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Wednesday, 25 June 2003

The SPEAKER (Mr Neil Andrew) took the chair at 9.00 a.m., and read prayers.

LEADER OF THE HOUSE

Mr LATHAM (Werriwa) (9.01 a.m.)—I move:

That so much of the standing and sessional orders be suspended as would prevent the Member for Werriwa from moving the following motion:

That this House compels the Leader of the House to withdraw and apologise to the Member for Reid and the Parliament for falsely claiming during Question Time yesterday that:

(1) The Member for Reid asked Mr Karim Kisrwani to provide “stackers” for branches in the Parramatta electorate and that the Member for Reid would pay the membership fees of those “stackers”; and

(2) NSW Branch Membership No. 991484 does not comply with the rules of the ALP, even though the person in question, Mr Ahmed El Dirani, lives in the seat of Bennelong and has paid his ALP membership fees with his own credit card.

Further, the House notes the provisions of the Prime Minister’s Code of Ministerial Conduct that requires Ministers who have misled the House to correct the parliamentary record at the earliest opportunity.

Further, that this House accepts the Personal Explanation of the Member for Reid and notes that the Leader of the House has not provided any documents or evidence to support his offensive and erroneous allegations against the Member for Reid. The Leader of the House must now withdraw and apologise.

Anyone who takes the word of Karim Kisrwani at face value is in big trouble, but that is what the Leader of the House has done—

Mr TRUSS (Wide Bay—Minister for Agriculture, Fisheries and Forestry) (9.02 a.m.)—I move:

That the member be not further heard.

Question put.

The House divided. [9.07 a.m.]

(The Speaker—Mr Neil Andrew)

Ayes………… 74
Noes………… 61
Majority……… 13

AYES

Abbott, A.J. Anderson, J.D.
Andrews, K.J. Anthony, L.J.
Bailey, F.E. Baldwin, R.C.
Barresi, P.A. Bartlett, K.J.
Billson, B.F. Bishop, B.K.
Bishop, J.I. Brough, M.T.
Cadman, A.G. Cameron, R.A.
Causley, I.R. Charles, R.E.
Ciobo, S.M. Cobb, J.K.
Costello, P.H. Downer, A.J.G.
Draper, P. Dutton, P.C.
Elson, K.S. Entsch, W.G.
Farmer, P.F. Forrest, J.A. *
Gallus, C.A. Gambaro, T.
Gash, J. Georgiou, P.
Haase, B.W. Hardgrave, G.D.
Hartsuyker, L. Hawker, D.P.M.
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. Pearce, C.J.
Prosper, G.D. Pyne, C.
Randall, D.J. Ruddock, P.M.
Schultz, A. Scott, B.C.
Secker, P.D. Slipper, P.N.
Smith, A.D.H. Somlyay, A.M.
Southcott, A.J. Stone, S.N.
Thompson, C.P. Ticehurst, K.V.
Tolner, D.W. Truss, W.E.
Tuckey, C.W. Vale, D.S.
Wakelin, B.H. Washer, M.J.
Williams, D.R. Worth, P.M.

NOES

Adams, D.G.H. Albanese, A.N.
Beazley, K.C. Bevis, A.R.
Breereton, L.J. Burke, A.E.

CHAMBER
Byrne, A.M.
Cox, D.A.
Crossio, J.A.
Edwards, G.J.
Emerson, C.A.
Ferguson, L.D.T.
George, J.
Gillard, J.E.
Griffin, A.P.
Hatton, M.J.
Irwin, J.
Jenkins, H.A.
King, C.F.
Lawrence, C.M.
Macklin, J.L.
McFarlane, J.S.
McMullan, R.F.
Mossfield, F.W.
O’Byrne, M.A.
O’Connor, G.M.
Quick, H.V. *
Rudd, K.M.
Sciacca, C.A.
Sidebottom, P.S.
Snowdon, W.E.
Tanner, L.
Vamvakinou, M.
Zahra, C.J.

Corcoran, A.K.
Crean, S.F.
Danby, M. *
Ellis, A.L.
Evans, M.J.
Ferguson, M.J.
Gibbons, S.W.
Grierson, S.J.
Hall, J.G.
Hoare, K.J.
Jackson, S.M.
Kerr, D.J.C.
Latham, M.W.
Livermore, K.F.
McClernand, R.B.
McLeay, L.B.
Melham, D.
Murphy, J. P.
O’Connor, B.P.
Plibersek, T.
Roxon, N.L.
Sawford, R.W.
Sercombe, R.C.G.
Smith, S.F.
Swan, W.M.
Thomson, K.J.
Windsor, A.H.C.

AYES
Abbott, A.J.
Anthony, L.J.
Baldwin, R.C.
Bartlett, K.J.
Bishop, B.K.
Brough, M.T.
Cameron, R.A.
Charles, R.E.
Cobb, J.K.
Downer, A.J.G.
Dutton, P.C.
Entsch, W.G.
Forrest, J.A. *
Gambaro, T.
Georgiou, P.
Hardgrave, G.D.
Hawker, D.P.M.
Hunt, G.A.
Jull, D.F.
Kelly, J.M.
Ley, S.P.
Lloyd, J.E.
McArthur, S. *
Nairn, G. R.
Neville, P.C.
Pearce, C.J.
Pyne, C.
Ruddock, P.M.
Scott, B.C.
Slipper, P.N.
Somlyay, A.M.
Stone, S.N.
Ticehurst, K.V.
Truss, W.E.
Vale, D.S.
Wash, M.J.
Worth, P.M.

NOES
Adams, D.G.H.
Beazley, K.C.
Berron, L.J.
Byrne, A.M.
Cox, D.A.
Crossio, J.A.
Edwards, G.J.
Emerson, C.A.
Ferguson, L.D.T.
George, J.
Gillard, J.E.
Grierson, S.J.

Question agreed to.

The SPEAKER—Is the motion seconded?

Mr LAURIE FERGUSON (Reid) (9.11 a.m.)—I second the motion. This particular minister has a very close association with Dante Tan. Not only is he—

Mr ABBOTT (Warringah—Leader of the House) (9.11 a.m.)—I move:

That the member be not further heard.

Question put.

The House divided. [9.13 a.m.]

(The Speaker—Mr Neil Andrew)

Ayes…………. 73
Noes…………. 62
Majority……. 11
Hatton, M.J.  
Irwin, J.  
Jenkins, H.A.  
King, C.F.  
Lawrence, C.M.  
Macklin, J.L.  
McFarlane, J.S.  
McMullan, R.F.  
Mossfield, F.W.  
O’Byrne, M.A.  
O’Connor, G.M.  
Price, L.R.S.  
Roxon, N.L.  
Sawford, R.W.  
Sercombe, R.C.G.  
Smith, S.F.  
Swan, W.M.  
Thomson, K.J.  
Windsor, A.H.C.  

Hoare, K.J.  
Jackson, S.M.  
Kerr, D.J.C.  
Livermore, K.F.  
McClelland, R.B.  
McLeay, L.B.  
Melham, D.  
Murphy, J. P.  
O’Connor, B.P.  
Plibersek, T.  
Quick, H.V.  
Rudd, K.M.  
Scaica, C.A.  
Sidebottom, P.S.  
Snowdon, W.E.  
Tanner, L.  
Vanvakininou, M.  
Zahra, C.J.  

*M* denotes teller

Question agreed to.

Original question put:

That the motion (Mr Latham’s) be agreed to.

The House divided. [9.15 a.m.]

(The Speaker—Mr Neil Andrew)

<table>
<thead>
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<th>62</th>
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<td>Noes</td>
<td>73</td>
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<tr>
<td>Majority</td>
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**AYES**

Adams, D.G.H.  
Beazley, K.C.  
Berereton, L.J.  
Byrne, A.M.  
Cox, D.A.  
Crosio, J.A.  
Edwards, G.J.  
Emerson, C.A.  
Ferguson, L.D.T.  
George, J.  
Gillard, J.E.  
Griffin, A.P.  
Hatton, M.J.  
Irwin, J.  
Jenkins, H.A.  
King, C.F.  
Lawrence, C.M.  
Macklin, J.L.  
McFarlane, J.S.  
McMullan, R.F.  
Mossfield, F.W.  
O’Byrne, M.A.  
O’Connor, G.M.  
Price, L.R.S.  
Roxon, N.L.  
Sawford, R.W.  
Sercombe, R.C.G.  
Smith, S.F.  
Swan, W.M.  
Thomson, K.J.  
Windsor, A.H.C.  

Albanese, A.N.  
Bevis, A.R.  
Burke, A.E.  
Corcoran, A.K.  
Cream, S.F.  
Danby, M.  
Ellis, A.L.  
Evans, M.J.  
Ferguson, M.J.  
Gibbons, S.W.  
Grierson, S.J.  
Hall, J.G.  
Hoare, K.J.  
Jackson, S.M.  
Kerr, D.J.C.  
Latham, M.W.  
Livermore, K.F.  

**NOES**

Abbott, A.J.  
Anthony, L.J.  
Baldwin, R.C.  
Bartlett, K.J.  
Bishop, B.K.  
Brough, M.T.  
Cameron, R.A.  
Charles, R.E.  
Cobb, J.K.  
Downer, A.J.G.  
Dutton, P.C.  
Entsch, W.G.  
Forrest, J.A.  
Gambaro, T.  
Georgiou, P.  
Hardgrave, G.D.  
Hawker, D.P.M.  
Hunt, G.A.  
Jull, D.F.  
Kelly, J.M.  
Ley, S.P.  
Lloyd, J.E.  
McArthur, S.  
Nairn, G. R.  
Neville, P.C.  
Pearce, C.J.  
Pyne, C.  
Ruddock, P.M.  
Scott, B.C.  
Sliper, P.N.  
Somlyay, A.M.  
Stone, S.N.  
Ticehurst, K.V.  
Truss, W.E.  
Vale, D.S.  
Washer, M.J.  

Andrews, K.J.  
Baird, B.G.  
Barresi, P.A.  
Billson, B.F.  
Bishop, J.I.  
Causley, I.R.  
Ciobo, S.M.  
Costello, P.H.  
Draper, P.  
Elson, K.S.  
Farmer, P.F.  
Gallus, C.A.  
Gash, J.  
Haase, B.W.  
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.I.  
Panopoulos, S.  
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Secker, P.D.  
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Southcott, A.J.  
Thompson, C.P.  
Tollner, D.W.  
Tuckey, C.W.  
Wakelin, B.H.  
Williams, D.R.
Worth, P.M.
* denotes teller

Question negatived.

CIVIL AVIATION LEGISLATION AMENDMENT (MUTUAL RECOGNITION WITH NEW ZEALAND AND OTHER MATTERS) BILL 2003

First Reading

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

Second Reading

Mr TUCKEY (O'Connor—Minister for Regional Services, Territories and Local Government) (9.22 a.m.)—I move:

That this bill be now read a second time.

The Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand and Other Matters) Bill 2003 (the bill) amends the Civil Aviation Act 1988 to put into effect a historic joint Australian and New Zealand commitment to mutually recognise each other’s aviation related safety certification.

The bill has been developed concurrently with New Zealand legislation, which is due to be introduced into the New Zealand parliament shortly.

In broad terms, mutual recognition will mean that aviation safety certificates issued to eligible aviation organisations in one country will be recognised for use in the other.

The proposal will be introduced through a phased approach, based on the type of certificate and size of aircraft. This will provide for a safe and measured introduction of the initiative that can gradually be extended, as both countries consider appropriate.

Air Operator’s Certificates, or AOCs for short, will be the first to be mutually recognised. These certificates, which permit a person or organisation to operate aircraft, are issued only if the aviation safety regulator determines that the operator has the ability to conduct its operations safely. In Australia, the Civil Aviation Safety Authority, or CASA, is the relevant aviation safety regulator.

On that basis, under the new mutual recognition arrangements, CASA will be able to approve an AOC for an Australian operator that will authorise operations in both Australia and New Zealand and will be accepted for use by New Zealand authorities. This particular AOC will be termed an Australian AOC with ANZA privileges, with ANZA standing for Australia and New Zealand Aviation.

The aviation authority that issues the AOC with ANZA privileges will be the one to regulate its use by the operator, whether its operations are in Australia or New Zealand. This means that Australian operators opting to hold an AOC with ANZA privileges issued by CASA will be monitored by CASA even when operating in New Zealand.

It is important to note, however, that although the operator will be overseen by the authority that issued the AOC, it will also be required to comply with the general laws and rules of the air applicable to operations in both the home country and the host country. For example, New Zealand operators conducting passenger services in Australia using an AOC with ANZA privileges issued by the Civil Aviation Authority of New Zealand, will have to comply with Australian laws with respect to the environment, curfew, aviation security and carrier’s liability.

The New Zealand legislation will make a similar provision in relation to the ability of the Civil Aviation Authority of New Zealand to issue an AOC with ANZA privileges to New Zealand operators that wish to operate in Australia as well as New Zealand.

Only large capacity aircraft of greater than 30 seats or 15,000 kilograms will be able to...
operate under this scheme at this time. In practical terms this limits mutual recognition to airlines at this stage.

In line with its phased introduction, consideration may be given to extending mutual recognition to aircraft of less than 30 seats at some point. Similarly, other safety certificates not already covered by other mutual recognition arrangements may be brought under the umbrella of mutual recognition in the future. For example, it may be possible in future for there to be mutual recognition of aircraft maintenance organisation certificates.

There are three important aspects of this proposal.

The first and most important, is that there will be no effect on the safety of aircraft operations in either Australia or New Zealand by its introduction.

The second is that mutual recognition is expected to reduce administrative costs of airlines, because they will no longer have to hold and comply with dual certification issued in both countries. This in turn will remove a barrier to airlines taking up commercial opportunities available under trans-Tasman air services arrangements.

The third is the fact that this initiative is a major step forward in the integration of the trans-Tasman aviation market and marks a historic development in the aviation relationship between Australia and New Zealand.

With regard to safety, careful consideration has been given to the issue of whether safety would be compromised by the adoption of mutual recognition. It has been concluded that it will not, because it has been recognised and accepted that Australia and New Zealand have aviation safety standards that are each consistent with international best practice for airline operations using large capacity aircraft.

It is also important to note that mutual recognition is not about harmonisation of Australian and New Zealand safety standards. Australia and New Zealand recognise that there are differences between our two systems, including in particular standards, but these can be accepted, as it is the overall safety outcome achieved by each system that is being recognised.

Notwithstanding this, by way of added guarantee, further measures have been built into this bill to ensure that safety is maintained at current high levels. One example is a provision that ensures that the regulator most effectively able to monitor the activities of the operator will be the one to issue the AOC with ANZA privileges. In nearly all cases this will, of course, be the operator’s home regulator as determined by a number of set criteria.

