. The children of today learn from their pre school environment—before they come to school—and for the majority of them the information age is a real part of that process. Their world is more cluttered with the signs, symbols and sounds of communication, but there is less quality discrimination perhaps in the barrage of information they are exposed to.

That is recognised in recommendations 4 and 6, which emphasise the need to build strong foundations in literacy and numeracy through parent training. As a former educator of young children, it seemed to me very evident that children no longer have the patterning of language, the wonderful experience of jingles and nursery rhymes or the play experiences that support prenumeracy skills. In this busy world, where parents are generally working and where there are many sole parent families, those sorts of experiences that we thrived on are certainly no longer part of many children’s pre school experiences. Pre school, boys particularly do not engage in language as much as girls do. The reasons for that are strongly linked to cultural habits and stereotypes. The need for boys to be physically active and to engage with their environment is clearly responded to and understood by parents, but the need for that to be supplemented by language training is not so well appreciated.

A child who is exposed to and encouraged to participate in an enriched language environment has a greater chance of literacy success when formal instruction is commenced. Of course, successful behaviour management with babies and pre school children is a challenge that any parent is aware of but that not all parents can overcome or respond to well. The report’s support for education and awareness programs for new parents is something that would be welcomed by educators. Early intervention is absolutely crucial, and if I have any criticism of this report it is that it was constrained in placing enough emphasis or giving sufficient guidance to government to take on the challenges of social and educational early intervention.

Recommendations 5, 7 and 8 identify the importance of literacy learning to educational and post-education success. These recommendations support hearing and vision screening. The parliament needs to be aware that in many states these screening programs have been cut. They have been reduced and actual on-site testing in schools is no longer occurring in the same way that perhaps you and I experienced. I cannot emphasise enough the importance of carrying out screening programs for vision and hearing in schools at regular intervals so that health workers and teachers can interact and discuss any concerns teachers may have. Often this face-to-face interchange reveals other physical conditions that impact on a child’s learning and wellbeing. Cost cutting in this important area often leads to rather expensive consequences later in life. The report also responds to the submission by Australian Hearing regarding auditory processing. It reveals wonderful new research that shows boys are at a disadvantage with auditory processing, and learning language is not just a visual response but very much an auditory response.

Recommendations 7, 8 and 9 look at the need for strong literacy programs. They also suggest joint funding of a literacy coordinator in every school—something I know that all schools would welcome. They also target literacy in secondary schools. Secondary teachers, who are very much focused on content, certainly are finding it more difficult to incorporate communication learning and communication skills across all areas of the curriculum.
Recommendation 13 goes to something dear to all teachers’ hearts, and particularly those who teach young children—the reduction of class sizes to 20 in years kindergarten to 3 by 2005. While the committee recommends that the Commonwealth contribution should be to the capital cost that that would incur, obviously wages would be the highest cost. I think that there might have to be some cost sharing in that area for that to be implemented. No measure could perhaps be more significant.

Recommendation 17 targets teacher training, emphasising behaviour management. A big issue for teachers in schools, whether it is teaching boys or girls, is the integration of children with special needs into mainstream classes. Some of those children exhibit their frustration with their disabilities and special needs through behaviour difficulties. That is another area that I think the report does not emphasise enough or come to terms with, but perhaps submissions were limited in that area. Certainly particular programs, and support for teachers, are also needed to help manage the behaviour of children with social difficulties that may arise from parenting problems, such as in sole parent families.

The other area that I was particularly pleased to see emphasised was the personal qualities and suitability of teachers. It has become much more evident that there is a need for that sort of matching to be done. Of course, to attract people into the profession of teaching means that remuneration and inducements for teachers need to be addressed, as stated in recommendation 18. Recommendation 20, that a substantial number of HECS-free merit based scholarships be provided for equal numbers of males and females to undertake teacher training, is a wonderful initiative. I congratulate the committee on that.

I also note the New South Wales Secondary Principals Council submission, which stresses that economic and structural changes have been major factors impacting on the education of boys. They say that the change in the economic market and the jobs that are being created mean that boys with lower education outcomes have no job opportunities. In my electorate of Newcastle, we have high youth unemployment and lower retention rates in high school, and boys figure very strongly in both those. Those retention rates are exceeded in areas such as Wollongong and comparable areas on the North Coast and in metropolitan Sydney. Certainly, in my electorate there is an urgent need to improve those retention rates.

I note that a submission was received from a leader in the field of gender based programs, Richard Fletcher, who is well known and very well regarded in the Newcastle electorate. Richard is the manager of the Men and Boys Program under the auspices of the Family Action Centre of the University of Newcastle. Their work is outstanding. He is a leader in the field and perhaps a good friend of Steve Biddulph as well. Together, they are certainly making a difference in this field.

I also point out to the parliament the ALESCO program run by the WEA in Newcastle. That program uses some federal and some state funding to target kids who have left school before year 10. It is a wonderful success; 30 students took on this program this year and 20 will actually sit exams. Those kids would never have gone back to education without this program. Of course, boys dominate those figures. I also want to point out the wonderful contribution that boys make in Star Struck, a program in Newcastle that sees boys and girls performing on stage. The boys mass item is a wonderful feature every year that has given a great boost to performing arts for boys and the opportunity to showcase their special talents.
There is certainly a need for schools to recognise that boys do like a bit of risk and excitement. I will always remember very fondly, having been the principal of perhaps the most disadvantaged school in my electorate at the time, the introduction of a circus to the area. This circus gave boys and girls the challenge not only of performing but also of conquering skills and fears. It was particularly successful. Therefore, camping programs, experience based learning and learning that is relevant are of particular interest to boys and should be retained because they capture their interest and attention and complement the way they like to learn. I stress that this report is an excellent one and that the government must respond to it. Education is the key to the future success of this country, and I urge the parliament to pursue the implementation of this report’s recommendations.

Mr PEARCE (Aston) (11.21 p.m.)—I begin my remarks on the Boys: getting it right report by thanking my colleagues on the House of Representatives Standing Committee on Education and Training. It was an honour for me to be a member of that committee and an honour to be part of the group that has brought this report to the parliament. I enjoyed working with all of the members on the committee and valued their input and experience greatly. I also thank the committee secretariat. Quite often, people forget the enormous amount of work that is put in by the secretariat, and they did a great job in collating this report. I also want to thank all of the people throughout Australia that contributed to this inquiry. We had over 200 submissions from a broad range of people: individuals, associations, groups et cetera. We had submissions from famous people like Sid Sidebottom, a member of this House; his contribution was excellent as well.

An opposition member—Outstanding!

Mr PEARCE—Yes, it was an outstanding contribution. In the report there is a quote from his submission, but we had a wide range of submissions and that is another reason why this report has developed into such a meaningful document.

In addressing the report in particular, I will speak primarily about the relationship between the Commonwealth and the states and territories in an area that most people would accept as critical—education. That relationship between the Commonwealth and the states and territories—and how it grows and develops—plays a key role in addressing some of the significant challenges that we currently face in educating young Australians. As much as Australians have acknowledged the importance of continually improving our children’s education, to my way of thinking there remains considerable inertia towards change that in the 21st century is simply not good enough. Key areas of concern included in the report touch on gender equity framework, curricula, pedagogy and assessment, literacy, teacher-student relationships, behaviour management, male role models in schools and the school environment.

A disturbing trend which I think emerges from the report is the lack of a more cooperative approach by the Commonwealth and the states and territories. I believe this lack of a unified approach, if you like, is acting as an increasingly significant inhibitor to real progress in educational reform. I believe there are two clear-cut areas where a more unified approach would provide real benefits for all Australian students, both girls and boys, and they are data collection and the monitoring of the outcomes of Commonwealth funding.

If we look at the data collection area, this is important because it enables the genuine evaluation of educational models and their performance in achieving practical outcomes for our children. During the inquiry it became increasingly apparent that it was very difficult to
obtain comparative—or, if you like, apples with apples—data from the eight different states and territories. This is largely because of the very nature and the stand-alone operation of their respective education systems. As a result, the report recommends that national education data currently available be reviewed with the focus on providing greater consistency and uniformity in the future to ensure that decision makers have access to the most comprehensive information available.

The second area I would like to touch on is the monitoring of the outcomes of Commonwealth funding. This is increasingly important as the federal government invests in education at record levels. Future federal governments of whatever political persuasion may become reluctant to continue to increase funding for education given that quite often the states and territories are not prepared to increase their own funding. There is growing concern that additional Commonwealth funding might simply be used to offset the diversion of state and territory resources elsewhere rather than deliver further benefits directly to Australian students.

This concern is reasonable given the deliberate decision of every state and territory, despite being primarily responsible for funding, not to match the consistent increases in Commonwealth funding in recent times. The major question is whether the states and territories will continue to drag their feet on reforms which provide greater consistency and uniformity across Australia for the benefit of all of our kids. An example of this is the National Literacy and Numeracy Plan. The plan represents a coordinated approach to improve the literacy and numeracy standards of all Australian children, which involves assessment, reporting and remedial action where necessary. The National Literacy and Numeracy Plan is a prime example of what can be achieved if the Commonwealth and the states and territories work together to improve education in Australia, but it should be the rule rather than the exception. This does not mean that the states should surrender their role as the deliverers of educational services; rather, it means that better outcomes for all Australians can be achieved by sensible cooperation between the state, territory and federal governments.

For the sake of maximising the achievement of all Australian students now and in the future, the states and territories need to realise the potential for mutual benefit from working together in the delivery of education to local children. This most recent report of the standing committee identifies the increasing disparity between the educational achievements of boys and girls. It shows that in many key areas boys are underperforming when compared with girls. This should sound warning bells not only to all parents of boys but also to all concerned with the future of our society, and indeed our economy.

We cannot expect to compete in an increasingly sophisticated and educated world if our male students are achieving below par. Of course, finding and implementing solutions will not be easy, but at least in this area we have hard, comparable data from around Australia which tells us that this is a national problem. Whether it is totally an educational problem or whether it also involves the role of parents and a change in society’s attitudes has yet to be determined.

But, in a world made even smaller by technology, it is increasingly important that we have comparable education standards across Australia. If the states and territories want the Commonwealth as a financial contributor, they should also be prepared to accept the federal government as a partner in bringing all governments together to achieve improved standards in education and in the collection and dissemination of research which will help us create the right educational framework for our children in the future.
The federal government is committed to help provide the best possible education for Australian children. The government has demonstrated this commitment by increasing its investment in Australian schools in every budget since its election. This year it will see total funding of $6.5 billion provided by the Commonwealth. Recognising the importance of making this investment work harder for our children, the government has provided national leadership in developing higher educational standards for Australian students. This hard work by the Commonwealth is already beginning to deliver benefits, with initial results already showing an improvement in literacy and numeracy skills among Australian students. I commend this report to the House and, in particular, I commend it to the states and territories. By working together, the Commonwealth and the states and territories can deliver better educational outcomes for our most precious resource, our children.

Ms JACKSON (Hasluck) (11.31 a.m.)—I too, along with most other members, welcome the report of the Standing Committee on Education and Training on the education of boys and wish to commend the committee for its inquiry. I do think it brings together in one document a number of aspects of a discussion on these issues that has been occurring throughout our education system in the states and the Commonwealth and at the school level for some considerable time. I do think it creates an agenda for the Commonwealth. However, I hope and trust that this is not the end of the matter, because I think there needs to be continued discussion and there is much still to be done. In particular I want to speak today about that broader debate. There are issues in our society that have a significant interconnectedness to the matters which are the subject of this report. That is where I think the debate and discussion need to go next.

Let me commence by acknowledging the work of an organisation which is known as Boys Forward. Ian Lillico and Chris Gladstone founded Boys Forward. Ian Lillico is an education consultant who has worked for the Western Australian education department for over 27 years, and I understand he gave evidence to the inquiry. Ian has worked as a teacher, a head of department, a deputy principal and a principal, and Chris Gladstone has spent over 30 years with the education department in Queensland. These two men bring a wealth of real life experience to the problem of schooling and subsequent employment for boys.

Ian was successful in obtaining a Churchill Fellowship in the year 2000 and he prepared a very detailed report for the ASPA conference. This report contained no fewer than 53 recommendations on the subject of the school reforms required to engage boys in schooling. These recommendations went far beyond the question of what happens in our schools. They were not just about professional development for teachers and, as a whole, I would commend them to education authorities generally around Australia.

One of those issues that they talked about was the importance of male role models and as part of that, I guess, the question of the nurturing of boys and the need to give them hope for the future. I just want to address these issues briefly. Recommendation 10 of Ian Lillico’s report stated:

The sense of touch has become dirty in our Australian culture but is absolutely essential for connecting with boys—particularly by parents and teachers. Violent and aggressive boys are often the victims of being under-cuddled as young children and touch therapy is one of the techniques used worldwide for bringing these boys back on track. Even though stranger danger is essential we have to allow for boys to...
be given a pat on the back; a shake of the hand etc when they have done something well. We must allow teachers to do this without fear of recrimination to develop a connection with boys who communicate their feelings for each other in a non-verbal way through wrestling and play fighting.

I think this is a huge challenge for educators and for the Australian community because of the fear of recrimination about things like sexual abuse and inappropriate contact that have now built up in our communities. I believe we need to take this debate forward and explore it, particularly when something as important as nurturing and touching is considered to be a respected therapy in assisting people who have been alienated from our society. I believe that this is just one area where the debate needs to be taken forward. I was fortunate this morning to hear much of the comments made by the member for Lingiari in this area. I would whole-heartedly concur with those remarks and look forward to greater discussion in that area alone.

The second part that is important is the question of hope in our society for boys and young men. I want to put this in the context of recommendation 27 from Ian Lillico’s report, which states:

Adults need to be optimistic about the future so that boys will be also. Our media is very negative and doom and gloom is in our papers and lounge room every day of the week. Adults must balance the negativity with hope and optimism as many boys fear the future, are anxious about their future lives as men and often don’t want to grow up.

I think that is entirely accurate, and, to a certain extent, who can blame them when they look forward to employment prospects in Australia at the moment? Almost one in four people are employed in casual and temporary employment. This is particularly so amongst young men, who are becoming the next largest growing group in the ranks of part-time and casual employment. Another example is in the area of home ownership. In Australia we are seeing a decline in the opportunities for young people to become home owners. I think young men are particularly conscious of that and do feel that sense of gloom and doom.

I have surveyed a number of 16- and 17-year-olds in my electorate of Hasluck. One question on the survey was: what do you fear the most? I was absolutely overwhelmed to discover 27 per cent of them were fearful of war and the fact that, as a consequence of decisions made by adults in our society, they would be caught up in that. So I think if we are going to be serious about creating an environment where boys get an opportunity to reach their true and full potential, then the debate needs to go far beyond just what is happening in our schools.

The professional development of teachers as well as attracting them into the profession are critical in this area. I think most people would now acknowledge that, in the same way we suffer from a shortage of nurses in our community, the next professional group to face similar shortages is teachers. That is something that we need to address now and as quickly as possible. One factor that most strongly influences outcomes in this area is the value that we place upon occupations. You often hear that dreadful truism quoted: those who can, do; those who can’t, teach. It is a fact. I think, that teaching is not an honoured profession in this country. We laud our sporting stars and our actors; we rarely extol the virtues of our teachers. Frankly, I think you have to ask yourself who has more influence over our children. I think each school day Australian children spend more time in contact with their teachers than with any other adults.