Another provision allows a regulator to issue a temporary stop notice to an operator holding an AOC with ANZA privileges issued by the other regulator, who is normally responsible for regulating the safety of its operations. Temporary stop notices would only be issued if there were considered to be a serious risk to flying safety. The provision builds in a strong safeguard that may never be needed but is nevertheless available to both regulators. The temporary stop notice will be in force for a maximum period of seven days, during which time the regulator that issued the AOC will consider what action should be taken in relation to the operator in question.

Strong communication and cooperation between CASA and the Civil Aviation Authority of New Zealand will underpin mutual recognition and are given the force of law by the provisions of this bill. Indeed mutual recognition has only been possible because of the joint understanding and commitment
of the two regulatory agencies to continued safe practice.

Mutual recognition is expected to significantly reduce administrative costs of airlines, as they will no longer be required to obtain and maintain duplicate certification issued in both countries.

For example, under current arrangements an airline wishing to operate services in both countries would need to hold an AOC from both regulators and comply with both, according to where their operations were being conducted. Mutual recognition will mean that they will now only need to hold one, from their home regulator.

Operators will also be able to use both Australian and New Zealand registered aircraft, regardless of which authority provides their AOC with ANZA privileges, providing the aircraft is included on the certificate. This will allow airlines to cross-utilise their aircraft and will provide increased flexibility for their operation.

These efficiencies are likely to have flow on savings to the wider community, if passed on by the airlines concerned, either by reduced fares or through greater choice as a result of competition.

Mutual recognition arrangements will, however, remain optional. An operator will therefore have the flexibility to continue to hold two separate AOCs if they wish.

This said, operators who do opt for an AOC with ANZA privileges from its home regulator will not be able to hold an AOC issued by the other. This is because it is important that all parties understand what AOC is in force and which regulator is ensuring compliance with it.

Mutual recognition is an undertaking by both governments that arose as a result of the open skies air services agreement between Australia and New Zealand.

The open skies agreement was itself an important step in the further development of closer economic relations with New Zealand, intended to promote competition and build upon the principles contained in the Australia-New Zealand single aviation market arrangements.

When the open skies agreement was negotiated in November 2000, the overall value of the Australia-New Zealand single aviation market was estimated at $A6.8 billion ($NZ8.7 billion). Mutual recognition will create opportunities for our airlines that will add further value to the relationship between our two countries.

It will help to ensure that the benefits of the integration of our two aviation markets continue, making it easier for Australian and New Zealand airlines to operate services in both countries, to integrate their fleets and achieve operating efficiencies.

The target date for implementation of the first phase of mutual recognition in both countries is 31 December 2003. I present the explanatory memorandum to this bill.

Debate (on motion by Mr Cox) adjourned.

ACIS ADMINISTRATION AMENDMENT BILL 2003
First Reading
Bill presented by Mr Entsch, and read a first time.

Second Reading
Mr ENTSCH (Leichhardt—Parliamentary Secretary to the Minister for Industry, Tourism and Resources) (9.33 a.m.)—I move:

That this bill be now read a second time.

The ACIS Administration Amendment Bill 2003 is a bill to amend the ACIS Administration Act 1999.
This bill implements the government’s post-2005 assistance package for the Australian automotive industry. The package will deliver assistance to the value of $4.2 billion to the industry by extending the Automotive Competitiveness and Investment Scheme to 2015.

The post-2005 Automotive Competitiveness and Investment Scheme will assist the industry to complete its transition to a genuinely world competitive, self-reliant industry. This will be the largest, and the last, assistance package provided to the industry.

Passage of this bill will give Australian car and component manufacturers unprecedented security. The bill will provide more than a decade of policy certainty, allowing firms to develop their businesses in a stable environment and to prepare for the end of industry specific support on 31 December 2015.

The Australian industry is well placed to achieve sustainable growth. A judicious combination of direct assistance and tariff reductions has transformed the industry. The gradual opening of the local market has spurred a revolution in the quality and competitiveness of Australian products. These gains are most obvious in the growth of our automotive exports.

Since 1996, Australia’s vehicle exports have trebled to be worth more than $3 billion. At the same time, production has increased by more than 35,000 vehicles per year.

The government’s policy for assistance beyond 2005 continues to combine assistance and tariff reform. On 1 January 2005, tariffs for passenger motor vehicles and related components are scheduled to fall from 15 per cent to 10 per cent.

A companion bill to this bill provides for similar tariff reductions in 2010. Tariffs on passenger motor vehicles and related components will remain at 10 per cent until 1 January 2010, when they will be reduced to the general manufacturing tariff level of five per cent.

In 2008, the Productivity Commission will conduct an inquiry into the scheduled 2010 tariff reductions. The industry has raised concerns about overseas market access; the commission will be asked inter alia to report on this issue.

However, I am confident that the outlook for the industry is very promising and its projections for strong, continuing export growth will be fulfilled. Market access should improve as a result of the World Trade Organisation’s Doha round and the government’s negotiation of bilateral trade agreements such as the free trade agreement with the United States.

The extended Automotive Competitiveness and Investment Scheme will include two important new features.

At the request of industry, the government has decided to distribute program funds into two pools. Motor vehicle producers will be allocated a 55 per cent share of these funds; component producers and other participants in the scheme will be allocated the residue.

This decision ensures even greater certainty for the industry and has been implemented with effect from the first quarter of 2003.

Another important initiative will be the establishment in 2005 of a $150 million research and development fund for motor vehicle producers. Funding will be drawn from the motor vehicle producer’s pool of the Automotive Competitiveness and Investment Scheme.

The fund will offer competitive grants to support significant new research and devel-
development. Unallocated moneys will be returned to the motor vehicle producers’ pool.

The bill also provides for the administrative detail of the Automotive Competitiveness and Investment Scheme to be set out in subsidiary legislation, in the form of regulations and ministerial guidelines.

In line with the government’s policy to have an open and transparent process concerning the allocation of public moneys, the bill clarifies the disclosure of information requirements concerning participants in the Automotive Competitiveness and Investment Scheme.

Passage of this bill will mark a historic step in the evolution of the Australian automotive industry. For the first time, the industry will be assured of a decade of generous public support; at the end of this period, industry specific assistance will end.

In the mid-1970s Australia had tariffs on automotive imports of up to 57.5 per cent. In addition, there were import quotas restricting imports to 20 per cent of the market. Import quotas are long gone; at the end of the extended ACIS, tariffs will be only five per cent. Australian companies have demonstrated that they are able to prosper in an increasingly free market, becoming more innovative and competitive.

The next 13 years represents a tremendous opportunity for the Australian industry to secure its future. I present the explanatory memorandum.

Debate (on motion by Mr Cox) adjourned.

**CUSTOMS TARIFF AMENDMENT (ACIS) BILL 2003**

**First Reading**

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

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**Second Reading**

Mr ENTSCH (Leichhardt—Parliamentary Secretary to the Minister for Industry, Tourism and Resources) (9.38 a.m.)—I move:

That this bill be now read a second time.


Those amendments are complementary to, and cognate with, amendments contained in the ACIS Administration Amendment Bill 2003. Together, these bills extend the provisions of the Automotive Competitiveness and Investment Scheme beyond its original finishing date in 2005.

Customs duty rates for passenger motor vehicles and certain components will reduce from 15 per cent to 10 per cent on 1 January 2005. These rates will be maintained until 1 January 2010, when the Customs Tariff Amendment (ACIS) Bill 2003 will provide for the further reduction of duty rates for passenger motor vehicles and certain components from 10 per cent to 5 per cent.

The enactment of the post-2010 duty rates at this time provides transparency and certainty for automotive and component manufacturers, enabling sufficient time for planning prior to the scheduled reduction in 2010.

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

Debate (on motion by Mr Cox) adjourned.

**TARIFF PROPOSALS**

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (9.40 a.m.)—I move:

Customs Tariff Proposal No. 3 (2003)
The excise and customs tariff proposals that I have just tabled contain alterations to the Excise Tariff Act 1921 and the Customs Tariff Act 1995.

The proposals formally place before parliament changes to both acts to introduce a new rate of excise and customs duty for high sulfur diesel and introduce ultra low sulfur diesel (ULSD) as a new tariff item. The use of ULSD, which is diesel with a sulfur content not exceeding 50 parts per million, is designed to improve air quality. Reducing the sulfur in fuels will deliver environmental and health gains, through reduced emissions of hydrocarbons and oxides of nitrogen. Low sulfur fuels are also likely to further reduce particulate emissions known to cause respiratory problems and will facilitate the broader adoption of greenhouse friendly engine technologies.

The differential excise treatment for low and high sulfur diesel was one of the initiatives under the Measures for a Better Environment (MBE) package announced by the Prime Minister on 31 May 1999. Under that package the government made a commitment to apply an excise differential of 1c per litre on high sulfur diesel (sulfur content above 50 parts per million) from 1 January 2003 and a differential of 2c per litre from 1 January 2004. ULSD will be mandated under the fuel quality standards legislation by 1 January 2006. The government deferred the introduction of the differential until 1 July 2003 because of concern about the possibility of raising costs to diesel users when the farm sector was facing serious drought conditions.

The excise and customs duty imposed on ULSD will be equal to that currently applying to all diesel—38.143c per litre—with an increase in duty of 1c per litre for high sulfur diesel from 1 July 2003 and a further 1c per litre from 1 January 2004.

As a revenue protection measure, the same differential will apply to products that have very similar chemical composition to diesel and may be used as fuel in place of diesel.

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

Debate (on motion by Mr Cox) adjourned.

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

Customs Tariff Proposal No. 4 (2003)

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

The proposals formally place before parliament changes to both acts to increase the rates of excise and customs duty on aviation fuels by 0.306c per litre from 1 July 2003.

Duties on aviation fuels provide a substantial proportion of the funding for the Civil Aviation Safety Authority (CASA). The increase in duty on aviation fuels, announced in the 2003-04 budget, is necessary to provide supplementary funding for CASA of $6.5 million in the financial year 2003-04.

Aviation fuel duty revenue is estimated to be 11 per cent lower than forecast due to the cessation of Ansett operations, the worldwide reduced demand for air travel, and the introduction of larger and more fuel-efficient aircraft. CASA, as Australia’s aviation safety regulator, plays a crucial role in maintaining Australia’s enviable aviation safety record. The increase in duty will ensure CASA is adequately resourced to continue to carry out its safety regulatory responsibilities.
The increase of 0.306c per litre in excise and customs duty rates for aviation fuels will result in a rate of 3.151c per litre for aviation kerosene and 3.114c per litre for aviation gasoline.

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

I commend these proposals to the chamber.

Debate (on motion by Mr Cox) adjourned.

TRADE PRACTICES AMENDMENT (PERSONAL INJURIES AND DEATH) BILL 2003

Second Reading

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

That this bill be now read a second time.

Mr ANDREN (Calare) (9.47 a.m.)—As I was saying last night when I was so politely interrupted by the Speaker, we need a national fund similar to New Zealand’s accident compensation scheme. That scheme provides cover for injuries no matter who is at fault and pays weekly compensation equivalent to 80 per cent of normal earnings, to a maximum of $1,300. The scheme pays for medical bills, rehabilitation, retraining, counselling, home and vehicle modification—any of the costs that arise from the injury itself.

It seems that, rather than embracing this sort of broad community contributory scheme, the government in its economic philosophy does not want to have any involvement in commercial activities. Yet I put it to the government that Medicare, in its existing state—heaven knows what shape it might be in down the track—provides a model for universal health coverage. I believe we also need a model for universal environmental health care. Indeed, a universal contributory scheme for this sort of insurance strikes me as the most economical way of delivering the maximum bang for the buck in payouts. As I said last night, at the moment in Australia the money is given to families in a lump sum, and the person may or may not survive for many years after that. Therefore, that money is wasted for the purposes for which it was intended.

Further, compulsory contributions from businesses, organisations and individuals and a tariff on petrol and licences specifically for motor accidents also help to fund the New Zealand scheme. Contrary to claims made last year by the government, New Zealand’s scheme does not have out-of-control unfunded liability. Also, recent reforms have actually reduced the premiums and lowered the liability raised prior to those recent reforms. In return, except in cases of gross negligence involving criminal neglect, the injured may not sue for compensation to cover these damages, because their needs are provided for. More to the point, there is no need for individuals and groups to pay exorbitant prices for specific public liability cover. I know that this threatens both the insurance industry and the legal fraternity, but maybe it is time to address the wellbeing of all members of our community.

Over a year ago, on 3 June 2002, I put a motion on the Notice Paper which stated that this House should look at providing such a scheme, which is well within the constitutional powers of the Commonwealth. Part of that motion said:

That this House:

(1) recognises that there is no Constitutional impediment to Commonwealth regulation of insurance claims procedures and the magnitude of insurance claims;

(2) recognises that the Commonwealth has the power to prescribe conditions upon which any person may carry out insurance business of any kind and establish any mechanisms for the super-
vision of such person and corporations and to regulate their affairs, under section 51(xiv) of the Constitution;

(3) recognises that the Commonwealth uses this power to regulate the Insurance Act 1973; the Life Insurance Act 1995 and the Insurance Contracts Act 1984;

(4) calls on the Commonwealth to order an inquiry by the Australian Law Reform Commission into the feasibility of a Commonwealth legislative scheme for the insurance industry …

I think that would have afforded the necessary debate. It was never debated, but I believe it remains the only direct solution to the problem of providing universal and affordable insurance cover for all, especially those community groups in my electorate. As I said earlier in my speech, they continue to find it almost impossible in some cases to raise insurance. The proposal I have put up offers an alternative that absolutely ensures that those community groups—the show societies, fetes, jam stalls and so on—can continue to contribute in that social and very important community way, in particular, to the fabric of rural and regional Australia.

Mr HARTSUYKER (Cowper) (9.52 a.m.)—I rise today to speak on the Trade Practices Amendment (Personal Injuries and Death) Bill 2003. One of the biggest issues presented to me very early in my term as a new member following the November 2001 federal election was the issue of public liability. Coming from an electorate with a heavy reliance on the tourism industry and on small business and where community groups are an absolutely vital part of our social fabric, the issue of the skyrocketing cost of public liability insurance premiums and the skyrocketing level of claims was something that was brought to my attention time and time again. Out in regional Australia, many of the services which may be provided on a commercial basis in the city are provided by community groups and not-for-profit organisations because of the small population. Deputy Prime Minister John Anderson came to my electorate and talked to members of the tourism industry very early in the term of this parliament about the very grave problems that they were experiencing. Fine attractions such as the Big Banana were seeing insurance premiums rise—in their case, from $39,000 to almost $140,000. There was a huge escalation in premiums but, for these businesses, because tourism is a very competitive industry, there was no ability to increase prices. What were businesses to do? In many cases, businesses were just unable to find any sort of insurance cover at all. People in the horse riding industry—we had a number of companies which operated various trail rides—were forced to cease operation. It was tragic to see the loss of employment and businesses being effectively closed down purely because of a lack of insurance cover.