You might ask: when was the last time the Australian of the Year award was made to someone in the teaching profession? Where is the public recognition of this most important
occupation in Australia? In that regard, I join with others in giving credit to the *Australian* newspaper for the series that it ran on excellence in education. It held up teachers and schools as important, so it was a small step in the right direction. Teachers deserve our respect and appreciation, and they deserve our ongoing and continuous recognition of the importance of their role. To that end, I think we must take immediate action to address what will be an increasing problem.

I understand that the federal government’s response to the committee’s report was to set aside a substantial amount of money in the area of professional development; I think it was some $82 million over the next three years. On my very rough calculations, that is somewhere around $102 per year per teacher for professional development, and I think the support should be vastly more than that. The federal government needs to have regard for the fact that it has the primary responsibility for teacher education, and current policies are undermining that. The nearly $3 billion cut to university funding has contributed to this problem. I am advised that some 7,787 people who were qualified to enrol in teaching at universities in Australia were turned away due to a shortage of places. You cannot say that we value teachers and the role they play in the community and then not provide the necessary funding support in the higher education system to see them gain their training.

In that regard, I commend Thornlie Senior High School in my electorate. As part of their vocational education and training program, they have piloted a program for 16- and 17-year-olds on the study of teaching. The program exposes them to practical experience in the classroom and gives them an understanding of the more detailed requirements of the profession. It is hoped that a number of the students who undertake that program will see teaching as a valuable profession for them to head into in the future.

The other area that the report touches on is the relationship between boys’ education outcomes and parenting and family situations. I want to commend another school in my electorate, the Midvale Primary School. For many years they have been about implementing an open school program which effectively brings the community into the school and as part of that includes families. They have successfully run the FAST program—Families and Schools Together—which creates an environment for promoting the roles of teaching and the school and involves the parents in that program. As part and parcel of its operation, the program identifies and deals with family issues. I have previously expressed concern that funding cuts in the area of family and children’s services to the stronger families program has seen the winding up of that program at Midvale Primary School, and I again urge the Commonwealth to consider this issue. If it values the recommendations in this report, then it will recognise the interconnectedness to issues in that broader area.

I would like to urge members to examine what they can do in their own electorates to see that the recommendations of this report are implemented. I am pleased to say that, in my own state of Western Australia, the state minister for education, Alan Carpenter, has announced the largest teacher recruitment campaign for government schools that we have seen in Western Australia. Some additional 2,300 teachers are to be recruited for the start of next year, with a major priority being to attract male teachers into primary schools. I think the Western Australia government ought to be commended upon that.

The Western Australia government is also spending $28 million on behaviour management and discipline strategies in a number of schools, and as a result of that program we have al-
ready seen significant improvements in attendance rates and suspension rates. An extra 347 teachers are being placed in primary schools next year to give all primary schools the flexibility to operate with a maximum class size of 24 students. I think that the Western Australian government, as I say, ought to be commended for that action, and I hope that we will see similar results in other states.

As I indicated at the outset, I think the report is a valuable document. It provides a great challenge not only to education authorities but to members of parliament and the Commonwealth and state governments. I can only conclude my remarks with the hope that we are up to that challenge.

Mr BARTLETT (Macquarie) (11.45 a.m.)—by leave—I do not want to repeat what I have already said in the context of this debate and on the tabling of this report, but I want to take the opportunity to make a few further comments, particularly in light of the media response and some media statements since the tabling of the report. The report certainly has stirred quite a degree of media and community interest. That is not particularly because of any great quality of the report itself but because of the very issues that the report raises. The issues in the report do touch a nerve in the community and resonate strongly with the concerns of parents, teachers and some academics in this whole area. Certainly not everyone has agreed with everything the report said, nor would we expect that to be the case. Some disagreement and some debate is a healthy thing. Certainly the report has prompted and initiated that debate, and that is a healthy thing.

However, it has been disappointing that some of the responses to the report had been somewhat superficial. I want to respond to two of those areas that I thought required some further elaboration. The first concerns some comments that have seen the report in the context of a wider gender debate and seen it as part of the ongoing gender debate in the community about competition between men and women. This is particularly unhelpful, and I think it is particularly inaccurate in terms of the context of the report and what the report was trying to do. As one example, I quote comments by a Sydney university academic, Bob Connell, in an article in the Australian newspaper on 29 October. He referred to the report as resuscitating the ‘competing victims syndrome’ and the debate over which sex is treated worse in the classroom. He said:

To the extent the current debate has been shifted back into a boys vs girls framework, it is damaging to education. Gender equity policy discussion has already moved beyond this dichotomous thinking, but it seems that some commentators on the issue haven’t caught up.

Until the current flurry of publicity, I thought the rhetorical battle had died down. I’m shocked we’re back where we were 10 years ago, having a gender war. It doesn’t reflect what all educators want, which is a good education for both boys and girls.

This report was not part of that rhetorical battle, and it is not part of a gender war. In fact, any reading of the report makes it very clear that that is not the case. We pointed out very clearly in the report that education is not a competition between girls and boys. That is not what the report is about, but it is naive to pretend that there is not a problem. It is naive to pretend that boys are achieving as well as girls or that they are achieving as well as they ought to and as well as they could. The underachievement by boys can and must be addressed simultaneously with raising the achievement level of girls as well. We can certainly—and we must—address the underachievement by boys without threatening the gains that have been made by girls over the past two decades. The report made that very clear. To see this as part of an at-
tempt to somehow resurrect a gender battle really is simplistic nonsense and a misreading of
the report.

One encouraging indication—it is only a very small one so I would not want to place too
much emphasis on it—that we can close the gender gap and raise the achievement of girls and
boys simultaneously is the change in the national literacy benchmarks between 1999 and
2000. Again, I do not think we can place too much emphasis on that. It is a very short time
frame, but over those years at both the year 3 level and year 5 level the gender difference has
diminished and the achievement levels of girls and boys have both risen. We can do both. We
can close the gender gap. We can address the underachievement of boys while at the same
time promoting further achievement for girls in education. This is not a competition. It is not
part of a gender battle. It is not in any way a threat to the achievements that have been made
by girls.

Some of the comments around this—we saw them in some of the submissions as well—
were really quite misleading. Some of the attempts to defend the status quo in schools, particu-
larly in terms of the achievement of girls, were framed in terms of what happens post school.
Some even said, ‘It doesn’t matter because in the end, it all sorts itself out. Women do not do
as well in the workplace. So if there is a bit of an imbalance in school, it all sorts itself out in
the end.’ I contend that that is wrong. Clearly, the fact that 56 per cent of university enrol-
ments now are women and not men suggests that inequities in the workplace in higher paying
careers are very soon going to change in any case.

Since we did the report, I phoned Sydney University to ask them about the top faculties in
terms of university entrance. In the eight faculties at Sydney University that require the high-
est UAI admission—those eight faculties, presumably the most competitive ones, have
something to do with workplace career potential, earnings potential—58 per cent of new en-
rolments are women, not men. It is a nonsense to say it all evens out in the end. Even if there
are still inequities in the workplace, you do not address them by ignoring the imbalance in
schools. It is our responsibility as educators and as governments to do what we can to ensure
that all students, boys and girls, are achieving to the maximum of their ability at school.

Some of this rhetoric has been defended in terms of the issue not so much being girls or
boys but being other factors such as socioeconomic status et cetera. A number of contributors
said that is the wrong question. You should not be asking about girls or boys; you should be
asking which girls and which boys? The report acknowledged that there are differences be-
tween socioeconomic levels. Particularly and most importantly at lower socioeconomic levels
the disparity is the greatest. We need to be addressing disadvantage in education for girls and
boys right across the country because of remoteness, rurality, aboriginality and low socioeco-
nomic status. Within that disadvantage, we need to be addressing the underachievement of
boys, particularly at the lower achievement levels.

The second area I want to elaborate on is males in teaching. I want to refer to the submis-
sion of the Australian Education Union. Following the debate, I was interested to see the re-
sponse by Denis Fitzgerald, the Federal President of the Australian Education Union, to the
committee report’s assertion that there has been a state of denial. It is almost as though he is
in denial about the comments about the denial. I note for instance in the Australian, in the
same article to which I referred, Mr Fitzgerald said:

It’s a worldwide crisis in masculinity and not a singularly Australian phenomenon.
That might be the case but that does not in any way diminish the importance of it. It might be a worldwide crisis. The evidence shows that in nearly all OECD countries boys are underachieving compared to girls. We cannot dismiss it as some sort of a crisis in masculinity. It is an issue in education. It is related perhaps to broader issues of masculinity but it needs to be addressed in our schools. In that same article, Mr Fitzgerald says—other commentators and union spokesmen have also said since the tabling of the report—that male teachers is not really an issue; it does not really matter that much. That prompted me to go back to the submission by the Australian Education Union. They said:

Another misguided concern often raised in the context of boys’ education is the lack of male teachers and the impact this has on boys.

They went on to say:

Research has found that the sex of the role model is less important than the modelled behaviour.

We would all agree with that, but that is not the point. The point is that you cannot dismiss the sex of the teacher as having no impact on boys. It is an issue. The evidence to the inquiry made it clear that it is an issue that needs to be addressed. Nor is it adequate to say, as the submission said:

Suffice to say that, with the decision-makers in schools and the bureaucracy being predominantly male, it is hard to fathom such a statement.

The preponderance of male role models throughout the media, business and society is another factor to consider in rebutting any statements of a lack of influence by males on boys in schools.

The point is that that is a denial of a problem that is there. We do need more males teaching in our schools. This is not to say that women do not teach well. We all acknowledge that women can and do teach every bit as well as men. Women can and do teach boys, and boys with learning and behavioural difficulties, every bit as well as men. But the point is that boys need both. They need to be exposed to different learning styles and different teaching styles. With those opposite who have taught before, we know that the temptation is to tend to teach in ways that we learnt. If most of our teachers are female, the style of teaching is more—not entirely, but more—inclined to follow a pattern of learning that perhaps does not reflect boys’ learning style.

I also point out that boys, as well as girls, need positive male role models. That is particularly the case since we have seen an increasing amount of family breakdowns. In just 11 years, between 1989-2000, the growth of one parent families with kids under 15 years of age has grown from 14 per cent to almost 21 per cent, with 89 per cent of those households headed by women. That is not to say that there is anything wrong with what those women are doing in their families, but boys need positive male role models in their lives. Just as boys need to see women in positions of authority in school, they need to see men in positions of authority, men in front of classroom and men in positions of caring and interaction with them. It is important that they have balance in the classroom.

Also, if we are trying to give the message to boys that education is important, we need to have men in the classroom. If we say to boys, ‘It is important that you learn, you try hard at school and you do your best,’ and they look around and see that there are no males in the school and, in some cases, they have never had a male teacher—and they might be in year 6— they might quite rightly ask, ‘If education is so important, why aren’t there men doing it?’ It is very important that we practise what we preach. We have a situation now where only 21
per cent of primary school teachers are male and 10 to 15 per cent of those coming into teaching are males, although it depends on the particular institution they enter. Thus, the committee has made recommendations regarding the need to bring more males into teaching.

The report has made 24 recommendations. I know that some of these carry quite a large price tag and some of them are the responsibility of state and territory governments but, if we are serious about the education of our children and if we are serious about providing maximum opportunity for, and maximising the achievement of, boys and girls, we need to address these concerns and seriously take on board these recommendations. The responsibility is there for state and territory governments and for the Commonwealth government. Not all the recommendations carry a large price tag. The first recommendation, regarding a new framework that sets out positive goals and values with distinct, as well as common, educational strategies for boys and girls, can be achieved without a large price tag.

Greater focus on preservice teacher training, developing skills in pedagogy, making our teacher trainees aware of different learning styles, equipping them to be able to teach literacy and numeracy in ways that address the learning styles of boys as well as girls, can all be done without a lot of extra spending. The guidance that we have recommended for parents in developing preliteracy and prenumeral skills in their children can also be achieved without a large commitment of funds. But, ultimately, some of the recommendations will require funding and it is essential that governments take these responsibilities seriously.

In conclusion, I thank everybody who has been involved in this inquiry. It was a pleasure to work with my colleagues. I also thank the many people who gave valuable evidence to the committee. I thank the secretariat for the tremendous work they did. There is no single cause for the undereducation or the underachievement of boys. There is no single answer. The recommendations that we have made are a step in the right direction. It is essential that these recommendations be taken on board. We can no longer ignore the underachievement of boys.

Mr SIDEBOTTOM (Braddon) (12.00 p.m.)—I am very pleased to contribute again to the issue of the education of boys and, in particular, to comment on Boys: getting it right, the report of the inquiry of the House of Representatives Standing Committee on Education and Training into the education of boys. I would like to acknowledge some significant contributors to the inquiry: the current chair, the member for Macquarie, Kerry Bartlett; the deputy chair, the member for Port Adelaide, Rod Sawford; the inquiry secretary, James Rees; and the former committee secretary, Richard Selth. They played a very significant role in the fashioning of this report based on the evidence presented to the committee.

As the previous speaker, the member for Macquarie and chair of the committee, alluded to, the report has elicited a response—and, indeed, that is exactly what it should have done. The report is based on, and is a response itself, to what people regard as an important issue in education; and not just in education but in society itself. It is a serious report dealing with a serious issue. The fact that it has elicited that response is very good. There will be a full range of responses to the 24 recommendations made in this report. Indeed, it was a longstanding inquiry; it started on 21 March 2000. Some 21 members of the House of Representatives have been involved in it; that shows its importance. It has received 231 written submissions and 235 witnesses have come before the committee. There has been significant input. That is how importantly this inquiry has been regarded.
However, while it is all well and good to comment on the report, one hopes that the report is actually being read in toto and that people are not just rushing to the recommendation pages. We tried to take that into account in the way we structured the report in that there is an introduction, an executive summary and then the body of the report, which try to give some substance and context to the recommendations. We welcome comment and positive criticism of this report so that we can advance this issue.

I was a little taken aback by one commentary on the report by a Mr Christopher Bantick, who wrote an article in the Hobart Mercury, which is a daily distributed throughout Tasmania. I believe the article was also syndicated in some other papers on the mainland. The lead-in to the article says, ‘The public debate about educating boys is largely missing the point.’ The public debate that he was talking about is centred and based on this report. The first thing that the author criticises is the title of Boys: getting it right. I assume the title is being criticised because, according to the critic, this report did not get it right. There could be no other reason why he did not like the name of the report. However, it is always difficult to come up with a name for a report which encapsulates the issues you have been looking at and which stimulates debate.

The author goes on to say, as a few other commentators have said, that basically the report says that the answers to the way we deal with boys in education are to pay teachers more, get more male teachers into the profession, have smaller class sizes and offer scholarships. That is their assessment of our report. If you read the recommendations of this report, you will see that those things play just a minor role within the context of assessing what the issue is, what is happening now, what we can do to assist boys and girls in education and in the outcomes of learning, and the things that governments, communities and schools can do to make it better. If that is their full assessment of this report, they did not read it. I suspect they did read some parts of the report, because they then head off to comment about some of the submissions. I need to point this out. I do not mind criticism—that is fine—but in analysing this you will see some of our problems in trying to have this report taken more seriously by people who profess to be educators. Mr Bantick claims to be an educator, certainly in the past. His article says: The report, unhappily, is not a waffle-free zone.

What does ‘a waffle-free zone’ mean? It goes on to say: Much in it is contentious—

Okay. That is interesting. It then says:

... and plain wrong.

That is an issue. One of the interesting things is that the author goes on to say:

Take, for example, the quoting of Ian Lillico, principal of City Beach High School in Perth, Western Australia. Lillico notes: “Boys, in particular cannot make the connection between what they are doing and how they can use it.”

The author goes on to say that we all know this is ludicrous. To be fair, the author did not go to the quoted submissions from Ian Lillico, a noted and respected educationalist who spent a great deal of time writing a submission for this. The report quotes Mr Lillico extensively in parts because we regarded that evidence to be considered and well tested. It states:

Boys like to be able to see how what they are learning relates to life outside or beyond school and may find it difficult to engage with what appears to be irrelevant subject matter.
It quotes Mr Lillico:

The curriculum has to be relevant. The idea of teaching some of the things that we have learned, and maybe have never used since school, is very difficult to get across to kids these days who want to see how it applies to their lives. Boys, in particular, cannot make the connection between what they are doing and how they can use it.

For heaven’s sake, if you take the quote in its full context it is purely and simply saying that people, but particularly boys, learn best when it is relevant to them. Mr Bantick is criticising a noted educationalist for something that is totally out of context. He goes on to say that what is wrong with boys, and where the report gets it wrong, is that nobody likes boys for what they are. He says that is what is wrong with the report. He talks about what is wrong with boys and about the indices that are at work and that show that they are not getting the desired learning outcomes and all other outcomes that we regard as important in education, and says that the reason is that we are not concentrating on what they do well; we concentrate on only what they do not do well. For heaven’s sakes, if he read the report again, he would see that the whole report is supportive of young people—all young people: boys and girls—and people in education, and of course it stresses the things they do well. But this report deals with what we regard as some of the difficulties in learning outcomes; otherwise we would have a massive tome before us. To level that criticism at Mr Lillico and the report is, I think, absolute tripe, to be fair.

I would also like to point out that Mr Bantick says:

One of the clear messages the report delivers is that boys need positive role-models. Although this is a reasonable idea, it should not be achieved at the expense of women teachers.

To be fair, this report constantly points out that we are not involved in the business of saying that we need more men teachers because they are better than women teachers or that we should have fewer women teachers so that we can have more men teachers. That was never said or implied. For him to imply that we have said that women teachers are not good teachers and are not very important in the lives of their students is absolute rot; but that is what he has implied. The article goes on to say:

There is a risk that, following the report’s recommendation of more male teachers in boys’ schools, blokey role-models may fall into the very worst kind of misogynistic yobbism. How that is derived from the report is beyond belief. Just as an example, the section on male teachers in the report is positive about male role models as it is about female role models in schools. But nowhere does it advocate that we have male role models in schools just for the sake of having them. They are there for a positive reason. At paragraph 6.95 on page 161, the report says:

An understanding of gender issues is important but the role modelling and teaching by males whose relationship and commitment to boys is genuine is the most important factor.

The report then quotes the transcript of evidence of Mr John Flemming, System Director, Boys in Focus:

We know that they watch us very closely, so the way we work with women, the way we talk to women, the way we can work as a colleague is something these boys are watching all the time because in the environments that they are from that is not the sort of relationship they are used to seeing. We are very aware of that sort of thing, that what we display to the boys is what they will want to take on board.
That is why we have male role modelling in the report. So I found the article very trite and unfair on the report. I do not wish to labour the point. Of course we want people to make a critical response to this report, but I ask publicly that people read it and not quote selectively from it to push some bandwagon that they may be running with or to get some sensational idea up so that they can get some interest in their column in the newspaper. This column is headed ‘Crazy about boys’. I think that is just crazy.

I have certainly gone off track here but it had to be done. It was in the system; the juices were flowing. I would like to point out, as I did last time, that this report—and I am very proud to say this—has basically said that the Commonwealth should put its money where its mouth is in assisting in the education of children in schools, particularly boys. There are 11—I thought it was 10 last time, but my numeracy skills are not too good—specific recommendations involved with funding, either in a joint sense with the states, or by the Commonwealth on its own.

Very quickly, these recommendations include joint funding for additional professional development for practising teachers, learning the strategies that work successfully and passing them on and sharing them; that the Commonwealth fund further research into the impact of different assessment methods on the measured relative attainments of boys and girls; joint funding for the implementation of the strategies used in the Victorian study on auditory processing in primary schools throughout Australia; increased joint funding for teachers’ professional development and that it be directed towards a greater focus on literacy, early diagnosis and intervention to assist children at risk.

This is a hell of a lot more recommendations than a few of the critics have said that we have recommended. This is real mechanistic stuff. Other recommendations include joint funding for the provision of a literacy coordinator and an early intervention intensive literacy teacher in every Australian primary school, the proportion of a full-time equivalent load depending on the size of the school and the measured level of literacy need; that the Commonwealth ensure that existing funding under the literacy and numeracy program to support students in middle years is used effectively to provide intensive literacy support programs; and the reduction of class sizes in years K to 3 to no more than 20 students by 2002. That is a very significant contribution.

Mr Bartlett—By 2005.

Mr SIDEBOTTOM—By 2005. That is from the former teacher across the chamber. Other recommendations were that the Commonwealth fund research to evaluate different approaches and strategies to maximise engagement and motivation of boys and girls in the middle years and to fund comparative research into the influence that different school structures, curricula, assessment systems, the availability of alternatives to senior school, behaviour management and other factors have on the apparent retention rates and attitudes to school of boys and girls.

Very important is the sharing of information and strategies and alternatives to senior school. We should fund assessment of existing programs being run by states and territories and community organisations to assist the most vulnerable and disengaged students with a view to expanding successful programs. That is very mechanistic; very practical. The Commonwealth could provide a substantial number of HECS free scholarships for an equal number of males and females to undertake teacher training. Where the Commonwealth outlay
funds and have certain outcomes that they wish to be achieved then we should monitor these
to make sure that they are achieved, that there is not cost shifting going on and that the states
and territories do not reduce their financial commitments.

Finally, I would like to congratulate every teacher involved in teaching in our schools both
boys and girls—male and female teachers—and to congratulate them on the great job they do.
It is our job to support and assist them and I am very happy to do that.

Mr SAWFORD (Port Adelaide) (12.16 p.m.)—Unanimity on a House of Representatives
standing committee with potentially emotive inquiries like this one is not easy to achieve.
However, this particular committee report, Boys: getting it right, did achieve unanimity in all
the recommendations. That is some achievement. This is not to say that there was not vigor-
ous debate and strong exchanges of view. I am sure the chair will agree on that. But we did
achieve it and we got there. I think Alan Cadman made this morning a very relevant point: it
was a better report for that process of vigorous debate.

I have already spoken in the House on the tabling of the report and I do really appreciate
the opportunity to speak in a more informal way on aspects of the report that possibly may be
overlooked but that I think are important parts to be acknowledged. When the submissions
were first received and the first public hearings were under way, the committee could have
taken partisan views on some of the loopy left and the very reactionary right views put for-
ward and on the conspiracy theories on both sides. But to the credit of everyone on that com-
mittee—all 21 members—it did not occur and the committee members did retain their objec-
tivity.

That objectivity was tested again and again, particularly by the majority of academics,
practically all state education departments—public or private—Australian Education Union
spokespersons and some spokespersons of professional associations, whose responses were
generally of denial, distancing and distraction to the questions of committee members that
there could even be a problem with the education of boys.

It was therefore refreshing and instructive that at the very first meeting of the committee
the Commonwealth department of education put the inquiry into a context with factual infor-
mation. They suggested in no uncertain terms that differential attainment levels across the
curriculum between girls and boys was indeed occurring. It was also instructive to hear the
views of experts and academics: people like Dr Ken Rowe of ACER; Dr Catherine Rowe, a
Melbourne paediatrician; Professor Faith Trent; research fellow Malcolm Slade from Flinders
University; Richard Fletcher; Richard Brown and so on. They expressed serious concerns, and
they have been doing so for a long time, about the direction education was taking in this
country in dealing with boys’ needs. However, no-one ought to be surprised that some of the
most powerful evidence came from principals, teachers and the students themselves. One
could not help but be impressed by the professionalism of so many Australian school principl-
als and their teachers.

Let us give two contrasting but nevertheless similar examples of the outstanding profes-
sionals of Australian teachers. Roseville Public School is located in a very affluent area of
Sydney. The principal and the deputy principal have an objective, no-nonsense approach to
education, regardless of politically sensitive rhetoric or propaganda. They recognised they had
a problem with increasing differential attainment levels between boys and girls and that they
were not acceptable. They went to the parent body with a plan: relieve the deputy principal of
classroom duties to structure and monitor the school curriculum, particularly in literacy and numeracy; and employ a literacy and numeracy coordinator to assist the students most in need. They costed it; it came to 100,000 bucks. The parents took up the challenge. They raised the money. Fathers, many of them executives with flexible work schedules, became involved in the school day. In less than four years, the differential in attainment levels between boys and girls was reduced from over 20 per cent to around one per cent. That is as it should be, because boys and girls have intrinsically similar intellectual capabilities.

Were the gains made by the girls compromised? Of course not. Both girls and boys had higher attainment levels. It took four years. There were clear aims, a structured, balanced curriculum and explicit, active teaching. There was no magic recipe but plenty of commonsense and hard work. That is what they did. What they did not do tells a story, too. They rejected the propaganda; they rejected the rhetoric; they followed their professional instincts to deal with a very real problem they identified, and they were not prepared to deny it. However, that success costs money.

Eagleby State School in Queensland is located in a low income, low employment area. Fortunately for the students and parents of that school, they had a principal appointed who was also not prepared to accept low attainment levels for boys or girls, and that it was a low socioeconomic area was not going to be an excuse. He trained large numbers of parents and then involved them every morning in literacy and numeracy programs—explicit, active and structured. The principal led a remarkable turnaround in the attainment levels. Again it took four years. That is right: it took four years. There is no overnight or fast track to success; it is determination and hard work. It has ever been so.

There are three distinct periods of education in Australian since 1950, and I mentioned this in my previous speech but I want to mention it again. From 1950 to 1970 education in this country decidedly favoured boys. This is when I went to school—and you, too, Kerry. Sid of course is much younger. Higher retention rates, higher attainment levels at year 12, higher university admissions—it was all in favour of boys. But in the next period, 1970 to 1990, it changed around. Here is some data. In 1976 the retention rates for girls and boys in this country were exactly the same. In 1981 in New South Wales the difference in attainment levels between boys and girls at year 12 was less than one percentage point. That is not the case now. I will not go back and repeat all the indicators that people have mentioned in this debate, but we all know that they have gone the other way. If the figures were reversed, would that data be acceptable? Of course not, and nor should it be—and it is not acceptable in the current form.

Some people have tried, unsuccessfully, to paint the report as nothing more than pushing a competition between boys and girls—denial—or as a report that wishes to diminish the gains made by girls. The report does no such thing. There is not even a hint, not even a word of that. In fact, it states quite clearly the opposite. The report encourages all girls and all boys to achieve their potential. That is as it should be. That is in the national interest. The current situation is not.

The committee also went to New Zealand and talked to politicians, education bureaucrats, union and school representatives on the matter of boys’ education. None of the committee members was surprised at what was said on the record: comments were remarkably similar to those made by their counterparts in Australia. It is a little different in New Zealand—we had
drinks and nibbles afterwards, you see, and it was a little bit informal, whereas here in Australia they came in, they spoke and they left. Here are some quotes I took down, and Alan Cadman will remember these because I made sure when the person spoke to me that he came over as a witness. Here is one from a senior bureaucrat: ‘If I said what I believe, that would be the end of my career.’ Another person said, ‘Political correctness has confused the whole education debate, and not just the boys.’ ‘Thank goodness there are still some principals and teachers who follow their instincts as to what works or does not work,’ said someone else. ‘I am afraid intimidation of contrary views is par for the course these days. Conformity is the name of the game.’

Teacher training has also lost its way in this country. Boys and girls do learn differently—it has always been the case. Go back to the Greek philosophers. It is not as if this is a new thing, for goodness sake—it is a basic fact—yet it is being ignored in our teacher training institutions. Boys are disadvantaged—not all boys but most boys—and some girls are also disadvantaged. For too many prospective teachers the profession is undervalued, and it is relegated to a second income status. The principal of Scotch College in Melbourne reported to the committee that not one boy in his school, which has an enrolment of over 3,000, wanted to be a teacher—not one. Males in the primary intake in New South Wales, as reported by the chair, are less than 20 per cent.

The committee has recommended HECS-free scholarships on an equivalent basis for male and female trainee teachers to redress the current imbalance. I hope the government takes that up. We have also recommended higher remuneration for schoolteachers. You cannot have a profession as important as teaching continue to be disregarded in the community. The kids know this and will tell you, ‘It is too hard for too little money.’

Current policies affecting the direction of education need to be appropriate for all boys and girls. The gender equity framework which has been spoken about today was agreed to in 1997 as a national policy. It is a totally inappropriate policy. The genesis was the report entitled *Girls, school and society*. There is nothing wrong with that, but it was just slopped together and adopted as a national policy for girls and boys without any identification or research into the needs of boys. The unanimous view of the committee is that the policy needs to be recast. In fact, while I was deputy chair of the committee, I deliberately asked numerous witnesses if they could provide any quantitative evidence to support the gender equity framework. We will all remember the silence of that response.

The response to the tabling of the report has been overwhelmingly positive. Certainly, the response from education departments has been non-existent. But their silence is welcome. The member for Hasluck reported on the initiatives of the Western Australian government, which has done what we told it to do. The education departments got it wrong. Hopefully, they will take the lead from their successful school principals and teachers and rewrite the policies for everybody—boys and girls.

Denis Fitzgerald, the Federal President of the Australian Education Union, gave a negative response through the letters to the editor section of the *Sydney Morning Herald*—as well as the *Australian*, as reported by the chair. Surprisingly, in the *Sydney Morning Herald* it was not a response to the report; it was an attack upon me for having the temerity to suggest that the Australian Education Union was in denial about boys’ education. You did not have to go too
far in its submission to find the denial. Its recommendation No. 2 was just rhetoric. Let me read it to you:

2. This organisation does not endorse the introduction of a separate boys’ education policy. \textit{Gender Equity: A Framework for Australian Schools} already provides an appropriate national policy framework for addressing the educational needs of boys.

So, in spite of all the evidence to the contrary, it wants the status quo: ‘she’s right mate; she’s okay’. The key words in the recommendation were ‘already’ and ‘appropriate’. They can mean nothing else. If that is not denial, I do not know what is.