I am pleased to say that the federal government acted to assist in this situation with a range of measures, which I will come to in a moment. I must also say that the states, to their credit, have cooperated in the process. This was always going to be a problem that needed to be addressed at both the federal and state level. If we had had the degree of cooperation in delivering drought relief for farmers that we have had with the states in relation to public liability insurance—and I see the Minister for Agriculture, Fisheries and Forestry at the table—we would have had a much better package for farmers.

Mr Truss—You are dead right.

Mr HARTSUYKER—Yes. I would like to talk for a moment about what the federal government has done in concert with the states on public liability. The government has introduced a number of pieces of legislation. First there was the Taxation Laws Amendment (Structured Settlements and Structured
Orders) Act 2002, the aim of which was to remove the barriers to structured settlements to encourage people to take an annuity rather than a lump sum. This was to avoid the problem that many who are seriously injured experience when they receive a major lump sum payout, where perhaps that lump sum is not invested wisely and ultimately they do not have enough to meet their increased medical needs and to support them during an extended period of disability. The structured settlements changes aimed to eliminate the prejudice within the tax system which favoured a lump sum rather than an annuity which would provide over the long term for the wellbeing of an injured person.

Then there was the Commonwealth Volunteers Protection Act 2003. In the electorate of Cowper we are very dependent on a lot of good work by a lot of volunteer groups. The act exempts Commonwealth volunteers from liability. It was another important step. The third piece of legislation introduced by the government was the Trade Practices Amendment (Liability for Recreational Services) Act 2002, which focused on a very important principle: enabling people to take a higher degree of personal responsibility for their own actions. Where people are participating in an inherently dangerous activity—perhaps bungee jumping, skydiving or white water rafting—it is reasonable that people accept that there is a degree of risk involved and that, despite the best practices in the world, accidents and injuries can occur in those very risky activities. This act amended the Trade Practices Act to allow people to sign waivers to accept a degree of personal responsibility in participating in those activities. That was very vital in my electorate because we have a very heavily patronised white water rafting industry. Anyone who has ever been on a white water rafting expedition and found the work force involved to be highly trained and professional. Despite that, there is an element of risk, and those amendments to the Trade Practices Act were a way that the federal government could assist in addressing those issues of risk—allowing people to still participate in those activities, but helping to solve the insurance problems which were being generated as a result of unrealistic expectations from some of the community that, when someone is injured, someone else has to pay. That was a very good move.

In my electorate, places such as the Pet Porpoise Pool were experiencing difficulties in getting public liability insurance. They had a very interactive show where people were able to pat the seals and dolphins. The problem was that insurers were running scared that people may be injured during an interaction with the wildlife. As a result of the reforms that have flowed through the system, the progression of reforms from the federal government and the reforms that have been put in place through cooperation with our state governments, the Pet Porpoise Pool—which was realistically looking at the possibility of closure—has been able to secure insurance cover and has been able to continue providing a lot of entertainment for people who visit Coffs Harbour. There are very good employment prospects for the people who work there. So this is the government acting in concert with the states to keep small businesses open.

Mr Cox—Dolphins do bite!

Mr HARTSUYKER—Indeed they do bite, and it is a very real risk if you interact with animals.

Mr Cox—I have been bitten by one!

Mr HARTSUYKER—The member opposite has been bitten by a dolphin. The
Trade Practices Amendment (Personal Injuries and Death) Bill 2003, which is before us today, is another plank in the government’s reforms of public liability insurance. The bill proposes to remove the right to recover damages for injury or death caused by a breach of part V, division 1 of the Trade Practices Act, which deals with misleading and deceptive conduct, false and misleading representations, bait advertising, harassment, coercion and pyramid selling. This bill provides reinforcement and is another step in our program of reforms to improve the public liability insurance situation. It is part of our program to make sure that small businesses are still able to operate by being able to access insurance at a reasonable price in the marketplace.

To her credit, Minister Coonan has been very proactive in this field. As part of the program, Minister Coonan in October 2002 released the review of the laws relating to negligence. It covered a range of issues, such as professional negligence, reform of the Trade Practices Act, limitation periods and reforms to assist not-for-profit organisations, limiting liability of public authorities, self- assumption of risk to override common law principles—which I spoke about earlier—proposals to restrict the circumstances in which a person must guard against the negligence of others, and the replacement of joint and several liability with proportionate liability. Minister Coonan has been very active in this area and, to her credit, we are seeing some real results on the ground. Justice Ipp had a number of things to say about the insurance problem and negligence laws. He said:

The fact is that insurance companies are not prepared to provide necessary insurance (or are only prepared to provide it at unaffordable rates) because of the unpredictability of the law, the ease with which plaintiffs succeed and the generosity of the courts in awarding damages.

I am pleased to say that the laws that this government has put in place and acted on are moving in the right direction, and I believe that we are starting to get on top of the problem. There are other factors relating to this issue—such as the disaster of September 11, the collapse of HIH and the fall in investment returns being received by many insurance companies. So it is not just about the issue of claims; there are also other factors within the insurance market: a fall in the capacity of the insurance market and a number of disasters, such as September 11, which previously were not costed into insurance premiums. They all absorb capacity for insurance in the market, making insurance more scarce and, as a result, forcing insurance premiums up.

The Minister for Small Business and Tourism, Joe Hockey, has also been a very keen champion for small business and the tourism industry. He has been very proactive in those areas. Recently he came to my electorate and toured the coast. He called into a number of tourist attractions. I am pleased to say that, if it were not for the reforms that the government have put in place, I think those tourist attractions may not be operating today. I commend the actions of the government in introducing a range of reforms in public liability insurance. This latest amendment to the Trade Practices Act is another step down that road. I am pleased that we have been able to achieve a degree of cooperation with the states. My only sadness is that we have not been able to achieve the same degree of cooperation with respect to drought reform. If we could achieve that, we would be able to achieve a lot more in that area. We would be able to tailor packages to meet farmers’ needs in a much more expeditious way. I think the impact of drought is a very vital issue in regional and rural Australia. A large part of the problem is being generated by the failure of the states to cooper-
ate with the minister for agriculture, Warren Truss. I certainly commend this bill, and I certainly commend the work that the government has done in the area of public liability.

Mr HUNT (Flinders) (10.05 a.m.)—I rise to speak in support of the Trade Practices Amendment (Personal Injuries and Death) Bill 2003. This bill addresses a problem which I believe is common to representatives of every seat within the House. It is a problem that each of us has within our electorates. People have dedicated their working lives to creating small businesses or larger businesses which focus on adventure tourism and which provide opportunities for physical outdoor activities, such as horse riding, river rafting or rock climbing—activities which involve some form of inherent danger or risk. The very raison d’etre for their existence is that people consciously, wilfully and willingly choose to pursue activities which carry an element of risk—that is their attraction. It is about challenge and personal development. It is about pushing oneself to the edge within controlled circumstances. Each of us has experienced within our electorates, because of the changing nature of the international and domestic insurance market, many of these businesses facing potential closure. The reason for that is the level of personal liability and public liability insurance claims, either the cost of the premiums or the consequences of claims. This bill will address the problems of organisations such as the Ace-Hi Ranch on Boneo Road in my electorate of Flinders, many other horse riding organisations and many other small businesses which are focused on some form of personal challenge and adventure tourism.

In addressing this bill, I wish to proceed in three phases: firstly, to outline the background to the bill; secondly, to address its importance; and, thirdly, to consider some of the specific provisions. In looking at the background to the bill, we find that public liability insurance premiums have been rising greatly in recent years, in particular over the last two years. The Senate Economics Committee inquiry into the impact of public liability and professional indemnity insurance costs identified three principal causes of those increased premiums. Firstly, there was an external shock to the market due to the effects of September 11. It was a shock that resulted in approximately a $60 billion drain on international underwriting and the amount of money available for payouts, and—following the tragedy that was September 11—this shock had a ripple effect throughout the worldwide insurance industry.

Secondly, within Australia, there have been corporate collapses which have taken out major players from within the insurance industry, which in turn has closed the market and has led to a situation where it is much more difficult for those organisations and small businesses seeking public liability insurance to obtain public liability insurance. Thirdly, the hardening of the public liability insurance market has been caused by the level of claims. The nature and level of claims against public liability insurance have increased both in terms of the quantity of claims and the quantum of claims.

The Trade Practices Amendment (Personal Injuries and Death) Bill 2003 goes directly to the question of how we can ensure that there is a reasonable and proportionate level of claims in relation to personal liabilities and injuries—not a level which creates a lottery mentality and a condition where those who have an injury will actually profit from their injury. That is what is driving out small businesses and closing non-profit community organisations and preventing them from carrying out activities. The increasing cost of claims is the specific target of this bill.
This bill is designed to address the cost and availability of public liability insurance. It encourages the states and territories to reform the law of negligence in a nationally consistent manner. It is important to recognise that the bill is part of an overall agreement—brokered between the Assistant Treasurer, Senator Helen Coonan, and the respective state finance ministers—whereby the states will adopt a more regimented negligence policy and steps will be taken at a federal level. The aim of this agreement is to close off a lacuna or an unexpected loophole within the federal Trade Practices Act. This loophole was being exploited by those who would seek to secure additional avenues and grounds for making personal injuries claims.

In the May 2002 ministerial meeting on public liability insurance, which was attended by Commonwealth, state and territory ministers, a series of agreements were reached, including the agreement to conduct a review of the law of negligence. The finding of that review was that the existing set of laws both at state and at national levels was inadequate to cope with the changed circumstances brought about by the international shocks, the domestic market and the changes in legal practice.

The current legislation at both state and federal levels needs to be amended to address the rising premiums of public liability insurance. These increased premiums mean reduced availability of public liability insurance and therefore a reduction in the capacity of ordinary businesses and ordinary citizens to go about activities which they deem to be desirable and which they choose voluntarily and willingly to pursue.

A problem with the current legislation is that it does not address the potential exploitation of the Trade Practices Act. Currently the Trade Practices Act allows plaintiffs to bring actions claiming damages for personal injuries resulting from conduct in contravention of division I, part V of the act. That means—and this is what the review found—that lawyers will inevitably search for different courses on which to base negligence claims. Provisions of the Trade Practice Act will provide an obvious target for this search.

This bill, in conjunction with state and territory civil liability reforms, will work to prevent legal loopholes allowing alternative courses for claims. The appropriate place to bring claims for negligence is under negligence laws within state and territory jurisdictions. The review of the law of negligence said that in order for such reforms to work two things have to occur: firstly, changes should be made nationally and in a uniform and consistent way; and, secondly, all jurisdictions need to act cooperatively to ensure that this occurs. This bill is part of an improved national response to rising public liability premiums.

Against that background, what is the importance of the bill? The importance of the bill is simple. The public liability insurance review addressed how we can apply common law principles to negligence in order to limit liability resulting from personal injuries; it considered balanced approaches to the limitation of liability and quantum relating to the awarding of damages—that is, how we can ensure that there is going to be a fair, reasonable and adequate response where there is genuine negligence—and it considered the possibility of limiting claims for negligence to three years after the date of the relevant incident.

The bill goes on to address recommendations 19 and 20 of the public liability insurance review. Recommendation 19 suggests that there should be an amendment to the Trade Practices Act to prevent division I of part V being used by individuals to pursue damages for personal injuries.Recommendations 19 and 20 of the public liability insurance review.
tion 20 of the public liability insurance review argues that there should be an amendment to remove the power for the ACCC to bring representative actions for personal injuries under division 1 of part V of the Trade Practices Act. In essence, what these changes are about is ensuring that the Trade Practices Act will focus on trade practice matters and not be used as a de facto base for negligence actions. In particular, the Insurance Council of Australia has expressed its support for recommendations 19 and 20, and there has been widespread support within private business.

There are three critical benefits which will flow from the process of reform and which will flow through to Australian business. First of all, this public liability insurance reform will provide for greater confidence for businesses. In particular, businesses will benefit from increased certainty, as a potential source of legal action against them is removed. This certainty is particularly important for small businesses that have modest cash flows and significant outlays. If a significant outlay is open to increasing dramatically then, as we have seen, that can have a profound effect on a small business. The second major benefit is that there will be more affordable public liability insurance premiums. The bill is designed to be complemented by other bills within the states and within the Commonwealth regime. It will implement the review of recommendations on the quantum of damages, and already we see that the states are moving on that. The third benefit is that premiums will be monitored with increased attentiveness. At the request of the Parliamentary Secretary to the Treasurer, the ACCC will monitor the cost of the premiums for public liability and professional indemnity insurance. That is a very important role. They are seeking to make sure that any increase in costs is only on the basis of justified market forces, not as an attempt to exploit and to gouge on the basis of the international and national tragedies which have had an effect on the insurance market.

Finally, I wish to briefly address the core provisions of the bill. Item 2 inserts the new subsection 82(1A) into section 82 of the Trade Practices Act 1974. This provides that a person taking civil action to recover damages for personal loss or damage under the Trade Practices Act will be prevented from doing so and that the appropriate place for doing so is under state negligence laws. It is a very simple approach but it is clear, express and absolute. It seeks to avoid a multiplicity of sources and a multiplicity of avenues for what should be a clear point of certainty within the law. Item 5 of the bill inserts the new subsection 87(1AB). This will prevent a court from compensating a person for loss or damage but only to the extent to which the court order is based on conduct contravening division 1 of part V. So an action brought under the Trade Practices Act will focus on action which is in breach of the Trade Practices Act, not on personal liabilities. It should not be a stalking horse.

In summary, this bill is ultimately designed to address the cost and availability of public liability insurance in Australia. In doing so, it helps Australian businesses. In addition, it is part of a package which the Assistant Treasurer, Senator Helen Coonan, has brokered with the states and territories to reform the law of negligence in a nationally consistent manner. I believe it adds to the opportunities and helps provide appropriate levels of protection for businesses such as the Ace-Hi Ranch on Boneo Road in my electorate of Flinders. I commend the bill to the House and I urge all members to support it.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and
Administration) (10.19 p.m.)—in reply—I am particularly pleased that the debate on the Trade Practices Amendment (Personal Injuries and Death) Bill 2003 has obtained the support of members of both sides of the House, although I note the caveat given by the member for Fraser in his speech when he said he supports the amendments but questions if the amendments provide the appropriate consumer protections. He also said that the opposition would be examining two issues relating to the bill in the Senate committee. They are whether it might be more appropriate to introduce caps and thresholds on quantum damages under section 52 in line with other amendments to be made to the Trade Practices Act and also the interaction of the amendments contained in this bill with the legislation passed last year to enable waivers for recreational services. He also claimed that the Commonwealth should impose formal ACCC price surveillance on insurance companies. I will comment shortly on the matters raised by the member for Fraser.

With regard to the debate on the Trade Practices Amendment (Personal Injuries and Death) Bill 2003, I want to thank the member for Fraser, the member for Moncrieff, the member for Calare, the member for Cowper and the member for Flinders for participating in this debate. It is a very important topic which has exercised the minds of state and federal governments and the wider community in relation to the issue of public liability insurance. The review of the law of negligence was established to assist the Commonwealth, state and territory governments to formulate a consistent approach to the problems of rising premiums and reduced availability of public liability insurance. Political representatives often get accused of playing politics—and at times they do—but, with regard to a national solution to the problem of public liability insurance, there has been a high level of cooperation on the part of the Commonwealth and all of the states and territories with a view to working through what is a very major problem.

The review’s terms of reference were broad and required it to consider, amongst other things, the application, effectiveness and operation of common law principles applied in negligence to limit liability arising from personal injuries or death. In addition, the review was asked to consider the interaction of the Trade Practices Act with the common law principles applied in negligence. The review presented two reports to government—an initial report in September 2002 and a final report in October of that year. The review recommended a number of changes to the Trade Practices Act to ensure that the act cannot be used to undermine state and territory civil liability reforms.

In this bill, the government is responding in part to the review recommendations related to the Trade Practices Act by proposing a first tranche of amendments. In particular, this bill will implement review recommendations 19 and 20. Recommendation 19 proposed that the Trade Practices Act be amended to prevent individuals bringing actions for damages for personal injuries and death relating to unfair practices prohibited in division 1 of part V. Recommendation 20 proposed that the act be amended to remove the power of the Australian Competition and Consumer Commission to bring representative actions for damages for personal injuries and death relating to unfair practices prohibited in division 1 of part IV. Division 1 of part V of the Trade Practices Act prohibits under civil law unfair practices in trade and commerce, including misleading and deceptive conduct. Division 2 of part VC of the act applies criminal sanctions to similar conduct.

The measures contained in the bill will, therefore, amend the Trade Practices Act to
prevent individuals and the ACCC in a representa-
tive capacity from bringing civil actions for
damages for personal injuries or death
resulting from contraventions of division 1
of part V of the Trade Practices Act. As a
consequence, these measures will ensure that
plaintiffs continue to seek damages for per-
sonal injuries or death by pursuing a right of
action under the common law rather than by
relying on division 1 of part V of the Trade
Practices Act. These reforms are aimed at
limiting public liability claims costs in order to
reduce pressure on insurance premiums and
assist in delivering affordable public liability insurance. To date, division 1 of part V of the Trade
Practices Act has rarely been used to seek damages for personal injuries or death; however, the potential for division 1 of part V to be used as a basis for such
claims is significant. I can see the member
for Barton nodding with respect to this par-
ticular matter. Claims of this nature are con-
sidered to be more likely in response to state
and territory civil liability reforms.

The state of New South Wales has already
introduced amendments to its Fair Trading
Act 1987 to address review recommenda-
tions 19 and 20. I understand that other states
and territories are progressing similar re-
forms. The bill does not amend a range of
other civil orders and remedies that are
available under the Trade Practices Act for
unfair practices in trade and commerce that
are in contravention of division 1 of part V.

Mr Tanner interjecting—

Mr SLIPPER—It is an important matter.
I thank the member for Melbourne for his
supportive interjection. The bill will have no
impact on the availability of criminal sanc-
tions under division 2 of part VC. The re-
view made further recommendations in rela-
tion to the Trade Practices Act. These rec-
ommendations relate to rules on quantum of
damages, limitations on actions and other
limitations on liabilities to claims of personal
injuries and death relating to other parts of
the Trade Practices Act. The government is
still formulating its response to these rec-
ommendations. It is anticipated that the gov-
ernment’s response to these recommenda-
tions will be included in a further bill to be
introduced during the spring sittings.

Returning to the remarks made by the
member for Fraser, I referred to what he said
where he pointed out that the opposition
supported the amendments but questioned
certain matters. He also referred to the two
matters which the opposition wants exam-
ined in the context of a Senate committee,
and I have outlined what those are. I want to
say to the member for Fraser that I have
noted what he has articulated in the chamber
and that this bill has been referred by the
opposition to a committee in the Senate.
With respect to the issues raised by the
member for Fraser, I note that the reason the
review of the law of negligence, or the Ipp
review, recommended preventing actions of
personal injury or death under section 52 of
the Trade Practices Act rather than simply
capping damages et cetera is the strict liabil-
ity characteristics of section 52. Perhaps that
is a matter the member for Fraser was not
aware of when he looked into consideration
of the points before making his speech.

Other provisions of the Trade Practices
Act identified by the Ipp review do not con-
tain this element of strict liability, and the
Commonwealth will be introducing legisla-
tion to amend these areas to support state and
territory limitations on quantum damages. I
note that the amendments contained in this
bill parallel amendments which have already
been enacted in New South Wales. If this bill
is not passed, the New South Wales reforms
will be made redundant. The Carr Labor
government has brought in certain reforms.
As a government, we are bringing in legisla-
tion which parallels the New South Wales
amendments. If the parliament does not pass this bill, Mr Carr would obviously have to go back to the drawing board to look at new legislation, which would not be a desirable outcome at all. I would urge the Senate to support this bill in its entirety, and I would urge any Senate committee consideration of this bill to in effect recommend that the bill as submitted by the government be passed by the parliament.

With respect to comments made by the honourable member for Fraser about the interaction between this bill and legislation passed by the parliament last year, I note that the waivers envisaged under that act relate to damages caused by taking part in recreational activities. It is unlikely that a court would uphold a waiver which included a material misstatement. As noted by the Ipp review, in order for a waiver to be effective the words of the exclusion clause must be clear and unambiguous. Any doubts about the precise meaning of the clause will be resolved in favour of the consumer. In relation to the formal ACCC price monitoring, I draw to the attention of the honourable member for Fraser the comments of the ACCC in its second industry pricing review issued last September where the ACCC noted that regulating the price of insurance is unlikely to be effective and may, indeed, be damaging.

Finally, with respect to the honourable member’s comments on the effectiveness of law reform, I suggest that he talk to his colleagues in the Australian Capital Territory Labor government, who are sadly lagging behind every other Australian jurisdiction in moving to amend their laws of negligence. The member for Fraser is an ACT member, and he would be doing the whole nation a service if he were able to move along the government in the Australian Capital Territory to conform to what other governments are doing throughout the nation.

The member for Moncrieff made a thought-provoking contribution, as always, and he drew to our attention the rapidly rising public liability costs and the effect that these are having on community groups and others within his electorate. I suspect that most members around the House would have had approaches from community organisations worried about their inability to obtain affordable public liability insurance. We have all seen circumstances where community events which have occurred year after year have had to be cancelled because of the failure to obtain public liability insurance. This is why this whole national process, led by the Minister for Revenue and Assistant Treasurer, Senator Coonan, has been so important. This is why it is important that this particular legislation is carried by the parliament.

The member for Moncrieff pointed out that it is necessary to find a better balance between the willingness of people to take responsibility for their own actions and the rights of people to seek compensation in circumstances where injuries result from another person’s negligence. I want to thank the member for Moncrieff, who makes a tremendous contribution to the parliament, for his ongoing interest in this matter. I acknowledge the impact that public liability premiums are having on community activities across the nation. The thrust of law reform taking place in all Australian jurisdictions—including the Australian Capital Territory, if they can pull their socks up—is to rebalance the rights of both plaintiffs and defendants to ensure that individuals in their own society accept responsibility for the consequences of their own decisions and their own actions. The amendments contained in this bill underpin state and territory law reforms aimed at this purpose.

Quite often I do not agree with the member for Calare, but I would be the first to ad-
mit that his speeches are well prepared and well thought out. He certainly speaks sincerely and from the heart. He made the point in his contribution that, while the reforms contained in this bill are necessary to support state and territory law reforms, the government should consider adopting a New Zealand style no-fault scheme to provide compensation to the long-term catastrophically injured.

Mr Tanner—Hear, hear!

Mr Slipper—it is interesting that the member for Melbourne adopts that particular point. I suppose what you need is a balance in being able to compensate people who are injured as a result of negligence not of their own cause. In many cases, we know of people whose lives have been completely destroyed. They have lost the ability to earn an income and they have lost the ability to have any reasonable enjoyment of life, and it does seem a bit rough if those people have to obtain a lower level of benefit when in fact what happened to them was through no fault of their own.

No-fault compensation schemes certainly would reduce the level of insurance, but the downside is that they do create some significant problems—and I can see that the member for Barton agrees with me here. A scheme which provides universal compensation—

Mr Tanner—it’s bad for lawyers.

Mr Slipper—it is not a question of whether it is bad for lawyers. We are not really interested in protecting lawyers; we are interested in striking a balance so that people who do suffer as a result of the negligence of others are able to receive a reasonable level of compensation. Let us face it: we have got to look at it in the interest of the community at large and not in the interests of any particular profession. As I said, there has been a cooperative approach amongst the states and the Commonwealth—regardless of political point of view, regardless of political affiliation—and the states and territories have worked together with the Commonwealth in a very commendable way. We are solving what has previously appeared to be an intractable difficulty.

No-fault compensation schemes impose no level of accountability on individuals for their own actions. However, it is worth mentioning in this context that work is ongoing between the Commonwealth and the states to establish the feasibility of putting in place a scheme for the treatment of catastrophically injured people requiring long-term care. I suspect that even the member for Melbourne would support that particular initiative. Without pre-empting the outcome of the study, I would say that no-one should underestimate the complexity or likely costs of putting such a scheme in place. I would, however, like to agree with the remarks made by the member for Calare in relation to structured settlements. Structured settlements may provide for a better alignment with the needs of a claimant and ensure that sufficient funds are available over the entire course of a person’s life. A shortfall in compensation for a catastrophically injured person is as unjust as a windfall is to a defendant. The member for Calare may well be interested to know that last year the Howard government amended the tax laws to remove taxation disincentives to plaintiffs accepting structured settlements over lump sum awards for damages.

The member for Flinders, as did other members, noted the impact of the increasing cost of insurance and pointed out that there are numerous causes of the conditions in the insurance market, one of which is the significant increase in the number and costs of personal injury claims. He pointed out also that this bill seeks to address this issue by cutting off an alternative course of action
under the Trade Practices Act. I want to thank the member for Flinders for his thoughtful comments concerning this bill. What we need is an appropriate balance, and the member for Flinders supports that—the balance between the rights of plaintiffs and defendants. As the member has indicated, these reforms, as recommended by the Ipp review, aim to strike that balance. These reforms, importantly, go towards addressing the structural conditions in the insurance market driving insurance premiums.

The member for Cowper noted the impact of escalating premiums, particularly in respect of tourism operators in his electorate. He would not have the same level of tourism that we enjoy on the Sunshine Coast, but certainly most members throughout the country realise the very great importance of the tourism industry as a wealth generator and a job generator. Tourism operators in my own electorate have also contacted me with respect to this particular matter. The member for Cowper noted the high level of cooperation amongst all jurisdictions in Australia, and he also noted the strong leadership and reforms undertaken by the Commonwealth. I suppose in a sense he was praising the Minister for Revenue and Assistant Treasurer, who has actually led this whole national debate. I want to thank the member for Cowper for his comments, and I note the importance of these reforms for tourism operators throughout the nation.

I am advised that in a recent visit to the electorate of the member for Cowper the Minister for Revenue and Assistant Treasurer visited the Pet Porpoise Pool at Coffs Harbour. I am sure she would be very pleased to hear that the Pet Porpoise Pool has been able to secure insurance. That must have been a matter that was raised with her at that time. I also support the comments made by the member for Cowper in relation to the degree of cooperation amongst all levels of government in Australia.

This is a particularly important piece of legislation. It is part of a national response. It is regrettable that the matter has been sent off to a Senate committee, but I am optimistic that the Senate committee will recommend that the bill be implemented as suggested by the government. I am very pleased to commend this item of legislation to the House.

Question agreed to.

Bill read a second time.

Third Reading

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (10.38 a.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

TELSTRA: PRIVATISATION

Mr TANNER (Melbourne) (10.37 a.m.)—I move:

That so much of the standing and sessional orders be suspended as would prevent the Member for Melbourne from moving the following motion:

This House declares its support for the retention of Telstra in public ownership, and calls on all Members of the House to avail themselves of this opportunity to declare their opposition to the privatisation of Telstra.

Over the last 24 hours we have seen a giant capitulation by the National Party. It has betrayed its rural constituents, it has betrayed country Australia, and it has become a lapdog of the Liberal Party.

Mr ANDREWS (Menzies—Minister for Ageing) (10.39 a.m.)—I move:

That so much of the standing and sessional orders be suspended as would prevent the Member for Melbourne from moving the following motion:

That the member be not further heard.

The member be not further heard.

The House divided. [10.43 a.m.]

(The Deputy Speaker—Hon. B.C. Scott)
Question agreed to.

The DEPUTY SPEAKER—Is the motion seconded?

Mr LATHAM (Werriwa) (10.48 a.m.)—I second the motion. It is time for the National Party—

Mr ANDREWS (Menzies—Minister for Ageing) (10.48 a.m.)—I move:

That the member be not further heard.

Question put.

The House divided. [10.50 a.m.]

(The Deputy Speaker—Hon. B.C. Scott)

Ayes............ 76
Noes............ 66
Majority........ 10

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.
Bartlett, K.J. Bishop, B.K..
Brough, M.T. Cadman, A.G.
Cameron, R.A. Causley, I.R.
Charles, R.E. Ciobo, S.M.
Cobb, J.K. Costello, P.H.
Downer, A.J.G. Draper, P.
Dutton, P.C. Elson, K.S.
Entsch, W.G. Farmer, P.F.
Forrest, J.A. Gallas, C.A.
Gambaro, T. Gash, J.
Georgiou, P. Haase, B.W.
Hardgrave, G.D. Hartshuyser, L.
Hawker, D.P.M. 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. * Moyal, J. E.
Nairn, G. R. Nelson, B.J.
Newell, P.C. Panopoulos, S.
Pearce, C.J. Prosser, G.D.
Pyne, C. Randall, D.J.
Ruddock, P.M. 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.
Tolmer, D.W. Truss, W.E.
Tuckey, C.W. Vale, D.S.
Wakelin, B.H. Washer, M.J.
Williams, D.R. Worth, P.M.

NOES
Adams, D.G.H. Albanese, A.N.
Andren, P.J. Beazley, K.C.
Bevis, A.R. Bereton, L.J.
Burke, A.E. Byrne, A.M.
Corcoran, A.K. Cox, D.A.
Crean, S.F. Crosio, J.A.

* denotes teller
Question agreed to.

Original question put:
That the motion (Mr Tanner's) be agreed to.

The House divided. [10.52 a.m.]