In his letter Mr Fitzgerald could have had a go at us and commented on the gender equity framework and how it was developed; he could have argued its exposition and argued its rightness or wrongness. But he did not do that because he could not. He could have commented on the disparity of all of the indicators currently going on; he did not do that either. He could have actually provided a critical and constructive response; he did not. His response was personal, uninformed and unworthy of the important position he holds. He ought to spend a little more time in getting remuneration and conditions for teachers right and a little bit less time on the propaganda.

The only other response that could be construed as negative came from Christopher Bantick in the \textit{Mercury}. I will not go through what the member for Braddon said about him. But Mr Bantick summed up his piece with the remarkable phrase—‘I do not know what he was on when he wrote that story—’Boys hold the key to their own learning.’ The profundity of that! Doesn’t it just sort of come in and whack you right around the ears: ‘Boys hold the key to their own learning.’ I hope he is not teaching now! There was no reference at all in the whole story to policy, pedagogy, procedures nor programs.

I trust the government will respond positively to this report; it deserves no less. However, as far as I was concerned, the most remarkable finding of the report was the failure of so many to recognise that boys and girls learn in different ways, and that a good education balances the difference in opportunities that boys and girls can have in education. Everyone has said here today that girls generally—not always—have superior verbal, linguistic and processing skills to boys. In a joke we say, ‘They can talk under wet cement.’ Boys generally have superior visual, spatial and problem-solving skills to girls. Often, if you give a problem in a verbal way to a girl, she will process it much quicker than a boy; but, if it a visual problem, it might be around the other way.

Education is not a matter of verbal or visual—good education has both. It is not good enough that boys cannot express themselves and it is not good enough that girls of talent in this country are being discouraged to participate in higher levels of mathematics and science. The way we are going we will not have any engineers, architects, mathematicians or scientists in 25 years. We know that girls like self-directed and passive learning, essay type responses and continuous assessment. That is a good thing. And we know that boys like the directed, active and explicit teaching, examinations and tests, concise type responses and multiple-choice answers. But that is a good thing too.

Girls like collaborative activities. Boys like the challenge of competition. In many schools, collaboration is in and competition is out, but they both have positive and negative aspects. Collaboration can reduce everything to the lowest common denominator. Competition can be negative but it can raise people to the very highest level. In education one size does not fit all.
Mr QUICK (Franklin) (12.31 p.m.)—I would like to say at the outset how delighted I am to have the opportunity to take note of this magnificent report by the Standing Committee on Education and Training into the education of boys and to follow my colleague from Port Adelaide, whom I admire and respect not only as a politician but as an educationalist, a person of great talent. I congratulate the chair of the committee, the member for Macquarie, Kerry Bartlett, and the other members of the committee. I also congratulate the secretariat because I know, having been on that committee before, the excellent work that they do. One of them is sitting here today, taking all this in. They have produced a world-class report on an issue which is under review throughout the world.

As a former teacher of many years in several states and having experienced education overseas, one thing that has always worried me is getting the mix right. I have managed in my 25 years of teaching prior to this life to work in a whole range of schools from what I call the private-public schools, the state schools—the East Launcestons and the Lenah Valleys—through to country schools. Probably the best schools I ever taught at were district high schools where you had K to 10, which is an excellent mix. For most of my life I worked in disadvantaged schools, the really difficult ones. Once you got involved in those, you never escaped. You had few volunteers. I always challenged people who thought they were good teachers to come out to some of the schools that are really challenging and see what you can do. A lot of them said, ‘No, thanks. I don’t want to be involved in that.’

I am a little disappointed to see so few members of the House speaking on what I consider to be a really vital issue. As the report says, it is about foundation building, about getting it right and catering for everybody. When I mention that something that comes to my mind is class sizes. Nothing used to annoy me more than seeing the minister for education on TV or in the newspaper saying, ‘No, our class sizes are 22 or 23. Compared to New South Wales, South Australia or wherever, we have an excellent pupil-teacher ratio.’ Those of us who had 34 kids in the classroom were saying: ‘What the hell is going on? He’—or she—‘has stated that it is 22.3.’ We used to laugh in the staffroom and say, ‘Well, if you count all the people in Bathurst Street who are in the education department, stuck them out in schools and divided the number of children by the number of people employed by the education department, the ratio was probably right.’ But we never, ever saw people from the education department. We invited them to come out to the school but, apart from the days when they came out to assess our capability or otherwise as teachers for potential promotion, they stayed right the hell away, especially from disadvantaged schools.

The committee’s recommendation that the class size should be 20 by 2005 is excellent, but I would like to suggest that for the early childhood area—up to, say, grade 2—it should be 15. I visit many of the schools in my electorate on a regular basis, to keep in touch with the system. I have publicly stated that as soon as I get out of here I want to go back as a mentor, especially in high schools, to challenge some of the grade 9 and 10 boys who are wasting their opportunities. When you go into schools you notice that the issues of class sizes and being able to particularise education or learning for a whole range of people, especially disadvantaged kids, is something that is not really addressed by education departments right across Australia. I notice in the report that the committee visited a couple of schools in my neck of the woods. A couple of them are just down the road from my electorate office. It was really
disappointing that I was somewhere else—interstate, I think, on another committee hearing—and I was not able to be there when the committee went to Newtown High School, Bridgewater Primary School and Herdsmans Cove.

I spent probably the best and the worst parts of my life at Bridgewater Primary School. It is interesting to see that Glenda Murray got a mention in the report, because Glenda was a teachers aide when I was there in 1981. When I went to Bridgewater Primary School, there were 750 kids in open learning. It was probably one of the most disadvantaged areas in Australia at the time. We had 750 kids and all the rooms were open plan. My first experience was 120 kids in a room with four teachers. I had never taught before in a team situation. There were 60 desks and 60 chairs, a billiard table and a table tennis table. We said: ‘Where the hell do the rest of you guys work?’ They said, ‘We do our work on the carpet, we do it outside, we do it on the eight-ball table or we do it on the table tennis table.’ I felt that those kids from homes with few education resources and with parents who were under the hammer economically and socially should be able to go to school and have quiet, peace and harmony. But, when you had 10 kids out of 120 go off their faces—which happened on any given day—the place was in turmoil.

The first thing we did was to spend $146,000 dividing up the quad into a double and two singles to try to cater for the individual differences, needs and aspirations. One of the four took stress leave and never came back. I was determined to go down to grade 3 and try to intervene in how the system operated. I mentioned Glenda Murray. We had a community development officer who involved the parents in the school so that they understood how the process worked. We spoke to them about the individual needs of their children. We had full-time music staff, a full-time library and full-time phys ed staff. We had half a dozen special ed teachers, as we called them, who were taking kids—boys and girls—in and out of the classroom, trying to recognise what they needed.

It worked remarkably well. The community development officer worked herself out of a job after two years. Parents were in the classrooms all the time. They were learning, their children were learning and they realised the importance of education. We managed to get class sizes down. Our library was utilised on a regular basis and after school. We were one of the first schools in Tasmania to introduce a computer system that was networked in all the classes. We had computer specialists. We challenged the kids. I said: ‘You come from a crappy suburb—it has so many problems—but you are no different from the kids that I teach at Lenah Valley or East Launceston. I challenge you. There is a standard.’

Was there support from the education department? When things were going well, yes. When things got difficult and we had to challenge ourselves not only as teachers but as members of a greater community, they did not want to know. I am here because of my dissatisfaction with how the system works. So many of the things that you have mentioned in this fantastic report are things that have really irked me. Consider teacher training. My daughter is just completing a DipEd at the University of Melbourne. I spent countless nights on the phone going through scenarios: this is what worked for me; perhaps you might try this. She went to Presbyterian Ladies College and Caulfield Grammar School, then she went back to the real world of a senior secondary college in Melbourne which I will not name, for obvious reasons. She was challenged. In lots of cases the teachers had given up. This is one of the things that really worries me: so many of the teachers have given up because there is no support from the
head office. There is no support, for whatever reason, from a lot of the superintendents. It is very hard to run a fantastic education system.

As the member for Port Adelaide commented, members could name dozens and dozens of schools in our electorates that are doing a fantastic job, but they do not have the financial resources—that little bag of money—to be innovative and operate outside the box. I would imagine that every member in this place has put their hand in their pocket and spent part of their electorate allowance paying for guitar lessons or sponsoring a kid who is an excellent trumpeter but we cannot find someone to do these sorts of things. People have mentioned parents and friends working their whatsis off to raise $8,000 at the school fair so they can put some resources into the school. In my mind as a primary school teacher, we have it all wrong. We are concentrating at the wrong end financially. We ought to be back here.

I have waffled around this issue because it is something that is really important. As I said, this report is world class. It mentions Commonwealth-state relations. As someone who has been in this place for 10 years, it also irks me when we have duckshoving, blaming and counterblaming about whether it is the Commonwealth’s fault or the state education minister has not done this, that or the other. This is a blueprint. I would like to see education ministers, principals, parents and even some of the children in the senior secondary colleges read this report, look at the recommendations behind it and implement them. To hell with who has to pay. We had a fine education system. I remember spending a year on exchange in Adelaide in 1976, because the reports were that Tasmania had the best system, but you had better go and see the South Australian system. As someone who spent part of his childhood in Victoria, South Australia and Tasmania, I remember going up a class and down a class learning to write in three different ways. We should have the best system. We have the capacity to pay for it. We have the experts and the dedicated teachers. It is a matter of putting all the bits of the jigsaw together.

Let us find the money. Let us challenge people. In my day, and I imagine the member for Port Adelaide’s, it was a calling to be a teacher. You were proud to be a teacher. You were respected within the community. The children and parents respected you and you worked tirelessly—hours before and after school and on weekends—to provide the best education. It was not for the bright kids or the kids that were having real hassles, but for everybody. You challenged them. I can honestly say that, in my 25 years of teaching, I only lost one child in the system: poor old Joseph is in jail for murdering his mother. But I have challenged every other child. Some of them come up to me—as I imagine they do to the member for Port Adelaide—and tap me on the shoulder and say, ‘Remember me?’ And you can, because you have had an influence on their life. You have changed it.

How remarkable our country would be if every child who went through the education system—whether they were able-bodied or disabled—had the resources, the dedicated teachers and the system in place to provide them with the very best in education. They want it for nothing. We are selling our children short, we are selling our teachers short and we are selling Australia short. This report is about foundation building. It is a fantastic report. I have purloined lots of copies and I will ensure that, in the next couple of months, everybody in my electorate will be well aware of this report and will ask their ministers for education: why is this not happening? Congratulations to everybody involved. This is a fantastic report.

Debate (on motion by Mr Neville) adjourned.
ADJOURNMENT

Motion (by Mr Neville) proposed:
That the Main Committee do now adjourn.

HMAS Sydney

Mr SAWFORD (Port Adelaide) (12.46 p.m.)—On 19 October 1941, HMAS Sydney was lost off the coast of Western Australia during a furious sea battle with the German raider Kormoran, and 645 crew lost their lives. For many Australian families, the grieving and the closure for the tragedy have not occurred to this day. Last Sunday, at the request of Harley Doyle, the President of the Port Adelaide Naval Association, I participated in a small but most important ceremony and book launch at their club rooms.

The Port Adelaide Naval Association is effectively representative of all former and current naval personnel in South Australia. In the early 1990s it was responsible for the commissioning of a memorial plaque for the Sydney. The plaque was originally located at HMAS Encounter, the former naval base in Port Adelaide. On its closure, the plaque was transferred to Peace Park in Adelaide. Six years ago, a very determined member of the Port Adelaide Naval Association, Keith Shegog, decided that the plaque was not enough. He decided to document the views of the families in their own words. A labour of love and respect has resulted in the publication of a most important written history of HMAS Sydney from the families of the crew who were so tragically lost.

Too much history is written through the ideas and views of just one person. It is history that often lacks authenticity, spontaneity and, dare I say, accuracy. Keith Shegog’s book does not do this. Rather, he puts the views of the family members in their own words—controversial though some may be. The families come from all over Australia, including the 59 families of lost crew from South Australia and the seven families who live in Port Adelaide.

Keith’s work has a twofold purpose. It tells the stories from the point of view of the families and in some ways it helps the families to cope with their grief. And grief there certainly is. My role in the book launch and the memorial ceremony was to introduce Commander Pat Burnett, RAN retired, who was to launch the book, Lost but not Forgotten: The Story of the Sydney. Pat Burnett is the son of Captain Joseph Burnett, the commanding officer of the Sydney at the time of its loss. In a moving address, Commander Burnett told the story of the impact on his family when they were told their father was lost at sea: last conversations, last important images of his father, important words to attach to his grieving and to be a blueprint for the rest of his life. It was a contained, responsible speech delivered with quiet passion and dignity. It was helpful for those who are still unable to achieve closure for their grief, and it was entirely appropriate for the occasion. Keith Shegog thanked his fellow club members for their encouragement and assistance in keeping to the task. For his six years of great work, he can be justly proud of his outstanding effort.

Recording in a written form oral histories of important events like the impact of the sinking of the Sydney is what neither we in Port Adelaide nor indeed the Navy have been very good at, but we are getting better. We added to that written record last week when I was contacted by Erica Jolly, who at her own cost had published a magnificent history of vocational education in South Australia called A Broader Vision. Erica not only researched the history of vocational education in South Australia over the last 100 years; she also included in her publication the views of former colleagues and students who participated in so-called central
schools, Dalton plan schools, technical schools and technical high schools. Erica heard the chair of the House of Representatives Standing Committee on Education and Training, the member for Macquarie, and me on Life Matters on Radio National with Geraldine Doogue in relation to the report of the inquiry, Boys—getting it right: report on the inquiry into the education of boys, and she contacted me. I have only managed to read some introductory comments plus a few selected stories from known contributors but, if that small sample is any guide, Erica’s publication will be not only broad but extremely powerful and timely.

Interestingly enough, the House of Representatives Standing Committee on Education and Training will conduct its next inquiry into vocational education. There could be no better background, I believe, than this particular history and I look forward to reading it over the summer break. It refreshes people’s memories that often we got things in the past right. We have overlooked so many things that we have done well and we have relegated them to the past. It is about time we dusted them off and brought them out again. (Time expired)

Petrie Electorate: Community Activities

Ms GAMBARO (Petrie) (12.51 p.m.)—On 9 November, I had the great pleasure of joining COASIT, the Italian welfare association, at their fundraising fashion lunch at the Italian Club. Over 250 people attended and it was a highly successful day. I want to pay tribute to all of the organisers, including Dina Ranieri and the chairwoman of the fundraising committee, Gina Salinitri. The funds from that particular day will provide for the much needed work of this Italian welfare association, particularly in the areas of advocacy and aged care. The association also provide respite and home and community care services and they do a wonderful job. It is one of only two events that they hold each year. They had a large dinner and black tie ball and a fashion parade. It was beautifully organised, and I want to pay tribute to the fine work that they and their many volunteers do. The area of volunteering is something quite new to the Italian community. Because of the large extended families, that community never really had a need to engage in volunteering, but more and more the association is training people to become volunteers and to go out and help in carer and respite services.

I also want to pay tribute to them for the fantastic work that they do with respect to the Catholic Education program in Queensland in ensuring that the teaching of the Italian language in schools to all students continues. It has been a very successful program not just for those who are descendants of Italian families but for the greater Australian community as well.