(The Deputy Speaker—Hon. B.C. Scott)

Ayes………… 66

Noes........... 76

Majority……… 10

AYES

Adams, D.G.H. Albanese, A.N.
Andren, P.J. Beazley, K.C.
Bevis, A.R. Brereton, L.J.
Burke, A.E. Byrne, A.M.
Corcoran, A.K. Cox, D.A.
Crean, S.F. Crosio, J.A.
Danby, M. * Edwards, G.J.
Ellis, A.L. Emerson, C.A.
Evans, M.J. Ferguson, M.J.
Ferguson, M.J. Gibbons, S.W.
Gibbons, S.W. Grierson, S.J.
Grierson, S.J. Hall, J.G.
Hall, J.G. Hoare, K.J.
Hoare, K.J. Jackson, S.M.
Jackson, S.M. Jenkins, H.A.
Kerr, D.J.C. King, C.F.
Latham, M.W. Lawrence, C.M.
Livermore, K.F. Macklin, J.L.
McClelland, R.B. McFarlane, J.S.
McLeay, L.B. McMullan, R.F.
Melham, D. Mossfield, F.W.
Murphy, J. P. O'Byrne, M.A.
O'Connor, B.P. O'Connor, G.M.
Organ, M. Plibersek, T.
Price, L.R.S. Quick, H.V.
Ripoll, B.F. Roxon, N.L.
Rudd, K.M. Sawford, R.W.
Sciaccia, C.A. Sercombe, R.C.G.
Sidebottom, P.S. Smith, S.F.
Snowdon, W.E. Swan, W.M.
Tanner, L. Thomson, K.J.
Vamvakou, M. Wilkie, K.
Windsor, A.H.C. Zahra, C.J.

* denotes teller
Question negatived.

ENERGY GRANTS (CREDITS) SCHEME BILL 2003

Consideration of Senate Message

Bill returned from the Senate with amendments.

Ordered that the amendments be considered forthwith.

Senate’s amendments—

(1) Clause 2, page 1 (lines 9 and 10), omit the clause, substitute:

2 Commencement

(1) Sections 1 and 2 are taken to have commenced on the day on which this Act received the Royal Assent.

(2) Subject to subsection (3), this Act (other than sections 1 and 2) commences on 1 July 2003.

(3) If, before the day on which this Act would (but for this subsection) commence under subsection (2), vehicle standards have not been determined under section 7 of the Motor Vehicle Standards Act 1989 that:

(a) relate to motor vehicle emission standards; and

(b) adopt the technical requirements, relating to motor vehicle emission standards, of the following:

(i) Regulation 83 of the United Nations Economic Commission for Europe, relating to uniform provisions concerning the approval of vehicles with regard to the emission of pollutants according to engine fuel requirements, incorporating all amendments up to and including the 04 Series of Amendments;

(ii) subject to subsection (4), European Council Directive


come into effect as specified in subsection (5);

this Act does not commence until the day on which those vehicle standards are determined.

Subparagraph (3)(b)(ii) does not apply to the extent that the technical requirements in European Council Directive 98/69/EC relate to the standard commonly known as Euro 4, for emissions from petrol vehicles.

The vehicle standards must come into effect as follows:

(a) in relation to the technical requirements referred to in subparagraph (3)(b)(i):

(i) from 1 January 2002 for light diesel vehicles that are models first produced on or after 1 January 2002; and

(ii) from 1 January 2003 for all light diesel vehicles produced on or after 1 January 2003; and

(iii) from 1 January 2003 for petrol vehicles that are models first produced on or after 1 January 2003; and

(iv) from 1 January 2004 for all petrol vehicles produced on or after 1 January 2004;

(b) in relation to the technical requirements referred to in subparagraph (3)(b)(ii):

(i) from 1 January 2005 for petrol vehicles that are models first produced on or after 1 January 2005;

(ii) from 1 January 2006 for all petrol vehicles produced on or after 1 January 2006;

(iii) from 1 January 2006 for light diesel vehicles that are models first produced on or after 1 January 2006;

(iv) from 1 January 2007 for all light diesel vehicles produced on or after 1 January 2007;

(c) in relation to the technical requirements referred to in subparagraph (3)(b)(iii) to the extent that they relate to the standard commonly known as Euro 3:

(i) from 1 January 2002 for medium and heavy diesel vehicles that are models first produced on or after 1 January 2002;

(ii) from 1 January 2003 for medium and heavy diesel vehicles produced on or after 1 January 2003;

(d) in relation to the technical requirements referred to in subparagraph (3)(b)(iii) to the extent that they relate to the standard commonly known as Euro 4:

(i) from 1 January 2006 for medium and heavy diesel vehicles that are models first produced on or after 1 January 2006;

(ii) from 1 January 2007 for medium and heavy diesel vehicles produced on or after 1 January 2007.

Page 1 (after line 10), after clause 2, insert:

2A States and Territories are bound

This Act binds the Crown in right of each of the States, of the Australian Capital Territory and of the Northern Territory.

Page 2 (after line 2), at the end of Part 1, add:

CHAMBER
3A The Energy Grants (Credits) Scheme

(1) The purpose of the Energy Grants (Credits) Scheme is to provide active encouragement for the move to the use of cleaner fuels.

(2) In the case of diesel fuel, the Commonwealth intends to restrict entitlements available under the Energy Grants (Credits) Scheme to ultra low sulphur diesel for purchases from 1 January 2006 when a mandatory standard of 50 parts per million of sulphur will come into effect.

(4) Clause 9, page 9 (after line 24), after paragraph (3)(c), insert:

(ca) the Total Environment Centre Inc; and

(5) Clause 9, page 9 (after line 26), at the end of the clause, add:

(4) A determination under subsection (1) or (2) is a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901.

(5) The Commissioner must, 30 days before making a determination, publish a draft of the determination on the Australian Taxation Office website together with an invitation seeking public comment on the draft determination.

(6) The Commissioner must cause to be included in his or her annual report, in respect of each determination he or she has made:

(a) a summary of public comment received in accordance with subsection (5);

(b) a description of how public comment was taken into account in the final determination;

(c) where public comment is not taken into account in the final determination, a statement of reasons why the comment was not taken into account.

(7) As soon as practicable after making a final determination, the Commissioner must for at least 45 days publish the determination on the Australian Taxation Office website.

(6) Clause 34, page 28 (line 5), omit “turtles, dugong.”.

(7) Page 37 (after line 29), after clause 49, insert:

49A Proposed use for certain prohibited actions under Environment Protection and Biodiversity Conservation Act 1999

(1) Despite the other provisions of this Part, you are not entitled to an on-road credit for the purchase, or importation into Australia, of on-road diesel fuel, or on-road alternative fuel, for a particular use that involves taking an action mentioned in subsection (2) of this section without the approval mentioned in that subsection being in operation.

(2) For the purposes of subsection (1), the action is one to which a Subdivision of Division 1, Part 3 of the Environment Protection and Biodiversity Conservation Act 1999 would apply unless an approval required under that Division were in operation.

Note 1: Division 1 of Part 3 of the Environment Protection and Biodiversity Conservation Act 1999 makes it an offence to take action that has, will have or is likely to have a significant impact on a listed matter of national environmental significance unless an approval is obtained under that Act.

Note 2: This section does not apply if another exemption applies under Part 3 of the Environment Protection and Biodiversity Conservation Act 1999.

55A Proposed use in certain prohibited actions under Environment Protection and Biodiversity Conservation Act 1999

Page 42 (after line 9), at the end of Part 4, add:
Despite the other provisions of this Part, you are not entitled to an off-road credit for the purchase, or importation into Australia, of off-road diesel fuel or off-road alternative fuel, for a particular use that involves taking an action mentioned in subsection (2) of this section without the approval mentioned in that subsection being in operation.

For the purposes of subsection (1), the action is one to which a Subdivision of Division 1, Part 3 of the Environment Protection and Biodiversity Conservation Act 1999 would apply unless an approval required under that Division were in operation.

Note 1: Division 1 of Part 3 of the Environment Protection and Biodiversity Conservation Act 1999 makes it an offence to take action that has, will have or is likely to have a significant impact on a listed matter of national environmental significance unless an approval is obtained under that Act.

Note 2: This section does not apply if another exemption applies under Part 3 of the Environment Protection and Biodiversity Conservation Act 1999.

Mr Latham—Mr Deputy Speaker, I rise on a point of order. It relates to the earlier proceedings with the motion of suspension moved by the member for Melbourne. The member for Melbourne and I both had our microphones turned off before the minister had the call. I know these are just short periods in which we can say our piece but every moment matters. I ask if we can observe the normal practice that the microphones are only turned off once the minister has received the call from your good self.

The DEPUTY SPEAKER (Hon. B.C. Scott)—Thank you. I am sure that will be passed on to those who monitor the microphones.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (10.58 a.m.)—I move:

That the amendments be agreed to.

The Energy Grants Credit Scheme gives effect to the commitment made by the government in May 1999 under Measures for a Better Environment to replace the Diesel Fuel Rebate Scheme and the Diesel and Alternative Fuels Grants Scheme with a single unified scheme. Under the Energy Grants Credits Scheme, a person will be entitled to off-road credit when purchasing diesel fuel for use in eligible activities that are the same as those activities currently eligible for a rebate under the Diesel Fuel Rebate Scheme.

Similarly, a person will be entitled to an on-road credit when purchasing fuel for use in activities which are the same as those activities that were eligible for a grant under the Diesel and Alternative Fuels Grants Scheme. In this way, the Energy Grants Credits Scheme will maintain benefits equivalent to those available under the existing schemes.

The Energy Grants (Credits) Scheme Bill 2003 also aligns the point of entitlement un-
der the on-road credit with the off-road credit point of entitlement. This will allow businesses to claim an on-road credit when they purchase or import fuel for use in eligible on-road activities, rather than having to wait until the fuel is used before being able to claim a credit. This change should provide cash flow advantages to businesses as well as streamline claiming arrangements. The Energy Grants Credits Scheme will apply from 1 July 2003.

The amendments agreed to by the Senate, which will be supported by the government, insert a number of clauses into the bill to replicate current provisions in the Diesel and Alternative Fuels Grants Scheme Act 1999. These clauses allow for the commencement of the scheme to be subject to certain vehicle standards being met, provide that the states and territories are bound and define the purpose of the Energy Grants Credits Scheme. The amendments also allow for a determination to define a journey under the on-road credit as a disallowable instrument and to provide for public consultation for draft determinations. The amendments also clarify that an off-road credit is not paid when persons are undertaking environmentally damaging activities, such as taking turtles and dugong in fishing operations or engaging in actions prohibited under the Environment Protection and Biodiversity Conservation Act 1999. The passing of the Energy Grants Credits Scheme bills provides certainty to all recipients under the current diesel rebate and grant schemes. On that basis, I commend the amendments to the House.

Mr MARTIN FERGUSON (Batman)

(11.02 a.m.)—I suggest to the House that the Energy Grants (Credits) Scheme Bill 2003 is a sorry case study in poor public policy management and reform by the Howard government. The facts show that significant industries rely on these grants, and the truth of the matter is that the Howard government has been appalling at providing any certainty or clarity on the issue for the past four years. It is also fair to suggest this morning, as was evidenced in the proceedings in the other house last night, that the Democrats have been dudged on this bill.

This bill is the culmination of a deal that saw the GST delivered by the Democrats upon the Australian community. History also shows that, in the negotiations on this bill, the Howard government treated the Democrats with contempt. There were no negotiations. In fact, rather than negotiating with their GST partners, the Democrats, the Howard government only chose to—dare I suggest—negotiate with a Democrat rat, Senator Meg Lees. It was intended that the scheme provide incentives for cleaner fuels whilst maintaining the benefits to Australian industry.

Mr Slipper—Mr Deputy Speaker, I rise on a point of order. It is not appropriate under the standing orders for the member for Batman to refer to a senator as a rat. That is an abusive term and is totally in breach of the standing orders. I ask that he withdraw that reference to Senator Lees.

The DEPUTY SPEAKER (Hon. B.C. Scott)—I ask that the member for Batman consider what the parliamentary secretary has said and withdraw the use of the word ‘rat’ when referring to a senator.

Mr MARTIN FERGUSON (Batman) (11.02 a.m.)—I suggest to the House that the Energy Grants (Credits) Scheme Bill 2003 is a sorry case study in poor public policy management and reform by the Howard government. The facts show that significant industries rely on these grants, and the truth of the matter is that the Howard government has been appalling at providing any certainty or clarity on the issue for the past four years. It is also fair to suggest this morning, as was evidenced in the proceedings in the other house last night, that the Democrats have been dudged on this bill.

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The DEPUTY SPEAKER (Hon. B.C. Scott)—I ask that the member for Batman consider what the parliamentary secretary has said and withdraw the use of the word ‘rat’ when referring to a senator.
Senate as a result of this process is that, when you sell your soul, the Howard government will use you up and spit you out and, in essence, move on to another minor political party that is prepared to sell their soul.

Mrs Gallus—Cheryl?

Mr MARTIN FERGUSON—As I have said, the government has not focused on cleaner fuels. I note that the member for Hindmarsh refers to a former member and a member of the Labor Party. I remind the member for Hindmarsh that when Cheryl Kernot chose to leave the Democrats she handed her Senate seat back to the Democrats rather than merely ratting on her former political allies, leaving them one short and, in essence, walking away from her obligations to the people who elected her to the Senate to represent the Democrats.

Because the amendments focus on cleaner fuels, Labor supports the amendments as they bring forward in this bill an onus to promote and lock in the requirement for us as a community to embrace cleaner fuels. This requirement will now be included in this bill to hold the government to account on the promise that they have been trying to wriggle out of for four years. I also refer to the pig-headed games by the Treasurer over the last six months, which saw the Treasurer use every trick to deny the legislators information about this bill. I personally believe, and the facts will show when the regulations are made available to the public for general consideration, that those regulations are critical to the bill before the House this morning. In fact, they contain the quantum of the grant, bounties for the scheme and other important information.

I also take exception to the fact that, during consideration of this bill by the opposition in a most constructive way over an extended period, the Treasurer chose to give access to the draft regulations to 12 different industry organisations but denied the legislators— (Extension of time granted)

Until late yesterday, the Treasurer denied the legislators—the people elected by the Australian community to the House of Representatives and the Senate—information going to the nature of the regulations, creating further unnecessary uncertainty for industry. I compliment industry for sending a message to the Treasurer in no uncertain terms that a range of industry representatives disagreed with the pig-headed approach to this issue by the Treasurer and requested that he open his mind to proper legislative processes so as to ensure the smooth passage of this bill.