I also want to pay tribute to Frank Beitz and Gloria Lee, who recently travelled to Papua New Guinea to celebrate the sixtieth anniversary commemorative services for the Battle of Milne Bay. They attended along with the Minister for Veterans’ Affairs, Danna Vale. I also want to pay tribute to Mr Bill Guest, who visited Papua New Guinea in August to commemorate the anniversary of the Kokoda Track. As part of the federal government’s saluting their service, a very innovative web site has been set up. It is to show the service records of Australians who enlisted during the war and to provide a valuable snapshot of our country’s wartime history. It has some wonderful search engines which are capable of searching massive databases by name and by service number, honours received, place of birth and place of enlistment or town or suburb on enlistment. So now generations of Australians will have easy access to that information and also family members with respect to wartime history. It will be a very valuable source for researchers from all over the world who are looking at information
on this period of military history. I pay tribute to those Australians who have given their service. It is also a great way of ensuring that their enduring honour and distinction are duly noted. They are just part of a range of initiatives under this program. There is a web site, which is www.ww2roll.gov.au.

I also had the great pleasure of attending a morning tea recently with the members of the Redcliffe Domestic Violence Association. I was very successful in securing $100,000 for them to employ a part-time counsellor, and I am absolutely delighted to say that that counsellor has now commenced work in the Redcliffe area. She has been inundated. It is a terrible thing to say that she has more work than is cut out for her, but it is a much needed service that was never there. The excitement of those women attending that particular morning tea was there for everyone to see.

On a happier note, I am pleased to say that $250,000 has been contributed from black spot funding for the corner of Anzac Avenue and Sutton Street, a notoriously bad spot for many of the Redcliffe community. I am very pleased to be hosting on 25 July the Redcliffe branch of the National Servicemen’s Association, with some 50 local national servicemen. I will be presenting them with their national service medal. It gives me great pleasure to present those particular servicemen with that medal. We are very grateful for what they have done for our nation and community and for the wonderful work that they contributed to our country. I will be delighted to be joining them.

Mr LATHAM (Werriwa) (12.56 p.m.)—With many other people, I have been disappointed to see the shocking decline in the NRMA, which used to be one of Australia’s great mutuals. Now the infighting and the personal obsessions at board level are destroying the organisation. Most of the media comment on this matter is focused on the Members First group. The Manson girls down at Fairfax have not just reported on the NRMA; they have been participants, part of the infighting and neurotic obsessiveness. While the Members First Group is not without fault, the other side of the argument—the ‘Talibot’ group—has escaped public scrutiny. It is time to correct this imbalance.

Its directors, led by Richard Talbot and Jane Singleton, have set out to win control of the NRMA at any cost, even if this means bringing the organisation to its knees or indeed breaching the laws of good corporate governance. The NRMA AGM held in November 2001 saw Singleton deliberately and knowingly cast her proxies contrary to the recommendation she made in the notice of meeting. The notice of meeting explained the matters to be discussed and decided upon at the meeting. One of those matters was a removal resolution for directors Whitlam, Coyne, Easson, Sanchez, Callaghan and Shaw. The resolution was subsequently lost.

Jane Singleton, in her director’s statement contained in the meeting notice, recommended that members vote against the removal of the directors. She followed up this direction with several letters to the editor and media statements asking that members of NRMA give her their proxies. It can be assumed that members allocated Ms Singleton their proxies on the basis of her recommendation in the notice of meeting; that is, to vote against the removal of the directors. When it came to voting in the poll on the resolution, Jane Singleton voted her proxies contrary to her recommendation. She misled the members. She did it secretly, of
course, and she has never disclosed the fact. So much for transparency and so much for being an advocate of corporate governance reform and consumer rights.

Other NRMA directors subsequently wrote to ASIC complaining of Ms Singleton’s behaviour. ASIC wrote back indicating they were not pursuing the matter. At the time Jane Singleton was a key witness in the Nick Whitlam prosecutions and had prepared a section 90 statement for ASIC on Whitlam’s matter. Most likely ASIC refused to do anything with Singleton because they did not want their key witness to be exposed as a fraud.

Jane Singleton is also a chronic leaker of confidential board information, despite sections 181 and 184 of the Corporations Law and directors’ common law duty not to use information obtained by them improperly. The NRMA successfully won a court case against Fairfax and AAP calling into account a number of journalists for publishing confidential board information. In his judgment, Master Macready argued that this information was confidential to the company and that the company had a right to know who leaked the information because prima facie there was a breach of the Corporations Law and the company may wish to instigate proceedings against the leaker. Jane Singleton is the leaker.

In an affidavit in the court, AAP said that Jane Singleton presented as the likely culprit for the disclosure of the discussion in the boardroom. To make certain, discovery has been undertaken through the journalists themselves, the matter the court ordered. Fairfax now is appealing. They do not want Ann Lampe, their relevant journalist, in the box.

Jane Singleton has done everything in her power to have the Fairfax matter discontinued. She does not want the journalist to be in the dock revealing the source because, if that happens, it will show that she in fact is the leaker. She is hiding behind the journalist’s refusal to disclose sources as a way of protecting herself from the breach of the Corporations Law. She has a clear conflict in her attempt to pull the Fairfax matter. She wants it pulled because otherwise she will be found to have breached the law. Her participation is clearly a further breach of the Corporations Law because she has a material personal interest in the matter.

Once again ASIC has shown absolutely no interest in this issue. Singleton is mentioned in the AAP affidavit, yet ASIC has not conducted an investigation. The company itself has written to ASIC concerned about this leak and other leaks, but ASIC has taken no action. Clearly ASIC does not want its star witnesses to be held to account. In another matter Singleton indicated that she supported Sir Laurence Street to act as an independent chair of the special meeting of NRMA on 17 October but, on the day, voted against it—another example of her saying one thing in the meeting notice and receiving proxy votes and then casting her vote contrary to that recommendation. Again she deliberately misled the members of NRMA. She is a serial deceiver.

The NRMA is falling apart. Leakers and liars like Jane Singleton are not fit to serve as directors. Her colleague Richard Talbot has also acted to destroy the NRMA. The Insurance Australia Group recently estimated that he has cost the company $800 million in legal costs and disruption of its governance. Imagine the good that could have come from the productive use of $800 million in the community, NRMA fulfilling its historic role as a mutual organisation looking after the interests of its members, looking after good community causes. Richard Talbot and his henchpeople have wasted $800 million of NRMA money and they stand condemned for such an exercise. (Time expired)
Mr Baird (Cook) (1.01 p.m.)—There are not many occasions on which I might agree with the member for Werriwa, but this is one of them. I actually rise to speak on much the same issue, on the NRMA. Having had experience, when I was a minister in New South Wales, of Richard Talbot, who was an employee in the RTA and was a perpetual leaker, I agree with him totally. He has been nothing but a destructive force on the NRMA since he joined the board, and he should be right at the top of the list to be removed from the board. Ms Singleton’s contribution has been totally negative to anything to do with road construction in the whole of New South Wales. She also has no right to represent the interests of motorists in the very fine state of New South Wales.

Having been once asked by Nick Whitlam to join his team and run for the board of the NRMA when I left state politics and having declined the opportunity—I am of course glad that I did—I followed this with interest. Certainly his comments are worthy of support. The new chairman, Ross Turnbull, has called for the whole of the board to resign so that a new board can be introduced. That seems totally fair because there is no-one in New South Wales who would not agree that the NRMA board has become totally dysfunctional, totally incompetent in terms of what it set out to do originally, and totally factionalised with internal politics that leave this place for dead.

The prime concerns of the NRMA should be first and foremost to look after the interests and needs of the motorists in New South Wales—both regarding safety of the roads and the construction of new roads across the network. In my own area, when the F6 was recently cancelled we heard not a word from Mr Talbot or Ms Singleton expressing their concerns that motorists in my area were condemned for many long years to not having a decent road out to the area.

As an organisation, the NRMA has a long history. In my area we have some of Sydney’s worst traffic snarls and we have the second worst accident black spot at the Fiveways round-about. Motorists in my area are not interested in the dysfunction at the top of the NRMA; they are concerned that a van gets there quickly if they have broken down and they are concerned to have better representation of their interests in the public domain. They deserve representation by a body that concentrates on the issues rather than the personality clashes that constantly occur.

The problem came to a head at an extraordinary general meeting that was held at the Sydney Convention Centre on 17 October. This meeting was a demonstration of the sad state of affairs of the NRMA. It was called on the basis of a requisition with 100 signatures on it, the minimum requirement under the NRMA’s constitution. There were 100 signatures out of the two million members of the NRMA statewide, causing $4 million to be spent on calling an extra meeting.

The true intentions of those who called the meeting and the extent to which the NRMA has become politicised became clear when busloads of members began arriving at the convention centre about a quarter of an hour before the meeting was due to start. From all reports, the behaviour of many in this crowd was appalling. I hear that when new President Ross Turnbull asked for a moment’s silence to remember those lost in Bali, there were many in the audience who simply ignored this request.
I welcome the appointment of Mr Ross Turnbull to the presidency of this troubled organisation. He has a tough job ahead and I wish him well. He has already demonstrated his ability to take tough decisions in other areas in public life and likewise at the NRMA by closing down that meeting in the face of heavy protests due to the fact that not all of the people who turned up could actually fit into the venue.

In the weeks following the meeting that was called to consider two motions to remove separate factions of directors, Mr Turnbull has requested that all board members resign their positions and submit themselves to the members for re-election. This request has not been met. However, the issue will come to a head at a forthcoming AGM when there will be a board spill. On behalf of those members who are not getting out of the NRMA what they deserve, I would say to all directors that it is desirable that there be a major renewal of the board at this meeting. We hope to see a sea change in the organisation. We look forward to seeing a board of directors that is responsive, accountable and, above all, looking after the needs of its two million members, not their own power base. I support the member for Werriwa in his call for reform. I would also say to the current members of the board, ‘Get out of the way’ to make way for those who have the genuine interests and needs of the motorists of New South Wales at heart, not their own internal faction fights.

The DEPUTY SPEAKER (Mr Jenkins)—Order! To ensure that the Main Committee does not believe that the question before the chair is that the NRMA should be reformed, the question actually before the chair is that the Main Committee do now adjourn.

Bowman Electorate: Older Persons Legal Service

Mr SCIACCA (Bowman) (1.07 p.m.)—Ensuring that members of our community have easy and inexpensive access to essential services is one of our most important duties as politicians. It is a task that is becoming increasingly difficult under this government that has presided over the closure of so many Medicare offices and allowed bulk billing services to virtually disappear in communities like those that make up the Bayside and Redland suburbs in my electorate.

I was recently approached by Mr Scott McDougall, the director of the Caxton Street Legal Service in Brisbane, who let me know about the impending closure of yet another vital service in my electorate, a closure which would not have to go ahead if the Attorney-General would commit to a small financial contribution from the Commonwealth. The service I am talking about is the Older Persons Legal Service. It is run by legal practitioners who visit community centres like the Donald Simpson Centre in Cleveland, giving our seniors the opportunity to access free legal advice in familiar and comfortable environments. Increasingly, older people need access to reliable legal advice on matters ranging from wills to neighbourhood disputes and, sadly, serious issues like elder abuse. I understand that research indicates, and experience confirms, that our seniors are often hesitant to contact legal services to find out about their rights. By working out of the established community centres and offering a home visit service, the Older Persons Legal Service has been able to reach those who might otherwise find it too difficult or intimidating to access the legal service and advice that they need.

The program has proved very successful, but it looks like its capacity to help older people in the Redlands is going to be cut short due to a lack of funding. When I spoke to Mr McDougall I thought that his request for financial assistance was quite reasonable and, knowing the importance of this service to seniors in Cleveland and the surrounding suburbs in the Redland
Shire, I undertook to write to the Attorney-General to bring the situation to his attention and to seek his intervention to allow the service to remain on foot.

I would like to emphasise that the program costs only $70,000 a year and that is not a lot of money to a national government, but to the people who run the Older Persons Legal Service it means the difference between staying viable and sinking. Furthermore, when you consider that a funding allocation made as part of the 2002-03 Commonwealth Community Legal Service Program is now not able to be taken up by a Queensland based group and will be re-allocated, funding for this vital program would seem an obvious choice—at least I thought so, as did the Caxton Street Legal Service and the legal practitioners who have offered their time and expertise as part of the program. Judging by the report that went to air on Tuesday morning of this week, the journalists and producers of the AM program on ABC Radio thought so as well. But apparently the Attorney-General did not, or at least I assume that is his position because he did not have the courtesy—as he never does—to reply personally to a member of parliament’s correspondence. Certainly, he does not respond to correspondence from those of us on this side of the House. Instead, I received a letter signed not by his chief of staff but by his departmental liaison officer, essentially telling me, the Caxton Street Legal Service, the program’s lawyers and its many clients in the Redlands not to hold our breath.

I have been a minister. I think that there is nothing more discourteous than ministers of this government writing to other members of parliament and not even bothering to sign the letter. I can accept that from, perhaps, the chief of staff, but when it gets to the point where the department liaison officer is writing to you, it is obvious that ministers are arrogant and really do not care. Although most ministers do write to you and do sign their letters, the office of the Attorney-General is notorious. I do not think that I have ever seen Williams’ signature on any letter. I do not know whether he writes to his own members; it would be interesting to find out. I want him to know that it is a discourtesy. A lot of my colleagues and I, as a former minister—someone who is more senior to him in terms of time in parliament—do not like it. It is about time he started to get off his backside and started to do a bit of work. I like the bloke—I think he’s all right and he’s a nice fellow personally; I have nothing against him—but whoever is advising him should advise him that arrogance and discourtesy are not things that we members of parliament like.

Members will be aware that legal aid services can scarcely afford airline tickets to Canberra. The Attorney-General’s office made an appointment to see McDougall. They turned up down here—they had to do it at their own expense—and not only could he not see the Attorney-General but even his staff said that they had no time to see him. He had to go back to Brisbane. He spent the money for nothing. He was unable to see the Attorney-General, after they had made an appointment. I say to the Attorney-General: for all your good personal points—you are calm, meek and mild—get your office into gear. It is disgraceful the way they are acting now.

The Attorney-General can get back a little kudos, show a little good humour, accept criticism, do the right thing and give my people a little money. There is money there. It is a service that is dedicated to our seniors and it is a program that has been proven to help to break down the barriers that older people encounter when attempting to access legal advice. I call upon the Attorney-General again to honour the request to ensure that my constituents and the seniors who have benefited from this program across the greater Brisbane area, in Chermside, Deception Bay and Ipswich, have continued access to free legal services. (Time expired)
Mr HUNT (Flinders) (1.12 p.m.)—I rise to talk about the future protection of the land at Point Nepean in Victoria. I wish to set down four key principles for protecting this extraordinary piece of land: firstly, that there should be no housing; secondly, that we should seek some form of public ownership; thirdly, that we should seek to protect the bushland; and, fourthly, that there is sustainable and acceptable use of that land under a viable arrangement. I do this in the context of a promise which was made by the state government, which has severe difficulties within it. Last week the Victorian state government said that it would make that land a national park. On the face of it, that would seem a positive move. Yet if you look at the context, you will find that this proposal was a sham, a fraud, a fix, a farce and simply untrue, unbelievable and unsustainable. The reason is that the Commonwealth previously offered 260 hectares of land at Point Nepean to the Victoria government. It did that as an offer of land for free. It did not seek a dollar, a razoo or any other payment. It offered that land for free. What was the state government’s response? The state government rejected that offer out of hand. On 20 March 2001 the Victorian Premier wrote to the Commonwealth saying, ‘The Victorian government is unable to accept the transfer of Point Nepean on the terms currently offered.’ What were those terms? Those terms were that the Commonwealth government would give it this piece of land for free. That is an extraordinary situation.

Mr Adams—Tell the truth. That cannot be the truth.

Mr HUNT—That is the truth. Not just that, but the Victorian government ignored the fact that the Commonwealth had put in $4 million for restoration of the heritage buildings under the Federation Fund. On 11 September 2002, with the election approaching, the Victorian government revised its position on Point Nepean and said, ‘We will accept that land if you give us between $25 million and $35 million to manage it on an ongoing basis,’ reversing all principles of land transfer within Australia over the last 150 years. It was an extraordinary position and one which was unsustainable.

Given that they wish to make a so-called ‘national park’ out of the area, they were offered the land for free and rejected it. What more could they want? They want to make a windfall profit. They are holding the people of the southern peninsula to ransom whilst they seek to make windfall profit from the land. In particular, the Victorian government subsequently leaked the Prime Minister’s response, saying, ‘We’re very sorry, but we’re not going to give you that,’ without providing the detail that they had rejected the offer for free land, and followed it up with a request for $35 million. What was the basis of their request? They claimed that there would be unexploded ordnance which would need an extraordinary amount of expenditure to clean it up, yet the report released last week into the unexploded ordnance shows that the cost of remediation is almost negligible. What an extraordinary position!

This fits in with the fact that four days before the election the state government, with bipartisan report, passed green wedge legislation through the lower house which it said would protect the land at Point Nepean. It passed that legislation knowing that it was going to call an election the following week before the legislation could ever make it to the upper house and, therefore, having passage through both houses, given that there was a guarantee of bipartisan support. It claimed that it had legislated to protect that land, yet we all know that legislation requires two houses. It would have taken them two days of sitting at most to complete that, yet they prorogued parliament and in the process dissolved the legislation and made a mock-
ery of their claim that they had protected the land under legislation. No such legislation exists and no such protections exist over the land. I call on the Victorian government to accept its responsibilities now. *(Time expired)*

**Industry: Research and Development**

Mr ADAMS (Lyons) *(1.17 p.m.)*—I would like to commend the government display that has been in the Mural Hall this week, with the opportunities for hands-on information, web sites and new ways of doing things. I am especially interested in the hospital without walls. I am sure that those things will be very significant. My colleague the member for Franklin is nodding his head. I know that he will be as interested in talking to the state minister for health in Tasmania as I am.

Today, I would like to highlight the problems that we will face if we do nothing to improve investment in research and development in Australia. Since 1996, Australia has dropped the ball significantly on everything to do with development of research in Australia. The government has ignored the needs for government assistance to ensure that research continues to grow in all aspects of activity, whether it be in the private sector, our universities, the CSIRO or the CRCs, which do not have a lot of support from the government, and to encourage individuals to develop personal ideas. R&D is very important. Funding for universities is being reduced, students are having to pay more and more and, therefore, they are dropping out. Many of those students may well be the idea stars of tomorrow, yet while struggling to pay the rent their ideas go on hold or are lost. Without funds, tax incentives, development programs or other methods of encouraging both the private sector and the community to look at research, we might as well sell this country to some overseas interests and all move to New Zealand.

As we all know, there have been massive changes to the manufacturing industry over the last 50 years, which has improved our productivity in every sort of way. That is now reaching its zenith in Australia, which means that the work force has been honed down. Production is relevant to the amount of investment into the research, and that has meant that Australians have been working smarter to produce a greater amount of manufactured output. I cannot say the same for farming. The farming industry is carrying a very heavy load. Twenty per cent of farmers are carrying the load of producing 80 per cent of the primary produce produced in the process. Land is being degraded and water use is being raised as the major restraint to farmers being able to develop further.

Listening to the Wentworth Group last night, it made me think that the revolution that happened in manufacturing processes has also got to happen in our farming processes. Farming has got smarter, but not across the board. The Australian farm survey report of 2002 says that small family farms dominate the broadacre and dairy sector of Australian agriculture, although they account for only a modest share of gross value of production. Around 65 per cent of farms are small farms and they account for 25 per cent of gross value of production. This is not only expensive on land use, but also it is expensive production when you look at the land degradation that is likely to occur because of the difficulties of producing on marginal and semi-marginal land, particularly in times like the present drought.

While I want to help farmers stay farming and producing on the land, unless we can do something about their return and help them to operate smarter, anything we might try to do to help prevent further land degradation and to preserve our watercourses is going to be useless.
Research is the key, and funding of research and trials has to be available. All levels of government should be involved, but it has to start in the federal sphere, in the universities and colleges and even in the schools. It is not enough to leave it to the private sector to come up with the necessary ideas.

The Wentworth Group has argued that, while farmers have rights, they also have a duty of care to protect the environment, as all Australians do. They also argue that the current generation of farmers are not responsible for all the damage that has been done to our landscape over the past 200 years and that, if Australia wants its damage repaired, all Australians should be prepared to provide the financial assistance to help achieve this outcome. That is very true, but to do so we need to do things smarter and we need to do things with research. We need to be funding that research and we need to be using that research to improve what we are doing. For that we need real leadership from farmers’ organisations themselves, and especially from parliaments and from governments. This government is certainly failing us here in Canberra. It has failed to give any leadership in this area and it should be condemned for that. (Time expired)

Health: Parkinson’s Disease

Mrs GASH (Gilmore) (1.22 p.m.)—A few months ago I was fortunate enough to be given the opportunity to speak at the launch of Parkinson’s Disease Awareness Week in the Southern Highlands. I say ‘fortunate’ because the occasion provided me with an insight to the state of mind of the victims of the disease, of which I had little knowledge. About 40 people attended the function at Bowral, which was also used to present a book by Michael J. Fox called Lucky Man to the local library, detailing the author’s own experience with Parkinson’s disease from the age of 30. Since having read this book, I do not mind admitting that it made me feel very humble in regard to what people will go through to live a normal life in society—a society that really does not understand. It is a book that I recommend you read. If you do, I guarantee your outlook on life will become completely different.

Parkinson’s disease affects about 80,000 people in Australia, a figure which has doubled over the last two years, with the worrying development that at least 10 per cent of them were aged under 50 years. Whilst it was termed ‘shaking disease’ by an English physician in 1817, it was not until the 1960s that research revealed that pathological and biochemical agents in the brain were involved. We know now that it is a debilitating disease, the extent of which convinced me to support the proposal of Teresa Gambaro, member for Petrie, for funding towards a study to measure the disease’s prevalence.

After speaking at the launch, I was determined to pay homage to the people I saw at Bowral and, in particular, to their courage in the face of this level of adversity. I would like to pay homage to Faye McCarthy, Mrs Shipton, Mrs Lees, John and many others whose names I cannot remember, and also, particularly, their local doctor, and Michael J. Fox and his books. Al Forester, my neighbour for many years and a Parkinson’s sufferer, is another and, of course, Colin Graham, who impressed me greatly, as I do see him as a brilliant mind trapped in a wasted body. In the space of about half an hour, I learnt of the joy of people and their ability to rise above their affliction and to look at things in a positive light. Their ability to make jokes about their condition, to master tasks that we take for granted and to continue to involve themselves in everyday tasks instead of withdrawing into a world of self-pity is an attitude that has to be admired.
Learning more about Parkinson’s disease gave me a greater understanding of what these people are going through and what they really need and want. They do not want pity, nor do they want charity. What they want is to be accepted into your world, a world where they are treated on equal terms. After this event, I made the undertaking that I would bring Parkinson’s disease to the notice of parliament to raise awareness of the disease, and to encourage programs of support for the sufferers. This is why I urge all members of the House to get to know their local Parkinson’s disease support groups and to lend their support to the initiatives to confront this disease head-on.

As I said earlier, the incidence of this disease is growing every year, and 100 per cent growth in the space of just a year should be viewed with some concern. While we are searching for a cause, let alone a cure, we need to support with compassion and understanding those individuals who are presently afflicted. I am also thankful that I took the position of supporting stem cell research, for it promises hope to sufferers and their loved ones. This disease does not only affect the sufferer but can also have a devastating effect on the partner or the carer.

There are a lot of anxieties as to what life will bring and whether you can cope. In younger people there are additional issues such as giving up work and financial security and the sudden change in lifestyle from independence to reliance. These are issues we do not have to confront in our everyday lives and until we do we cannot fully appreciate their impact. You have to ask yourself the question: what would you do if one day you were diagnosed with the disease? What would you feel and how would you cope? These are valid points, and there are 80,000 people in Australia alone who are dealing directly with the issue.

That is why I have so much regard for those people I saw in the Southern Highlands. On the day, the ladies of the group who had Parkinson’s disease made pikelets, scones and sandwiches. That is a simple enough exercise but an absolute trial when you are afflicted by a tremor. But to them it was an achievement and they were proud to have been given the opportunity to help prepare for the function. To us, an act like this is only a small thing, but it shows how much difference small acts make.

It is always difficult to describe one’s feelings when put into these situations but I was strongly moved by what I saw. The best of humanity is always on display, and from their attitude we should take heart and be inspired. We never know when we might need to draw on that inspiration ourselves. Again, I urge all my colleagues to acquaint themselves with the Parkinson’s disease groups and to assist by showing them that we do care and we do understand.

Social Welfare: Australia-Germany Pension Agreement

Mr QUICK (Franklin) (1.27 p.m.)—Today I want to raise an issue that impacts on a select few people in our electorates—a group of people who are now nearing the end of their lives, who have experienced the terrors of World War II. These are people who are fighting for the recognition by the German government that they are entitled to a pension from that country.

Members would be well aware that the German authorities during the term of the Third Reich kept meticulous records. One would therefore assume that most people would be able to prove the fact that they indeed fulfilled the requirements necessary to qualify for a German pension. However, it is not hard to visualise what must have happened in many cities in Ger-
many in the latter years of the war as the countless bombing raids destroyed most of the large cities and then the invading Russian forces wreaked relentless destruction.

The German government has endeavoured to ensure that those who do qualify for a pension are entitiled to receive it. After the war, as the country was being divided into West and East Germany, many Germans, and people whose countries bordered Germany and who were coerced into working in Germany for the duration of the war, fled to countries throughout the world. Recently the Australian and German governments have agreed to protocols for the establishment of an Australian-German pension agreement. People now living in Australia are realising that they might have qualified for a German pension but are unsure of what is required to establish their bona fides and whether they possess the necessary documentation to substantiate their claim for a pension.

The reason I raise this issue is my concern that a Western Australian firm is perhaps taking advantage of this situation. Migrant Service Publication, overseas pension compensation consultants of Albany, have obviously been trawling phonebooks throughout Australia looking for names of people which have some Germanic connotation. They then send a letter out to these people offering to check out whether they meet the qualifications to establish their bona fides with the German government. I would like to quote from a letter sent to one of my constituents:

If you would like us to process and finalise your application under the mentioned conditions, please send us the enclosed proxy and terms of appointment signed where marked.

Because we already have organised proceedings according to the requirement of the pension agreement and are processing all claims directly with the German pension authority, we are not only saving time but also considerable costs, so that we are able to keep the cost to a minimum as shown in the terms of appointment.

Then in bold it says:
As always, when we are not successful, you do not pay anything.

My constituent signed the proxy agreement, which says:

I hereby appoint Migrant Service Publication to implement the necessary steps and proceedings concerning the German Pension. When the claim is successfully finalised I will pay Migrant Service Publication the amount of $589 plus GST.

If the claim is not accepted by the German pension authority, Migrant Service Publication will pay all the costs and I will not have to pay anything.

So my constituent signed. She then received a letter from the State Insurance Office Hesse, Appeals Section, which stated that, in the appeal case of my constituent, the Appeals Committee of the State Insurance Office Hesse, sitting in Kassel on 11 March 1999, had decided that the appeal was rejected. Costs would not be reimbursed. My constituent decided, ‘OK, I have gained nothing,’ so she wrote to Migrant Service Publication:

Given that my original application through your organization was rejected I would like to advise that I no longer wish to proceed with my claim.

Please do not take any further action on my behalf.

As I have not responded to your correspondence or given you authority to act on my behalf for a number of years, please withdraw all previous proxies and accept this letter as termination of your services.

To her surprise, she received a letter:
We are in receipt of your letter dated 01.10.2002. Based on the proxy that you gave us in 1997, asking us to achieve a German pension for you, we have searched 17 overseas archives. Just recently we found the required papers including a statement from the International Tracing Service establishing the fact of your forced labour.

With the papers we have found we should be able to achieve a positive result.

The costs we had since 1997 total $1970.00. If you want us to retract the legal action we took on your behalf, because the pension authority did not want to award you a pension, we will have no other choice and to charge these costs you ...

This is despite all the other previous things. I urge all members in this place to raise this issue in their electorates, as I am sure that my constituent is not alone in this issue. It really worries me that these people, who are well into their 80s, are being taken advantage of by a firm in Western Australia that has some dubious background.

Ryan Electorate: Community Service Awards

Mr JOHNSON (Ryan) (1.32 p.m.)—One the great privileges of being in the federal parliament is that it provides the opportunity to meet a host of people with different backgrounds and different interests, including people in the business community, men and women of the professions, and veterans in our community. One group of people which it is always a special delight to meet is young people. I would like to take the opportunity in the parliament today to speak of awards that I will be presenting in my electorate this Friday. I initiated Ryan Recognition Awards for young people as well as for those in the community who make a special contribution to the electorate and who perform great services beyond the call of duty as part of our civil society and, as very patriotic Australians, as part of their contribution to our country.

I would like to mention some of the people who will be recipients of these awards. I will be presenting trophies, medallions and certificates back at my electorate office tomorrow. Doing so will be a great privilege for me. I want to mention the names of those who will be receiving the Ryan Recognition Awards. These men and women will be receiving trophies. I want to salute their contribution to our community and, if time permits, to point out some of the things that these wonderful Australians do to enhance the quality of life in the community of Ryan.

Mr David Wells is one. He is a school cleaner at the Darra State School. Besides doing a fantastic job at the school, he also shows great pride and respect for his community of Darra by giving his own time after hours to keep the streets and the shopping strip in Darra very hygienic and presentable. I salute David Wells for his tremendous contribution.