I report to the House that the Treasurer said that he believed that showing the opposition the regulations would create a precedent for his portfolio. The opposition proved this to be untrue. We cited examples to the contrary in our correspondence to the Treasury. I might also say that, in my responsibilities as shadow minister for transport and regional services, the people I deal with on a regular basis in the Department of Transport and Regional Services, with the assistance of the minister’s office, go out of their way to cooperate with us in facilitating proper consideration of bills they bring before the House to guarantee the capacity of the government, often by agreement, to put in place necessary legislative reform which is to the advantage of transport and regional communities in Australia. That means that, as required, on a regular basis, we are given access to regulations which are part and parcel of the legislation brought before the House by the Leader of the National Party, the Minister for Transport and Regional Services.

I raise these issues by way of comparison because they are important issues of principle. I very firmly believe that, in an endeav-
our to avoid the frustration of the parliamentary process, we should have some understanding that, when such regulations are available, as was the case with respect to the Energy Grants (Credits) Scheme, governments should go out of their way to facilitate proper consideration of the whole legislative package by enabling those involved in the debate—in the House of Representatives or in the other house—to have access to those draft regulations. In many instances, the regulations go to the application and enforcement of the legislation that might be considered by the House.

I found it surprising that the Treasurer not only initially refused us access to the draft regulations but also ignored a Senate return to order to table the regulations. This is a senior representative of the Howard government—the Deputy Leader of the Liberal Party, the major political partner of the coalition government—who often rants and raves at the dispatch box during question time about frustration by the Senate. All I can say is that it is about time the Treasurer led by example. His pig-headedness almost undermined consideration of the Energy Grants (Credits) Scheme and potentially could have denied the ongoing smooth transition of the application of very important grants to a range of industries, including many people in small business who are dependent on the proper processing and enforcement of the energy credit scheme.

This is a prime example of the lengths to which the Treasurer is prepared to go to obstruct the passage of this bill and to obstruct and undermine the proper operation of the House of Representatives and the Senate. I am pleased to say that, in spite of the Treasurer’s action, this bill has passed in the other house. More importantly, we in Labor always said that we would maintain the benefit to the industry. I do not consider that the Treasurer embraced and supported the same approach. I argue that the Treasurer did his best to get the opposition to vote against the bill for his own short-term political purposes. I am pleased to report that he has failed yet again. Let him continue to play his small-minded political games. In the best interests of Australian workers, and especially those involved in small business, the Labor Party has risen above the small-minded games of the Treasurer and guaranteed the passing of this bill. (Extension of time granted)

It is for these reasons that Labor supports the amended bills. They are about putting in place the original undertakings given by the government some years ago—undertakings which go to the enforcement of grants which are very important to the operation of a range of industries, not only in the primary industry sector but also in the road transport industry, in mining and in forestry, to name a few; which are important from the point of view of my shadow ministerial responsibilities in transport; and which are exceptionally important to regional Australia. Businesses operating in regional Australia very much depend on the application and availability of these grants. I say to people in regional Australia this morning that they should point their fingers at the Treasurer—a city-centric treasurer, Deputy Leader of the Liberal Party and would-be Prime Minister who was prepared to play political games which could have seen regional communities lose jobs and small businesses close because of his small-minded, pig-headed approach.

I also want to raise an issue of exceptional importance to a range of workers who are struggling to keep their jobs in Australia at the moment. I refer to the maritime industry. It is about time the maritime industry was given a fair go in Australia. In the Senate last night the Howard government opposed a Labor amendment to guarantee that we lock into the application of the Energy Grants (Credits) Scheme a level playing field for the
maritime industry in Australia. Our amendment would have levelled the playing field for the Australian shipping industry—something that is desired and being sought by the Independent Review of Australian Shipping at this very point in time.

It is interesting to note that the independent review is being co-chaired by two former transport ministers: John Sharp, a former shipping industry minister—a transport minister—of the Howard government, and Peter Morris, a former Labor transport minister. Last week I attended an industry forum conducted at Parliament House under the chairmanship of those two people. The key objective of the report to which they requested that the Minister for Transport and Regional Services and I respond included a range of targeted initiatives which could be encompassed in a package which would go some way towards creating a level playing field in Australia to enable us to rebuild our coastal shipping industry and, at long last, give an opportunity to young Australians to pursue decent training opportunities in the maritime industry and eventually be involved in long-lasting and rewarding employment opportunities in the industry.

I supported the opposition amendment in the Senate last night because it completely accorded with the recommendations of the Independent Review of Australian Shipping. As I said to that independent review last week, I have a very open mind on it. But I must say that I was disappointed with the small-minded, short-sighted reaction of the Minister for Transport and Regional Services to the review last week. It seems that we have a government in place at the moment that is hell-bent on destroying Australian jobs and, worse, hell-bent on destroying many Australian jobs which are vital to the future growth and economic importance of regional communities. The defeat of our amendment last night means that foreign shipping companies working the coast under voyage permits gain a further advantage, to the disadvantage of Australian shippers and Australian workers, their families and their communities. (Extension of time granted)

The rejection last night of the opposition amendment to the Energy Grants (Credits) Scheme Bill 2003 relating to the application of the Energy Grants (Credits) Scheme to the shipping industry effectively means that the Howard government wants to create an environment which guarantees ongoing help to enable foreign shippers to compete unfairly against Australian domestic transport operators not only in the shipping industry but also in the road and rail industries. I already know of examples of Australian workers losing their jobs in the shipping industry—and in the road and rail industries—because of the special benefits given to foreign shippers on our coastal trade not only by foreign countries but also by the Australian government. When it comes to standing up for jobs I will always vote for protecting Australian jobs rather than taking the approach of the Howard government, which is about giving additional benefits to take Australian jobs and give them to people from the Philippines or the Ukraine, as is currently happening in the shipping industry in Australia.

Worse still, we should consider who is now being forced to pay for these special benefits which mean that Australian jobs are going overseas. Guess who it is? It is Australian taxpayers. This legislation means that Australian taxpayers—people who slog their guts out to make ends meet—will now be paying for special benefits to subsidise overseas shipping companies and, in essence, subsidise the export of jobs from Australia. I consider this to be a major issue not only for the opposition but also for the Australian community. Whenever I talk to people in local communities they say to me as a member of the House of Representatives, ‘Your
first responsibility is to Australia. Your first responsibility is to guarantee job security and training for Australians. It is not your responsibility to support legislation which effectively means that we subsidise the export of Australian jobs.’ This ought to be seen as a major issue. I believe that this benefit adds to the existing high level of advantage given to foreign operators through the permit system.

The opposition have been asking how these bills apply to foreign vessels and we finally got a few answers this week. It is now clear that significant benefits accrue to foreign shipping companies, and it is for this reason that we oppose Australian taxpayers being forced to pay for those benefits. In the Senate last night we learned that 3.8 per cent—not an insignificant amount—of the Diesel Fuel Rebate Scheme goes to marine purposes. This effectively means that millions of taxpayers’ hard-earned dollars—potentially about $20 million, on my estimate—are going to foreign vessels that are shafting the Australian industry and shafting Australian workers and their families.

This is yet another disgraceful example of the Howard government’s priorities and its endeavours to prop up foreign operators by abusing the coastal permit system. The permit provisions were in the Navigation Act under previous governments, but let us deal with how they were applied. They were designed to be used in extreme circumstances for domestic coastal trips when—and this is the key point—an Australian-licensed vessel was not available. Interestingly, for 13 years the Hawke and Keating Labor governments never issued a single continuous voyage permit. (Extension of time granted) What has happened since the election of the Howard government? Let us deal with the facts on the issue of these permits, firstly in relation to single voyage permits. In 1996, 518 single voyage permits were issued; in 1997, 695; in 1998, 741; in 1999, 648; in 2000, 623; in 2001, 675; and in 2002, 664. This is a sorry state of affairs, because the intention under the Navigation Act was that these permits be issued only when an Australian-licensed vessel was not available. But even worse is the clear decision by the Howard government to extend the operation of these permits on a continuous basis and not a single voyage basis.

On this issue of continuous voyage permits for every year since 1996 the facts speak for themselves. They show a very clear decision by the Howard government to prop up overseas shipping companies in receipt of very considerate tax benefits from foreign countries aimed at smashing employment in the maritime industry in Australia. In doing so, I suggest to the House, the government has undermined our capacity to maintain a viable coastal shipping industry, which is exceptionally important in terms of the defence of Australia and also, I suggest, in maintaining quality vessels, which are part and parcel of maintaining our pristine coastline. People should not forget that the debate about the maritime industry is also a debate about how we protect our environment. It is not just a debate about jobs and training for Australians; it is also a debate about the ships of shame—those rust buckets that are foreign flagged and that have the capacity to destroy not only our coastline generally but also that wonderful icon, the Great Barrier Reef.

It is a very important debate for Australia. It ranges across a number of portfolios and, more importantly, it goes to issues of vital concern to every Australian—jobs and training, the requirement to actually care about our environment and the necessity to put at the forefront of our consideration of defence issues maintaining a viable coastal shipping industry that we can call upon in times of need. For that reason I take us to the issue of continuing voyage permits. In 1996 and 1997
there were none issued and then, all of a sudden, there was a change in policy. Perhaps it can be traced back to a change in minister. At about that time there was a change in minister, related to the travel affairs rots, which saw a number of Howard government ministers disappear from the front bench, as you can recall, Mr Deputy Speaker Scott, because you were actually a colleague of some of those people. Then in 1998, 15 continuous voyage permits were issued; in 1999, 59; in 2000, 84; in 2001, 115 and in 2002, 89. What a shameful example of the misuse of the longstanding act—the Navigation Act—the provisions of which were about guaranteeing that, in times of need for trade purposes, we could give a permit to an overseas operator when it was proven that an Australian licensed vessel was not available, when it was proven that Australian workers were not available to do the job. That policy has been reversed. (Extension of time granted) It is no longer a requirement to prove that the vessels are not available. The policy effectively says, ‘If there is a foreign ship available then we are going to give you the inside running because, in essence, we couldn’t give a stuff about a viable coastal shipping industry in Australia and jobs for Australians.’ That is the Howard government’s approach to the maritime industry in the 21st century.

We have always had a proud maritime history in Australia in maintaining proper standards with respect to the employment and training of those people, in giving support to the Australian shipping industry to actually build ships in Australia and support a range of regional communities, including Newcastle, Williamstown and some in South Australia, plus major shipbuilding activities in Western Australia and Tasmania, and we have always gone out of our way to put Australia first. No longer when it comes to the maritime industry does the Howard government put Australia first and the needs of Australian workers and the Australian community first. Let us be square about it: these permits allow foreign vessels to operate for periods of six months in our domestic trade—not a week or a fortnight, but six months. We are effectively saying that we are going to let them in willy-nilly and we couldn’t give a bugger about the impact of that decision on—

The DEPUTY SPEAKER (Hon. B.C. Scott)—Order! There was use of unparliamentary language, and I ask the member to withdraw that word.

Mr MARTIN FERGUSON—I withdraw that word, Mr Deputy Speaker. In essence, it effectively means the Howard government could not give a stuff about the application of its maritime policy on Australian industry and workers.

Mr Randall—Mr Deputy Speaker, I rise on a point of order. The vernacular that the member opposite is using is totally inappropriate language in the House. I ask that he be brought into line. It is street talk; it is not the talk of the federal parliament.

The DEPUTY SPEAKER—Member for Batman, your language is offending some members, and I ask you to desist from using such language.

Mr MARTIN FERGUSON—Mr Deputy Speaker, I find it surprising that my language would in any way offend the member for Canning, given the standards he has applied in the House in the past. As I was saying, it is about the Howard government not giving a damn about the potential impact of its maritime policy on not only the Australian maritime industry but also the shipbuilding industry, the environment and our defence.

These voyage permits operate for six months. But guess what? More than ever, they can now be extended. We have examples where these vessels have been operating
for periods of over two years. In the year 1996-97 almost four million tonnes of freight carried was under these permits but, starkly, in the year 2000-01 that figure had risen to almost 10 million tonnes. Foreign vessels with foreign crews are operating under these permits with workers from countries such as the Philippines and the Ukraine competing directly, with big advantages, against Australian companies and Australian workers in the shipping, road and rail industries.

Let us deal with a couple of those advantages, which are added to by the continued application of the energy credits benefits under the bill before the House this morning. Firstly, they are not required to apply Australian award wages and conditions. I wonder what the view of the National Party would be if, all of a sudden, a foreign agricultural company came to Australia and set up an operation on the farm next door to the farm operated by the Deputy Prime Minister, the member for Gwydir. That company would have no requirement to pay Australian taxes and no requirement to pay Australian wages and conditions of employment; it would merely take what it could when it could and undermine the capacity of the Deputy Prime Minister’s neighbours to compete on an equal playing field in primary industry. I can tell you that cockies corner would be screaming. They would say, ‘This is wrong; it is unfair. We want a level playing field.’ But, as usual, when it comes to issues that do not affect them, cockies corner is silent. (Extension of time granted) That is what it amounts to: one rule for primary industry but another rule for the maritime industry.

It is not just about wages, conditions and extra benefits under the energy credits bill. Guess what? These overseas operators are not required to pay the same tax as Australian operators—no superannuation tax, no FBT. There is a range of tax measures. That means further benefits for these operators intent on destroying the maritime industry in Australia and intent on destroying jobs and training opportunities for young Australians. I often hear the government talk about the importance of apprenticeships and I, for one, completely agree. We have terrific opportunities in the maritime industry for young Australians who want to go to university and those who want to pursue an apprenticeship opportunity.

In Launceston, in the electorate of the member for Bass, we have a maritime college that we should all be proud of. It was established with one primary objective: to train Australians to work in the maritime industry. I frequently visit that college as part of my shadow ministerial responsibilities. I am dismayed to report that, in this day and age, under the Howard government, representations from that college are made to me, more often than not, not about opportunities to train young Australians but more than ever about how to free up the visa system for overseas students to enable the college to train people from beyond Australian shores to maintain the viability of the college. As an Australian, I think that is a disgrace. I agree with the concept of education as an export. I agree with initiatives that have been put in place by a range of universities to pursue the training of students from overseas, but I believe that our education institutions, first and foremost, should exist to train Australians. They should exist to train Australians, be it in the maritime industry or any other industry, to guarantee that they are skilled and capable of gaining long-lasting employment. That is why we are here. That is why this parliament exists—to operate in the best interests of all Australians.

We have got to a point where that wonderful maritime institution in Tasmania, a Labor government initiative, is no longer viable because of the Howard government’s policy on maritime—again, reflected in the energy
credits bill. It is not related to the training of Australians but to the training of overseas students. If I were on the other side of the House, I would hang my head in shame. What a failure of government policy. It can be fixed. All the government has to do is have an open mind about the shipping industry report prepared by those well-respected former ministers for transport, John Sharp and Peter Morris.