Henry Bodman is another Ryan resident, and he is heavily involved in Rotary and Meals on Wheels. He is also a trustee of the Smith Family in Queensland, and I certainly salute his contribution to the Ryan community and to the wonderful charities and causes to which he gives his time to make a difference in them. Mrs Mary Mahony, Mrs Eileen Hall, Mrs Betty Mapperson, Ms Barbara Robins, Mr Jack Duff, Mr David Preston, Mr Richard Johns, Mr Geoff Morrison, Ms Patricia Minaar, Ms Beverly Preston, Mr Ross Wieckhorst and Ms Bronwen David will all be receiving Ryan Recognition Awards tomorrow. I will be presenting them with great pride.
Those who will be receiving the Youth Recognition Awards are fantastic young people in the community of Ryan. They are a wonderful example to the young people of Australia to show them what can be done by young people. I want to pay tribute to them by mentioning their names here in the parliament today: Mr Campbell Barbour, Ms Amanda Layther, Miss Emily Bernoth, Miss Gemma Stenner, Miss Roisin Rafferty, Miss Lisa Davis, Miss Kristy Pappalardo, Miss Sarah Hack, Miss Ashleigh Patch, Miss Justine Foxley, Miss Lauren Trenkner, Miss Alicia McDonald, Mr Jack Fuller and Miss Clare Boerma. I am sure that every member of the parliament, if they were to have the pleasure of meeting these young people, would be delighted to do so. I am sure that all my colleagues in the parliament have young people in their electorates whose contributions to our community they are also acknowledging. These future Australians will make a difference, I think, in our country in every sector. I am sure that all members of this parliament have pleasure in doing the same thing for young people.

I want also to mention the Ryan Youth Encouragement Award that I will be presenting tomorrow in my electorate office. This will go to very young people who are making a difference already. Their names are Mr Brett Mitchell and Ashlee Rose Jennings. I want to mention their names in particular because these two very young Australians are indeed people that I think many in this parliament can learn a lot from. Ashlee Rose has shown a maturity and responsibility beyond her years in helping her family through some difficult times. She is only nine years old, but when her mother was ill she took on enormous responsibility looking after her mother and babysitting her little sister. I am sure that her parents and her family are indeed very proud of her.

Another nine-year-old, young Brett Mitchell, already takes an active role in his local community. A young, keen historian, Brett at age nine takes a local interest in historical landmarks and has written letters and contacted the media to alert them to the great things that can be done in the local community by preserving special landmarks such as Simpson's house in particular in the community of Ryan. (Time expired)

Hasluck Electorate: Community Service Awards

Ms JACKSON (Hasluck) (1.37 p.m.)—The inaugural Hasluck Community Service Recognition Awards recently saw dozens of volunteers in community organisations honoured for their invaluable service to the community. Though the nominees in each category are too numerous to name, I would like to make particular note of the achievements of the individual Community Service Award finalists. Firstly, there is Abdullah Magor. He is a tireless worker in our local and state Muslim community. He has worked towards building relationships and fostering understanding between the many cultural and religious diversities in the community and his work is of enormous benefit especially at this time.

Gerald Simms has been actively involved in the local seniors community for many years, having served on a number of seniors boards and committees including the Addie Mills Senior Citizens, Kalamunda Senior Citizens, the Jack Healey Centre Management Committee, the Kalamunda Branch of Retirees and the Villa Maria Residents Association. Gerald’s tireless service to the local seniors community really does speak for itself.

Dawn Williams for several years now has dedicated much of her time to training and organising the Gosnells Ambulance Cadets. Dawn’s outstanding service to the community not
only provides valuable training in first aid but also serves to build self-esteem in many young people in the local community.

David Young is a retired member of our community who assists as a literacy tutor at the Salvation Army Harry Hunter Rehabilitation Centre in Gosnells. David also tutors people coping with drug and alcohol dependency problems. He works hard to ensure that his students achieve confidence in themselves, and works tirelessly to help all his fellow community members who are in need.

As well as being an active member of many seniors organisations, Pamela Daniels founded the Dawson Park Primary School Breakfast Club approximately one year ago. The club serves breakfast at the school to children who arrive in the morning without having eaten. She is also involved in the program where local seniors visit Maida Vale Primary School to interact with the students and help build bonds in the community between all age groups. Pam is wonderful!

Joseph Leahy, at almost nine years of age, was the youngest nominee this year. Recently the Wirrabirra Childcare Centre in Thornlie was broken into, some equipment was stolen and some property damaged. Joseph read about the break-in in the local paper and decided that he wanted to help out his old child-care centre. So Joseph, along with a little bit of help from his dad, raised over $500 from people and businesses in the local community to donate to Wirrabirra Childcare Centre to help replace items stolen in the break-in. I highly commend young Joseph for his desire to help others and I encourage him to keep it up.

Carla Parry is an extremely active member of the Gosnells Community. She has been a member of the Gosnells Youth Advisory Council for the past three years and has been the driving force behind local projects such as the establishment of the Kenwick Youth Centre and several Youth Week concerts. She is a human dynamo. Carla is now using the skills and knowledge that she acquired to mentor other young people in the development of their community consultation skills.

Unfortunately, there can only be two award winners in this category. One is the youth award, which went to Carly Maimby. Carly established a youth group through her church in Midland. She actively assists local youth with drug problems through counselling and helping to provide food, clothing and accommodation. Carly also assists on a weekly basis at a metropolitan food bank by helping deliver food to those in need in the Midland area. Her compassionate, generous nature and desire to help those in need is an example to us all.

The overall winner, Jennifer Morrison, has been actively involved with the East Kenwick Primary School for nearly 19 years. She volunteers her time and services in a countless number of ways, from many hours in the school canteen to working as a volunteer in the school library. She spends time listening to children read, assisting on school excursions and serving on the school P&C. Jenny has assisted the school in ways too numerous to list. Staff attest to the immeasurable contribution she has made. Her outstanding commitment and dedication to the school and the local community are truly inspirational.

This group of people are an outstanding example of the strong sense of community spirit that exists in my electorate of Hasluck. There is no doubt that volunteer workers are a special group of people who are often the last to seek thanks or recognition. They have a strong sense of dedication and commitment to the common good. These new annual awards that I have established are a way of recognising their tireless work and I hope, in a small way, they dem-
onstrate the community’s gratitude for their invaluable service that benefits us all. It was certainly very humbling to read the testimonials about each and every one of the award nominees who were entered. I would like to conclude my adjournment speech today by thanking all community volunteers for their efforts. Keep it up!

HIH Insurance

Mr ROSS CAMERON (Parramatta—Parliamentary Secretary to the Minister for Family and Community Services) (1.42 p.m.)—I rise to make some remarks about the apparent decision of the liquidator of HIH to sue the Commonwealth. I do so notwithstanding the sub judice convention, on the understanding that standing orders permit this contribution at this nascent stage of proceedings in a civil action. I also do this with confidence that any judge who hears the matter will be sufficiently robust to withstand the private opinion of one member in this place.

I note that the American psychologist M. Scott Peck suggested that all forms of mental illness involve an unwillingness or an inability to take responsibility, an incapacity for self reflection and a desire to find someone else to blame. The great civilisational scholar Professor Arnold Toynbee, in his examination of 21 civilisations throughout history, found that 19 of them collapsed not from the ravages of external assault but from an internal cultural malaise. I want to put it to the chamber that one of the forms of mental illness—or cultural malaise—which our culture faces today is the increasingly litigious, rights-based culture that sees the answer to every human problem in finding someone to sue.

At a time when it is increasingly difficult to get doctors to fill practices in regional and rural Australia, the flood of litigation by disgruntled former patients is seeing a virtual evacuation of the specialisations of obstetrics and radiology. Even general practice is being exposed to greater litigious risk. The net result of that for the community is to make good health care less accessible.

The victim culture has fostered a reflex of looking for someone to blame for all of life’s misadventures and vicissitudes, and the two most popular targets have been insurance companies and the agencies of government. But, in the end, these large organisations do not have an unlimited capacity to absorb the costs of a rights-based culture. In the end, they are nothing more and nothing less than the collective representation of their individual elements: corporations representing their management, staff, shareholders and the goodwill of their customers, and governments comprising elected representatives, employees and the constituents they serve. What goes around comes around. The chickens eventually come home to roost. There is a desire among some for profit without risk.

It is not the purpose of prudential regulation to ensure that no company fails. The Soviet Union operated an economy in which no company failed. Regardless of the quality of the management, the quality of the product and the competitive advantage of the sector, every corporation was state owned and none was allowed to fail. In the end, the Soviet Union collapsed because its economy failed. In the same way, the Japanese economy is one of the worst performers in East Asia after North Korea, in part because of its ethic that large banks and trading houses are, as a matter of national pride, not allowed to fail. As a consequence, nine out of the 10 largest banks trading in Japan today are insolvent.

Part of the genius of Western civilisation was the realisation that individuals are usually better placed to make decisions about their lives than central authorities. Individuals are the
best placed to manage their own risks. They are not perfect and they make mistakes, but they are better than distant bureaucracies and central authorities. As a result, we have deliberately set out in the democratic project to limit the scope of private interventions by the state, thereby preserving a large domain of individual freedom. The quid pro quo for that freedom is that individuals take responsibility for the consequences of their decisions. They keep the profit of good commercial decisions and they bear the loss of bad and unlucky decisions. There is luck in life. The expressions ‘caveat emptor’, ‘the vicissitudes of life’ and Shakespeare’s ‘slings and arrows’ all communicate to us in this culture that we are not entirely the masters of our own destiny and that life involves difficulty.

For HIH’s liquidator, Tony McGrath, to now sue the regulator for the failure of a company whose excesses, management failures, lack of discipline and commercial failings are so apparent to the whole world following the royal commission is, to me, a demoralising new development in this cultural malaise. In spite of the fact that the rating agency, Moodys, gave HIH a BBB rating until the day it collapsed, the fact that HIH was trading on the stock market as having a capital value and the fact that HIH’s directors, who bore personal responsibility for debts incurred while trading insolvent, believed that it was solvent, it is claimed that the government is to blame for the failure of this enterprise. This is a malaise that we must turn around. It is a mental illness that will kill our culture. This is Australian victim culture at its worst. Do not imagine that this kind of action can take place in a vacuum. The detrimental effects cannot be sealed off from the community as a whole. (Time expired)

Main Committee adjourned at 1.48 p.m.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Centrelink: Penalties
(Question No. 777)

Mrs Crosio asked the Minister representing the Minister for Family and Community Services, upon notice, on 19 August 2002:

(1) Has the Minister's attention been drawn to findings of the Australian Council of Social Services that estimate that more than $200 million was collected in social security penalties in 2001-2002.
(2) How many fines were issued in 2001-2002 to Centrelink clients in the electoral division of Prospect.
(3) How many (a) Activity Test breaches and (b) Administrative breaches relating to the (i) Newstart allowance and (ii) Youth allowance were issued in 2001-2002 to Centrelink clients in the electoral division of Prospect.
(4) What is the total sum of penalties levied in 2001-2002 to Centrelink clients in the electoral division of Prospect relating to the (a) Newstart allowance and (b) Youth allowance.
(5) How many Centrelink clients in the electoral division of Prospect incurred the penalty of having payments totally withdrawn for 8 weeks.

Mr Anthony—The Minister for Family and Community Services has provided the following answer to the honourable member's question:

(1) Yes.
(2) Limitations exist in providing electoral level breach data using current management information systems. Data is only available by state, Centrelink Customer Service Centre and Centrelink Area Region. Breach data is not extracted and reported at an electoral level.
(3) Centrelink is unable to answer this question. See response to Question 2.
(4) Centrelink is unable to answer this question. See response to Question 2.
(5) Centrelink is unable to answer this question. See response to Question 2.

Family and Community Services: Staffing
(Question No. 809)

Mr Martin Ferguson asked the Minister representing the Minister for Family and Community Services, upon notice, on 20 August 2002:

(1) How many (a) full time permanent staff, (b) part time permanent staff, (c) full time contract staff and (d) part time contract staff were employed by (i) the Minister's Department and (ii) agencies within the Minister's portfolio as at (A) 30 March 1996 and (B) 30 June 2002.
(2) For each category of engagement referred to in part (1) and employed by (a) the Minister's Department and (b) agencies within the Minister's portfolio, where were such persons located in (i) 30 March 1996 and (ii) 30 June 2002.

Mr Anthony—The Minister for Family and Community Services has provided the following answer to the honourable member's question:

(1) (a) to (d)(i)(B) and (2)(a)(ii) - Staff employed in the Department of Family and Community Services as at 30 June 2002.

<table>
<thead>
<tr>
<th>Employment Group</th>
<th>ACT</th>
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(1) (a) to (d)(ii)(B) and (2)(b)(ii) – Staff employed by agencies within the Family and Community Services portfolio as at 30 June 2002

<table>
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<tr>
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(1) (a) The information sought by the honourable member in relation to part (1)(A) and part (2)(i) of his question is not readily available and I am not prepared to authorise the use of the resources that would be required to provide that information. I am able to inform the honourable member, however, that data on APS staffing as at 30 June 1996 is contained in the Australian Public Service Statistical Bulletin 1995-1996 which is publicly available. The honourable member should be aware, however, that changes in APS functions and administrative arrangements between 1996 and 2002 may render direct comparisons between the data for those years invalid.

(2) (i) See (1) (A) above.

Family and Community Services: Staffing

(Question No. 819)

Mr Martin Ferguson asked the Minister for Children and Youth Services, upon notice, on 20 August 2002:

(1) How many (a) full time permanent staff, (b) part time permanent staff, (c) full time contract staff and (d) part time contract staff were employed by (i) the Minister’s Department and (ii) agencies within the Minister’s portfolio as at (A) 30 March 1996 and (B) 30 June 2002.

(2) For each category of engagement referred to in part (1) and employed by (a) the Minister’s Department and (b) agencies within the Minister’s portfolio, where were such persons located in (i) 30 March 1996 and (ii) 30 June 2002.

Mr Anthony—The answer to the honourable member’s question is as follows:

(1) (a) to (d)(i)(B) and (2)(a)(ii) - Staff employed in the Department of Family and Community Services as at 30 June 2002.

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(2) (i) See (1) (A) above.

Calwell Electorate: Funding
(Question No. 866)

Ms Vamvakinou asked the Minister representing the Minister for Family and Community Services, upon notice, on 27 August 2002:

(1) Which organisations applied for funding under the International Year of the Volunteers Small Equipment Grants scheme in 2001 in the electoral division of Calwell.

(2) What is the current breakdown of benefits provided through Centrelink to residents in the electoral division of Calwell and how does this compare with (a) 2001, (b) 2000, (c) 1999, (d) 1998, (e) 1997 and (f) 1996.

Mr Anthony—The Minister for Family and Community Services has provided the following answer to the honourable member’s question:

(1) The records of all the applicant organisations by electorate are not comprehensive. Information in respect of the matters referred to in the honourable member’s question is not readily available. It would be a major task to collect and assemble it and I am not prepared to authorise the expenditure of money and effort involved in providing such information.

(2) The spreadsheet below shows the number of recipients for each payment type in the sixteen different postcode districts in the electorate of Calwell as at 16 June 2002 (a) 1 June 2001 (b) 9 June 2000 and (c) 4 June 1999. Please note that in order to protect the privacy of customers, exact figures have not been provided in districts where there are less than twenty recipients.
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**Populations 2000 Qtr 2 (9-6-2000)**

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(d) to (f) Information relating to 1998, 1997 and 1996 is not readily available and would not be reliable due to the number of changes made to social security payments over that period.
Centrelink: Public Toilet Facilities
(Question No. 947)

Ms Jann McFarlane asked the Minister representing the Minister for Family and Community Services, upon notice, on 24 September 2002:

(1) Which Centrelink customer service centres in WA have public toilet facilities currently available for use by customers of the agency.