They were delighted when I went along last week. I basically said that, given my past history as a trade union representative, there were a number of issues in that report that challenged me. But I clearly reported to them that I am prepared to have an open mind, because I actually care about Australian shipping, I actually care about our need to have a viable coastal shipping industry, I actually care about workers having an opportunity to be trained and employed in that industry, I actually care about having ships that are not rust buckets, I actually care about our environment and, importantly, I care about our requirements in terms of defence, especially as more than ever we are now an international terrorist target. We should not walk away from the fact that our backyard, the region in which we live, is now a region of major turmoil. Even today we as a nation are considering sending troops to the Solomon Islands, not far from our own coastal lines, to try to put in place a proper process to assist in, I suppose, securing the future of that nation.

Mr Slipper—Do you oppose that?

Mr MARTIN FERGUSON—The member for Fisher wants to play cheap political games. These are major issues of importance. If he cares about defence he will actually be supportive of the comments that I have made today. (Extension of time granted) As you will appreciate, Mr Deputy Speaker Wilkie, because you actually serve on the treaties committee, these are key issues to the defence of Australia. Anyone who cares about defence should stand up, support and fight for a viable coastal shipping industry.

That is why I am dismayed this morning to report to the House that foreign shipping companies, crewed by people from places such as the Philippines and the Ukraine, are going to have under this bill a continuation of grants paid for by Australian taxpayers which do not guarantee Australians a fair go. These vessels being given these concessions are flag of convenience vessels posing, as I have said, significant risks to our marine environment.

I must say that I am also dismayed at the fact that the Democrats had indicated that they supported the Labor amendment with respect to the application of the grants to the maritime industry but, when it came to the crunch last night, the amendment went down because Senators Bartlett and Cherry were not in the Senate chamber. The record speaks for itself. If they actually cared about the maritime industry, all the Democrats would have been there in support of the opposition amendment. I have therefore reported the failure of Senators Bartlett and Cherry to attend the other chamber last night to a range of maritime workers today so as to enable them to get the facts with respect to why this amendment failed. It failed not only because of the position of the government but also because Senators Bartlett and Cherry failed to front up and make sure that they helped secure the passage of this amendment.

I conclude by saying that the opposition is yet to hear a credible argument in the face of this evidence as to why Australian taxpayers should give these operators an excise holiday. That is what it amounts to: an excise holiday. I believe these benefits are worth something of the order of $20 million. I know that $20 million would go a long way
in my portfolio. Just by way of information, the Commonwealth is at this point in time $20 million short for its 50 per cent share of the Pakenham bypass. That $20 million would enable us to commence the important feasibility work on the Deer Park bypass. It would enable us to do a hell of a lot of work in a range of regional communities doing it tough.

This bill proposes taxpayers’ money goes to overseas operators. That is why the opposition objects to it, and the force of our amendment was to remove that benefit. The opposition believes in a fair go and fair competition. Australian transport operators continue to be dudged by the Howard government with respect to the liberty and access it gives to the domestic transport market. The Howard government has unfortunately continued to exploit every law to advantage foreign ship operators in the name of cheaper shipping costs, not the public interest, not the nation’s interest, not Australia’s interest. It is a pity that more of the government’s time has not been spent dealing with critical issues, such as policies to ensure cleaner fuel, and doing the work to implement commitments that it gives.

I support the bill. The Labor Party has campaigned to ensure its safe passage. It was the pig-headedness of the Treasurer that almost frustrated those endeavours. But I am ashamed as an Australian that this bill uses taxpayers’ money to subsidise foreign shipping companies taking Australian jobs from Australians. Taxpayers’ money can be better spent.

Mr Martin Ferguson—Mr Deputy Speaker, I rise on a point of order. The standing orders provide for me to make my interventions and the standing orders prevail. It is about time the member for Fisher understood that he has not allowed me anything; the standing orders of the parliament and the people of Australia have allowed me to actually stand up and be counted today.

Mr SLIPPER—Mr Deputy Speaker, on the point of order: what I was saying was that I have allowed the member for Batman to proceed with his numerous contributions without taking a point of order when I considered that he deviated from the particular provisions of the Energy Grants (Credits) Scheme Bill 2003. Certainly under our standing orders he is entitled to make as many five-minute contributions as he wishes, but they are supposed to be relevant to the bill. He deviated quite considerably but I thought that, in the interests of expediency, it would be wise to allow him to exhaust what he wanted to say. Then I could sum up the bill and make sure that this legislation is carried for the very many benefits contained in it.

Mr SLIPPER—Mr Deputy Speaker, on the point of order: what I was saying was that I have allowed the member for Batman to speak at some length without taking a point of order on what he said.
transport and it is environmentally effective. It is somewhat regrettable that, during the period that the member for Batman was the ACTU president and during the period of the Hawke and Keating governments, we have not developed the coastal trade as much as we could have. There is a whole range of reasons for that, including unrealistic conditions. The sad thing is that we have not had a viable coastal shipping industry for a long time. The ALP must take prime criticism for that; they must accept responsibility for it.

The attempt by the opposition to deny credit to foreign ships was an inappropriate way to try to deal with their industrial agenda. I know that the member for Batman quite passionately believes in his industrial agenda, as a former ACTU president—as are a number of other members of the Australian Labor Party in this place—but there is a time and place to pursue industrial issues, and I suspect that it is not in debate on the Energy Grants (Credits) Scheme Bill 2003. If the ALP had been successful in denying credits to foreign ships, there would have been increased freight costs in communities in some parts of the country, such as Western Australia and Tasmania and maybe other parts of the country.

I thank the opposition for their support of this legislation. It is regrettably that the member for Batman has been able to articulate such a long monologue over a considerable period, but he has had his opportunity. We have not taken a point of order. I ask the parliament for support of this legislation and for the amendments which I have moved to be agreed to.

Mr MARTIN FERGUSON (Batman) (11.47 a.m.)—Mr Deputy Speaker, for the record: the budget announcements show that as a result of the Energy Grants (Credits) Scheme Bill 2003 the government have not maintained the same benefits for all previous recipients under the energy credits system. That is the budget announcement. If they had wanted, they could have excluded the benefits being given to overseas shipping operators. The budget announcements effectively mean that they have now brought in a differential system. A circle has been put around primary industry, which is to receive special benefits over and above the benefits applicable to road, forestry and mining—to name a few industries that actually receive benefits under this bill. If there is discretion to actually change the nature of benefits delivered to different industries that have previously received the benefits of the energy credits system, then the government could have easily, if they so chose, denied the continuation of the benefits to overseas shipping operators. That is effectively the decision of the budget this year. When the regulations become available—and they will be subject to scrutiny in the Senate—there is no doubt that this will be reflected, because that is what the Treasurer clearly intended by his budget announcements this year.

With regard to jobs, the parliamentary secretary would be well advised to actually speak to Australian workers involved in road and rail transport at the moment, especially along the east-west corridor. People who have long been employed in those industries are now losing their jobs because of the benefits given to foreign shipping companies under this bill. I will be telling them in no uncertain terms that it is the Howard government’s fault that they have lost their jobs. The Energy Grants Credits Scheme rein-
forces the Howard government’s lack of desire to actually help them—fellow Australians, taxpayers, small business operators—to keep their jobs in Australia.

The DEPUTY SPEAKER (Mr Wilkie)—The question is that the amendments be agreed to.

Question agreed to.

BILLS RETURNED FROM THE SENATE

The following bill was returned from the Senate without amendment or request:

Energy Grants (Credits) Scheme (Consequential Amendments) Bill 2003

WORKPLACE RELATIONS AMENDMENT (TRANSMISSION OF BUSINESS) BILL 2002

Second Reading

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

That this bill be now read a second time.

Mr McCLELLAND (Barton) (11.50 a.m.)—The Workplace Relations Amendment (Transmission of Business) Bill 2002 addresses a highly significant issue. Indeed, the debate with respect to the Australian maritime industry that we have just witnessed in the House touched on that issue as well. It is becoming an ever-increasing issue in our workplaces and our communities. There is no doubt that the rapid movements of global capital that we see in the modern economic environment as a result of globalisation mean that we repeatedly see instances where capital comes in and out of the country and we see resulting business sales, transfers, mergers and contracting-out arrangements. It is fair to say that very few workers have not been retrenched or seen one of their workmates lose their job as a result of one of these phenomena. Increasingly, as I said, these transmissions and the consequent insecurities that they can cause are a feature of modern working life. Those consequences can often be the source of considerable resentment. The communities that I have visited that are demoralised tend to be those where the forces of the modern global economic environment have brought about a significant amount of corporate restructuring, with people losing their jobs or positions as a result of that phenomenon. That can itself be the source of considerable resentment within communities.

There is particular outrage when that restructuring is the result of corporate manoeuvring rather than for legitimate business reasons. Regrettably, there have been some very disturbing examples of transmissions of business occurring for strategic purposes—indeed, for strategic industrial relations purposes—as opposed to legitimate business interests. Perhaps the most infamous example of that was with respect to the Patrick group of companies in 1998. People are well aware of the Patrick Operations dispute. I will refer to some passages from the Federal Court decisions and, subsequently, the High Court decision. The Federal Court said in its decision of 21 April:

The cancellation of the labour supply contract and the appointment of administrators on April 7—this is with respect to the Patrick companies—were made possible by a complex, inter-company transaction which occurred in September 1997. By dividing the functions of employing workers and owning the business between two companies, the Patrick group put in place a structure which made it easier to dismiss the whole work force.

The High Court decision also referred to similar phenomena. It said:

Thus the security of the employer company’s businesses was extremely tenuous. The security of the employees’ employment was consequentially altered to their prejudice.

The High Court further said:
There is no express denial that a reason for undertaking the restructure in this particular way was to facilitate the termination of the employees’ employment.

Further, at page 22, it stated:

... in effecting the 1997 reorganisation, the employer companies disposed of their assets including their stevedoring businesses, reduced their issued capital and disposed of a substantial amount of money by the buy-back of their shares and became the mere suppliers of labour, they exposed their continued commercial viability to the discretion of Patrick Operations No 2 (and later Patrick Operations) in the event of any disruption in the supply of labour.

In a speech in the Senate on 14 May 1998, Senator Kerry O’Brien went through in some detail the corporate restructuring and summarised it by saying:

Up until the third week of September, Patrick Stevedore’s companies Nos 1, 2 and 3 employed waterside workers, owned equipment, ran terminals and had contracts with shipping companies. But the business was sold for $300 million to a company further up the corporate chain while assets were sold for $7 million.

The employer companies reduced their capital base by almost $70 million by buying back and then cancelling shares. This soaked up all their cash. Patrick Stevedore’s No. 2 paid $24.4 million in buying 609,922 shares at a $1 par value, a $39 premium per share. Patrick Stevedore’s No. 1 paid $36.9 million for 45.4 million $1 shares, a 19c discount on par value. Patrick Stevedore’s No. 3 paid $6.8 million for 13.5 million shares, a 50 per cent discount on the par value of the $1 shares.

I have referred in my speech to the High Court decision which said that there was no doubt in the High Court’s mind that the restructuring at least had a purpose of making it easier to dismiss workers. I have to say that in terms of the government proposing this bill we have to look at their track record and point out to the Australian community that we do not think they come here with entirely clean hands. Without having a debate, as would be objected to no doubt by my colleague the member for Canning, on the Patrick Stevedore’s events, all I would point to is the fact that on 10 March 1997 departmental officers of the department of transport outlined the circumstances in a memorandum by which employees could be terminated. They said in that memorandum:

Stevedores would need to activate well prepared strategies to dismiss their work force and replace them with another quickly ...

... a dispute would not, of itself, remove or alter MUA coverage, remove or suspend registration, or cancel the award or terminate any agreement ...

What would be needed for the MUA’s influence on the waterfront to be significantly weakened would be for a range of affected service users and providers to take decisive action to protect or advance their interests.

I also point to the government’s interconnection with those Patrick Operations events. I think it was 9.30 a.m. on the morning after the dismissals were announced—at approximately 10 p.m. to 11 p.m. the night before—that the government introduced into the House the Stevedoring Levy (Collection) Bill 1998. To assume that the government had not prearranged its bill on the basis of those technical corporate manoeuvrings being undertaken in the Patrick group of companies defies all logic and analysis. I point out that, in advancing a cause of employee interests in terms of a desire to protect the security of employees, all one needs to do is refer to the government’s intimate and intricate involvement in that Patrick Operations scenario for Australian workers to be very concerned indeed about government motives.

Of course, other examples of corporate manoeuvring for the purpose of avoiding employee entitlements exist, and we must be aware of those in considering the proposals contained in this bill. There is a good example with respect to the Coogi Group, a textile
company. It is referred to in a case called McCluskey v. Karagiozis, a 12 September 2002 decision of Justice Merkel of the Federal Court of Australia. He referred to the restructuring that occurred in that case. He said:

The aspect of the restructure that is before the Court is the purported transfer of the employment of approximately 240 employees, employed by the pre-structure employer in the Coogi group to the proposed post-restructure employer in the Coogi group (“the transferred employees”).

He then set out how those allocations to the restructured companies were to take place. He said:

It appears that the post-restructure companies have no assets of substance and will be unable to pay the transferred employees their employee entitlements, which are said to total in excess of $2,500,000.

His Honour said:

Although the post-restructure companies accepted the employment of the transferred employees and paid salaries, taxes and other payments in respect to those employees, the majority of whom were women from non-English speaking backgrounds performing largely unskilled work, the employees were never consulted about the cessation of their employment with the pre-restructure employer or about the commencement of their employment with their post-restructure employer. It appears that the only information received by the employees about their new employer was the appearance of its name on the pay-slips and group certificates issued since 2 March 2000.

His Honour summarised the situation in this way:

… on the material presently before the Court the controllers—

that is, the controllers of the companies—appear to have pursued their own interests in disregard of the entitlements and interests of their long serving and loyal employees by transferring the employment of the employees, and the responsibility for their employee entitlements, to shell companies thereby treating those employees as if they were serfs, rather than free citizens entitled to choose their own employer.

This is another dramatic example of corporate manoeuvring and restructuring for the advantage of those controlling the corporations and for the purpose of avoiding employee entitlements.

Another recent example that came to my attention was with respect to a company called Datem Moore Pty Ltd, which ceased to trade on 11 April 2003. It was an electrical contracting company operating in the Hunter region. Obviously it was a substantial company, but workers there have been denied accrued entitlements of some $202,000. Unfortunately, most of that shortfall is made up of unpaid superannuation entitlements totalling some $172,360, which will not be recoverable under the GEER Scheme. Surprise, surprise! As I understand it, those employees of Datem Moore Pty Ltd were transferred from a related company called Datem Moore Technical Services back in July 2002—another example of corporate manoeuvring at the expense of workers.

What is the government’s position on these transmissions of business in circumstances where Australian workers lose their jobs and/or entitlements? Certainly, with regard to the maritime industry—which was the topic of the debate in the Senate message immediately before this item of business—it is demonstrated in the case of the CSL Yarra. As I understand the facts, the CSL Yarra was sold to a related company, which proposed to operate—and, as it has turned out, in fact has operated—that vessel on pretty well the same shipping route in Australian waters but with a foreign crew.