(2) Which Centrelink customer service centres in WA have locked the public toilet facilities in their buildings, denying their use to customers.

(3) Are there public toilets in the Innaloo Centrelink customer service centre; if not why not.

(4) When outfitting the Innaloo Centrelink customer service centre, were public toilets included in the plans for the centre.

(5) Does Centrelink have a formal policy about the provision of public toilet facilities at its customer service centres; if so, is this policy publicly available.

Mr Anthony—The Minister for Family and Community Services has provided the following answer to the honourable member’s question:

(1) The Centrelink Customer Service Centres in WA that have public toilet facilities available for use by Centrelink customers are Albany, Geraldton, Gosnells, Kalgoorlie, Karratha, Morley, Spearwood, Fremantle, Mirrabooka, South Hedland and Warwick Grove.

(2) The Centrelink Customer Service Centres in WA that have locked public toilet facilities are Mirrabooka, Fremantle and South Hedland. Customers can access the facilities upon request to Centrelink staff. These Customer Service Centres have been forced to have restricted access to their public toilets due to constant vandalism and damage to facilities.

(3) The Innaloo Customer Service Centre does not supply separate male and female public toilets. It does have an unlocked facility that includes baby changing and bathing equipment, a chair for nursing mothers, washing facilities, sanitary unit and a toilet accessible to customers with a disability. While signposted on the door, the sign makes no reference to a toilet being available in the room. In designing the Customer Service Centre, a decision was taken not to include separate male and female public toilets because of the availability of such facilities in the adjoining shopping centre within 100 metres of the Centrelink Customer Service Centre.

(4) Separate male and female facilities were not included in the design. A “Parents’ Room”, which incorporated a toilet, was provided.

(5) The Centrelink Policy on Providing Public Toilets is:

B.1.2 Policy on Providing Public Toilets

Centrelink policy—Centrelink has a policy of providing public toilets for its customers at Customer Service Centres, including toilet specifications for people with disabilities.

Public toilets in existing leased premises—Problems in applying this policy may occur in existing leased premises if costs, shortage of space and lessor agreement precludes provision of toilet facilities. Providing public toilets is given higher priority to those offices without public toilets nearby.

Public toilets in newly leased premises— Provision of public toilets is an integral component of Centrelink’s accommodation requirements when new leases are being negotiated and will be incorporated into the building design. Public toilets will be provided BEFORE Centrelink’s occupation in newly leased premises.

Policy if public toilets are not provided—In existing offices where public toilets are not provided, a sign in the Public Contact Area must be displayed giving the location of the closest public toilets. This sign must also state that any customer with an urgent medical or personal need to use a toilet should seek advice from a member of staff.

Defence: Contracts
(Question No. 970)

Mr Gibbons asked the Minister representing the Minister for Defence, upon notice, on 14 October 2002:
(1) Is the Minister aware that the former preferred tenderer, Australian Defence Industries (ADI) has been effectively excluded from participating in the next stage of the Replacement Patrol Boat Main Gun contract by the decision to nominate the Israeli defence manufacturer, Rafael, as the preferred tenderer.

(2) Given the current international situation, what were the grounds for nominating a Middle Eastern defence manufacturer for this important contract.

(3) Did former Defence Minister Reith meet with the Israeli Ambassador and representatives of Rafael between 1 August and 10 November 2001, when ADI were the preferred tenderers.

(4) Is the Minister also aware that ADI’s MSI-DS25M gun mounts are able to be produced at a similar if not lower price, within the contract guidelines and offer superior performance for Australian conditions.

(5) Will the Minister provide an assurance that ADI will be able to participate in all remaining aspects of this tender process.

Mrs Vale—The Minister for Defence has provided the following answer to the honourable member’s question:

(1) The Minister is aware that Rafael has been announced as the preferred supplier of the Replacement Patrol Boat main weapon system.

(2) Rafael were selected as the preferred supplier of the Replacement Patrol Boat weapon system because their offer provides better value for money to the Commonwealth. Rafael has offered to undertake the production of this weapon system, with the exception of the first unit, in Adelaide by General Motors Defence Australia. This company also proposes to support the system throughout its repair and maintenance facility in Palmerston, Northern Territory. These arrangements will result in significant benefits for Adelaide and the Darwin region. Overall a greater Australian industry involvement content is provided in Rafael’s proposal compared to the ADI/MSI tendered solution.

(3) Defence has no knowledge of former Defence Minister Reith’s meetings or appointments with the Israeli Ambassador or Rafael representatives during this period.

(4) Prices for the MSI-DS25M gun mounts and the through life support tendered in ADI’s proposal were less competitive than Rafael’s proposal.

(5) ADI are expected to continue to participate in the tendering process relating to the Replacement Patrol Boat, given that they are one of the successful short-listed companies competing for the build and support of these new vessels.

Fuel: Ethanol

(Question No. 984)

Mr Murphy asked the Minister for the Environment and Heritage, upon notice, on 14 October 2002:

(1) Is it the Government’s intention to promote the use of ethanol as a substitute for petroleum fuel and as a means of reducing greenhouse gas emissions; if so, can he produce figures that show all the inputs and outputs including those to the cane farmers’ properties such as (a) tractor fuel, (b) fuel consumed transporting the cane to the mills, (c) fuel consumed in the mill, (d) energy used in the fermentation plant, (e) energy consumed in the distillery producing the ethanol and (f) the fuel consumed in the distribution and sale of the ethanol so produced.

(2) Can he provide figures in relation to the level of carbon dioxide emissions associated with the use of ethanol compared with conventionally produced petroleum; if so, what are these figures; if not, why not.

(3) Can he provide figures in relation to the level of carbon dioxide emissions that would result from the reduced efficiency of engines running on 10% ethanol and for modified engines running on pure ethanol; if so, what are these figures; if not, why not.

(4) Can he say what sum it would cost to modify the average family model motor vehicle sold in Australia so that it could run on pure ethanol; if not, why not.

(5) Will the Government establish an ethanol-fuelled motor vehicle industry as exists in Brazil.
Can he provide figures for the average fuel efficiency of the Australian light motor vehicle fleet; if so, how do they compare with the OECD countries, if not, why not.

Can he say whether it would be better for Australian motor vehicle manufacturers to improve the fuel efficiency of the currently manufactured motor vehicles rather than promoting ethanol schemes; if not, why not.

Dr Kemp—The answer to the honourable member’s question is as follows:

1. The Government has a broad strategy to increase production of biofuels to 350 million litres/pa by 2010. Environment Australia is currently undertaking a $5 million study to test 20% blends of ethanol in petrol and to investigate demand-side issues that may be affecting market acceptance and take up of bio-fuels such as biodiesel and ethanol. The Australian Greenhouse Office (AGO) commissioned CSIRO and RMIT to undertake a comparison of road transport fuels (including ethanol) through a full fuel cycle analysis of greenhouse gas emissions and emissions affecting air quality. This study is available on the website at www.greenhouse.gov.au

2. Yes, results from the CSIRO/RMIT comparative study of vehicle fuels commissioned by the AGO indicate that the achievement of significant net CO2 benefits from the use of biofuels, including ethanol, is associated with the use of leading edge management practice and technologies at all stages of the life cycle.

3. Worldwide, neat ethanol engines have to be purpose built by the vehicle manufacturer and are not usually produced through a process of modification. Carbon dioxide emissions from engines are a product of the efficiency of the engine as well as the greenhouse intensity of the fuel.

4. To the best knowledge of the Government, no Australian manufacturer has considered or therefore costed such a modification.

5. The Government has no plans to establish an ethanol-fuelled motor vehicle industry as exists in Brazil.

6. The Australian national average fuel consumption for new passenger vehicles was 8.28 litres per hundred kilometres in 2001. Average fuel consumption is not directly comparable across countries due to differences in the proportions of different fuels and engine types used in each country and differences in underlying fuel consumption tests. By way of comparison, in July 1998 the European Commission and the European Automobile Manufacturers Associations agreed to a voluntary average fuel consumption target of approximately 6 litres per 100km by 2008.

7. There is no one solution to address the challenge of increasing emissions from the transport sector. Improving the fuel efficiency of new passenger vehicles and increasing the use of alternative fuels are two available options. These are not the only options and they should not be considered to be mutually exclusive.

Environment: Smelter Emissions
(Question No. 986)

Mr Kelvin Thomson asked the Minister for the Environment and Heritage, upon notice, on 14 October 2002:

1. Has his attention been drawn to new smelter emission figures released by the Australian Aluminium Council.

2. Is he able to say whether, in its 1999 public report on emissions, the Australian Aluminium Council reported emissions were about 6.2% above 1990 levels, however the latest figures released earlier in 2002 showed smelter emissions in 1999 represented a much greater increase on benchmark levels than had previously been reported.

3. Is he able to say what are the correct smelter emission figures.

4. Was he aware of the discrepancy between reported and actual smelter emissions.

5. What action has he taken to investigate the discrepancy and to ensure accurate reports in the future.

Dr Kemp—The answer to the honourable member’s question is as follows:

1. Yes. I am aware of the new smelter emission figures.

2. This is correct. I have been advised that an incorrect figure for 1990 smelter emissions was mistakenly included by the Australian Aluminium Council (AAC) in its 1999 public statement pro-
provided to the Greenhouse Challenge program. The figures were corrected as soon as the discrepancy was identified, and an amended public statement has been placed on the websites of both the Greenhouse Challenge program and the AAC.

(3) Yes. Total smelter emissions from direct and indirect sources were:

1990: 26.2 Megatonnes of CO2 equivalent emissions
1998: 28.9 Mt
1999: 29.9 Mt
2000: 31.3 Mt.

While these figures do indicate an absolute increase in direct and indirect smelter emissions as a result of a 43% increase in production over the period 1990-2000, relative emissions (emissions per unit of production) have reduced by 16% over the same period.

(4) I was advised of this discrepancy and that action had already been taken by the AAC to correct this mistake. This erroneous information was at no time included in any calculations of the impact of the Program.

(5) As soon as it became aware of this discrepancy, the Australian Greenhouse Office (AGO) consulted with the AAC to identify its cause. This investigation established that the AAC had made a mistake in reporting its 1990 smelter emissions, which were used as the basis for comparison with its 1999 emissions. As soon as the error was identified, the AGO and AAC corrected all relevant information and ensured that the revised information was included on both websites. This error was at no time included in calculations of the impact of the Program. The AGO is, nevertheless, now giving even greater attention to the checking of all public statements before they are published on its website.

Transport: Comcar Drivers

(Question No. 992)

Mr Bevis asked the Minister representing the Minister representing the Special Minister of State, upon notice, on 15 October 2002:

(1) Further to the Minister’s answers to parts (4) and (6) of question No. 895, does the Depot Supervisor have access to information that identifies which drivers are employed under the collective Australian Public Service award, or a collective agreement or under an Australian Workplace Agreement.

(2) What specifically are the operational requirements referred to in the Minister’s answer.

(3) Will the Minister table or make available the standard guidelines which determine the use of casual drivers; if not, why not.

Mr Abbott—The Special Minister of State has provided the following answer to the honourable member’s question:

(1) Yes.

(2) Operational requirements refers to the number of drivers needed over a span of hours.

(3) Specific guidelines which determine the use of non-ongoing resources are as noted in my response to Question 895. These are:

(i) Driver availability – which refers to times in a week/day/weekend when a driver declares he/she is available for work;

(ii) Fatigue management – which refers to how long a driver has previously been driving (either week/day) and takes into account other activities of the driver;

(iii) Cost effective use of resources to meet operational requirements – which refers to the cost involved in allocating, for example, a driver and vehicle for a single short job.

Other unforeseen factors may need to be taken into account in the allocation of work on any given day (e.g. changed weather conditions).

Foreign Affairs: Australian Ambassador to Indonesia

(Question No. 1002)

Mr Murphy asked the Prime Minister, upon notice, on 16 October 2002:
In view of the very great respect held on both sides of the House for the outstanding job done by Mr Ric Smith since he was appointed Australia’s Ambassador to Indonesia, will he consider asking Mr Smith to remain for a further period of time in his post in Jakarta, particularly at this critical time in our relationship with the Government of Indonesia; if not, why not.

Mr Howard—The answer to the honourable member’s question is as follows:

Like the Honourable Member, the government considers that Mr Ric Smith AO has done an outstanding job as Australia’s Ambassador to Jakarta in challenging circumstances. I fully endorse your comments on Mr Smith.

Mr Smith was to have returned to Australia the day after the Bali bombings to take up the important position of Secretary of the Department of Defence. Following the Bali tragedy, the government asked him to stay on for around two weeks to facilitate coordination with the Indonesian Government in Jakarta, and then to lead government efforts on the ground in Bali. He has accomplished these tasks and returned to Australia on 31 October to take up his new assignment.

Mr Smith has been replaced in Jakarta by Mr David Ritchie as Charge d’affaires a.i. Mr Ritchie is a Deputy Secretary in the Department of Foreign Affairs and Trade and an experienced and highly regarded officer.

Veterans’ Affairs: Payments
(Question No. 1021)

Mr McMullan asked the Minister for Veterans’ Affairs, upon notice, on 16 October 2002:


Mrs Vale—The answer to the honourable member’s question is as follows:

(a) Yes, payments were made to the Launceston Chamber of Commerce in 2000-2001 and the Tasmanian Chamber of Commerce in 1998-1999. The payments were as follows:

<table>
<thead>
<tr>
<th>Organisation</th>
<th>Sum</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Launceston Chamber of Commerce</td>
<td>$1.32</td>
<td>22/8/2000</td>
</tr>
<tr>
<td>Launceston Chamber of Commerce</td>
<td>$12.00</td>
<td>22/8/2000</td>
</tr>
<tr>
<td>Launceston Chamber of Commerce</td>
<td>$330.50</td>
<td>8/11/2000</td>
</tr>
<tr>
<td>Tasmanian Chamber of Commerce</td>
<td>$300.00</td>
<td>24/3/1999</td>
</tr>
</tbody>
</table>

(b) No.
(c) No.
(d) Yes, a payment was made to the Business Council of Australia in 1998-1999. The sum was $495 dated 25/4/1999.

Defence: Special Purpose Aircraft
(Question No. 1031)

Mr Leo McLeay asked the Minister representing the Minister for Defence, upon notice, on 21 October 2002:

(1) When the Governor-General travelled overseas recently to attend the El Alamein commemorations did he use a special purpose aircraft.

(2) If so, (a) what type did he use, (b) what date did it (i) leave and (ii) return to Australia, (c) how many passengers travelled from Australia, (d) how many passengers could have been accommodated and (e) did it make any refuelling stops en route from Canberra, if so, where.

Mrs Vale—The Minister for Defence has provided the following answer to the honourable member’s question:

(1) Yes, for the last leg of the return flight only, following a visit to Bali after the 12 October 2002 bombing.

(2) (a) Falcon 900.
(b)  (i)  22 October 2002; and
       (ii) Returned with the Governor-General’s party on 23 October 2002.

(c)  8 Australian Federal Police forensics specialists.

(d)  13.

(e)  No.