What is the position of the Australian government on that circumstance? It appeared in the Australian Industrial Relations Commission to oppose an application for the vessel to be covered by Australian award
conditions to prevent the use of foreign crews undermining the terms and conditions of Australian maritime workers. More recently, as I understand it, it has also appeared in the High Court of Australia to oppose or seek prerogative relief against an Australian Industrial Relations Commission order that Australian award conditions flow on to that vessel. That says volumes about this government’s commitment to Australian jobs and to fair terms and conditions for Australian workers. Indeed, it says volumes about the extent and expense to which it is prepared to go to allow the terms and conditions of Australian workers to be undermined by cheap foreign labour. That can occur as a result of contracting-out arrangements, as these examples indicate.

Another case worth referring to is PP Consultants Pty Ltd v. Finance Sector Union of Australia, a case that went to the High Court of Australia. In that case, the Byron Bay branch of the St George Bank was closed and, in its place, a ‘bragency’—short for branch agency—was opened. A pharmacist who took over that ‘bragency’ employed an employee of the bank. Despite the Federal Court of Australia saying that the situation was a transmission of business situation, the High Court said that, because the business of the pharmacy was different from the business of the bank, there was not a transmission of business. That decision was welcomed by Minister Reith in a press release issued on 16 November 2000, but he did not go into the fact that the decision can only encourage that sort of event—the closure of businesses, contracting out of services and reducing services.

The loss of services, which is encouraged if we make it easier for businesses to undermine or reduce their obligations to employees through these contracting-out arrangements, affects local communities like Byron Bay—which is not an insubstantial regional centre, albeit a desirable one to visit. So, as well as employee entitlements and jobs, the interests of local communities—particularly in regional centres—can be drastically affected by these contracting-out arrangements.

The effect on the rights of employees in a transmission of business situation is significant, because it effectively permits the undermining of their terms and conditions of employment. If their collective agreement does not follow their employment into the new establishment, the only test that applies with the new employer is the no disadvantage test. As a result of amendments this government has made to the Workplace Relations Act, that no disadvantage test is a basic 20 core conditions; and, very much as a result of its amendments and decisions of the commission, it is now very much a basic, low award rate of pay—a basic safety net level of pay—not the actual terms and conditions. So if you can avoid the contractual obligation through the collective agreement—it being a form of collective contract, if you like, albeit with statutory force—you are in a position where you can undermine the entitlements of workers, again commencing the spiralling down to lower conditions rather than skills enhancement and improvement in wages.

That is why this bill is so significant. It would enable the Australian Industrial Relations Commission to make orders that, despite a transmission of business situation occurring, the terms and conditions of employees as set out in a certified agreement would not follow—or would not follow totally—the employee to the new employer or establishment. It is a dislocation of the responsibilities of government to actually promote that occurring. The responsibility of government should be to ensure that employee entitlements are protected so that these sorts of corporate manoeuvrings, cor-
porate restructurings, are not used as a means of undermining workers. I refer to the position at common law, which was set out in a case in 1940 by Lord Aitken in Nokes v. Doncaster Amalgamated Collieries. It is much the same as the view taken in the decision by Justice Merkel in the Coogi case, to which I have referred. In the decision in the Nokes case, Lord Aitken said:

I confess that it appears to me astonishing that apart from overriding questions of public welfare power should be given to a court or anyone else to transfer a man without his knowledge and possibly against his will from the service of one person to the service of another. I had fancied that, ingrained in the personal status of a citizen under our laws with the right to choose for himself whom he will serve and that this right of choice constituted the main difference between a servant and a serf.

When we interfere with this area—and the reality is that employees do not have a say in when these corporate restructures occur—we are effectively reducing employees, workers of this country, to the position of serfs. They are beholden to these massive influxes and outpourings of global capital and vagaries unless we give them protection. Even if employees obtain protection through their own certified agreement, such as with the Walkers Pty Ltd Certified Agreement 2002—which sets out procedures for consultation in the case of any proposed restructuring, including notification of relevant employees and trade union representatives, identifying entitlements and impacts the restructuring would have on them—that can be set aside by the commission. So, even if the parties assist themselves to moderate the effect of modern capital and the effect on economic activity, that very condition of identifying what would happen in the event of restructuring can be set aside by the commission because that certified agreement can be ordered not to flow, in part or in whole, to the new enterprise. Again, this is something that is extremely concerning.

This bill reflects the fundamental difference in approach between the government and the Labor opposition to industrial relations. The government’s entire approach is to get an outcome, without worrying about the consequences along the way. It does not worry about how that outcome is achieved or whose rights are trammelled; it just looks for the outcome—hence the ability to avoid employee entitlements through a contracting-out or restructuring arrangement. I have to pause and ask at this point in time: in what other area of commercial life would this government, which professes the notion of freedom of contract and the sanctity of contract, tolerate a situation where a commercial contract could be set aside by a tribunal without any consideration of the rights of, or compensation for, those who had the benefit of the contract or instrument?

This bill is fundamentally objectionable because it enables negotiated rights—often hard fought and hard negotiated—to be simply set aside as a result of a contracting-out or transmission of business situation. From the point of view of workers, it has the effect of causing a difference in their place of work, their time of work, the roster they may be engaged on, the duties they may perform, their seniority and their remuneration, including whether or not they will receive penalty rates—which are increasingly falling away as a result of the very low no disadvantage test that applies under the government’s legislation. That is in a context where the bill does not provide any criteria for the commission to consider when it will or will not permit the terms and conditions of a certified agreement to flow to a new employer.

It has been argued, and no doubt the minister would argue, that these provisions would enable the commission to keep a
struggling business afloat by allowing the business to restructure itself and remove a struggling part of that business from the burdens imposed by an existing collective agreement. I think the minister would say that is a purpose of the bill. I say there are no criteria contained in the bill for that to occur. And how sincere is that? Instead of promoting a system where the parties to a struggling business are assisted to actually sit down and talk through the issues and resolve their differences—perhaps through changed arrangements, whether they be short term or permanent—and instead of giving employees the option of sitting down to work through methods whereby they can contribute to the success of the business, the government want simply to say, ‘We’ll get around the problems by contracting out. Forget the employees’ rights; forget what has been negotiated and agreed to. We’ll just undermine their entitlements by contracting out.’

Unfortunately, I can see why the government are proposing this bill. Because of their philosophy, it is, effectively, the only way for them to address the matter. They do not believe in third-party involvement—they regard the involvement of the Australian Industrial Relations Commission in the employment relationship as unwarranted third-party intervention—and they have opposed on numerous occasions, including recently, our proposals to establish good faith bargaining positions to enable the Industrial Relations Commission to direct parties to bargain in good faith. They have also removed from federal awards the obligation to consult about redundancy situations. That obligation has been taken out as part of the 20 core matters to which I have referred.

While this is the only game in town from the point of view of the government’s philosophies, it is a game that ignores the rights of workers. It is a game that is not sincere in that it does not confront the obligations on employers to sit down and rationally exchange information and try to work through issues. For the reasons that I have outlined, Labor will be opposing this bill. I move:

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

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

(1) further reducing workplace democracy by removing the right of employees to vote on whether a certified agreement should not apply following a transmission of business; and

(2) further increasing job insecurity by enabling the termination of certified agreements, without employee consent, in corporate restructuring and contracting out.”

The DEPUTY SPEAKER (Mr Wilkie)—Is the amendment seconded?
Dr Emerson—I second the amendment and reserve my right to speak.

Mr RANDALL (Canning) (12.20 p.m.)—It is my pleasure to speak on the Workplace Relations Amendment (Transmission of Business) Bill 2002. I wish to point out from the outset that this is a government that is actually involved in policy. The members on the other side of this House talk about policy. I remember the Leader of the Opposition, Mr Crean, saying, ‘We are about policy, not popularity.’ The Newspoll results shored up the lack of popularity, but we are shoring up the fact that this side of the House is interested in policy. Before the last election in 2001, we stated quite categorically that in a third term the Howard government would:

Simplify the legal rules that regulate employment rights and obligations upon the transmission of businesses from one employer to another.

It was our commitment to the Australian people in the Australian workplace that we would simplify and regulate the employment rights and obligations from one employer to
another. As a result, the purpose of this bill is:

To amend the Workplace Relations Act 1996 ... to allow the Australian Industrial Relations Commission ... to order that a new employer is not bound by an existing certified agreement which specifies the terms of employment for the employees of the acquired business; or, that the new employer is to be bound to a certain extent and/or for a certain time.

The fact is, the Workplace Relations Amendment (Transmission of Business) Bill 2002 is necessary in the current climate of business in Australia because there are a lot of anomalies and complexities that need to be addressed. I am always interested in listening to the member for Barton’s dissertations to the House because he is always very measured and generally well informed. But again he has taken on the mantra of the union movement in this case and allowed it to colour the sensible conclusions that could be reached. But generally he made some very good points.

It appears today is wharfies’ day in this House. The member for Batman spoke in here on an earlier bill and went on ad infinitum about the wharfies. The previous speaker and opposition spokesman on this issue, the member for Barton, spent much of his 30 minutes on the wharf dispute of some time ago—which I will return to if I have time.

I would have thought that the Australian Labor Party would have stuck to its guns and supported something that strengthens the powers of the Australian Industrial Relations Commission. This is what this bill does in some respects. It allows the AIRC to take a greater role in determining these matters. I thought strengthening the independent umpire was the result desired by the Australian Labor Party but that is obviously not so.

There is employer concern that the possibility of having to meet obligations of a variety of employment instruments following business acquisitions has not been resolved. It is still complex. I will outline for the House and those interested that where an enterprise agreement is registered under federal jurisdiction it becomes a certified agreement, or a CA. Where an individual employment arrangement is formalised it becomes an Australian Workplace Agreement, or an AWA. I put that on the record.

We need to understand that this legislation will simplify and clarify some of the outstanding issues that result from the transmission of businesses from one owner or shareholder et cetera to another. As the previous member said, corporate restructuring in Australian business due to globalisation and the inflow and intricacies of global funds precipitates this bill in some respects. The bill does provide a means for resolving the complexities which arise out of the transmission of business, as I have already said.

This bill will allow the AIRC to exercise its discretion to resolve anomalies and other difficulties that may arise out of the sale or transfer of businesses from one entity to another by empowering the AIRC to make an order that a certified agreement does not bind an incoming employer on a transmission of business, or binds the employer only to a specific extent. The AIRC already exercises similar powers in relation to awards.

The government promoted this bill as policy before the 2001 election. Interestingly, a very similar bill to this was in the House before the 2001 election. It passed through this House and reached the Senate. I will refer to some of the comments made in the inquiries by Labor and Democrat senators if given time.

In essence, the bill facilitates these arrangements. I would have thought that the Australian Labor Party might have been interested in seeing good policy—policy that
actually helps facilitation of business in this country. The facilitation of business, when talked about by those opposite—unbelievably—does not seem to ever be connected with the creation of jobs. One of the difficulties frequently mentioned by business is that they sometimes find themselves in either multiple or contradictory certified agreements after restructuring or the acquisition or take-over of a business. This needs to be addressed.

The previous speaker described some of the elements as unfair. How can something be unfair when the commission’s powers to make orders in relation to certified agreements can be exercised only on a case-by-case basis and only by application of one of the affected parties? The parties themselves must apply to the commission and allow the commission to make decisions on their behalf. The AIRC also has a role in protecting employees. It ensures, by giving employees the right to make submissions to the AIRC, that these orders are met and dealt with.

There are a number of positions on this issue. An inquiry was generated in the previous parliament under the previous workplace relations minister, and the Senate committee reported on that transmission bill. There were a number of interesting submissions to the committee. The unions quite rightly said—and I believe that there is a case to be made here—that there are vexatious employers who will use restructurings or acquisitions as opportunities to see workers worse off. But this bill addresses that. There is a no disadvantage test. Ultimately, the union submission to this inquiry was that—and they cited a number of cases—where a business has a package in existence and that business is taken over by another company, that is often used as an opportunity to reduce the terms and conditions of those employed. That is a very relevant point. But under this bill that will be addressed by the Australian Industrial Relations Commission, and quite rightly so.

As I said, one of the mantras of the Labor Party is meant to be that they want to see a strengthened and more proactive role for the AIRC. So it is very difficult to understand how the Australian Labor Party can divide away from that. From an employer’s point of view, one of the submissions said:

In practical terms the new business cannot integrate the businesses because they cannot vary the terms of the existing agreement, except to have a valid majority of people under the agreement agree to cancel it.

That is fine. As I said, that submission asks for it to be addressed under this legislation. They continue:

The point is that if a new agreement could be developed it would have to pass the no disadvantage test of the two awards but it would be a global test in respect of both work groups—

... in a global sense not leave the workforce worse off and be approved by a valid majority, but this course cannot be followed currently. We are simply asking for a procedure to enable the Australian Industrial Relations Commission to look at all these issues.

We have heard the Labor Party’s objections. I will not go through all the submissions that they made. But interestingly, the Australian Democrats, through their spokesman, Senator Murray, had a fair bit to say on this issue. It would have been interesting to see where this legislation would have ended if it had come to a vote before the proroguing of the previous parliament, given the comments by Senator Murray. I will refer to them now. He said:

The Australian Democrats have a long tradition of supporting the AIRC having an independent discretion to determine industrial relations matters on their merits. Discretion of course is never open-ended, but it has long been our view that wherever possible such discretion is a better
guarantor of fairness and flexibility. However we do recognise that discretion can lead to uncertainty and cost until such time as orders have been made.

It seems self-evident to me that the AIRC should have discretion in respect of transmission of employee conditions in business acquisitions, particularly when more than one certified agreement affects 'old', 'transferred' and 'new' employees in a business. The AIRC needs to determine which agreement should prevail. Provided that is, the AIRC continue to recognise that the intention behind transmission of business provisions is, in the interests of fairness, to provide a protective mechanism for employees. They must do this while taking into account a need to provide new or reformed businesses with necessary operational flexibility.

That is Senator Murray’s view. As I said, it would have been very interesting to see what the Democrats would have arrived at if this legislation had been voted on in the previous parliament. But it gives heart to see that the Democrats, unlike the Australian Labor Party, are interested in the Australian Industrial Relations Commission having a stronger role in determining these matters in the modern world in which we live, which was referred to by the opposition spokesman.

The opposition spokesman, the member for Barton, said that the AIRC would diminish the rights and conditions of workers under this bill. Then he unbelievably went back to a case study of 1940—the Nokes case. If that is not an industrial dinosaur, I will never know what is. It is unbelievable that he would use case studies of that age to support his and the Labor Party’s case in this House. It indicates the mentality of those opposite in terms of the world in which we live. It is time for the Australian Labor Party to modernise their thinking on business in this country, because globalisation is a fact of life. It is time to address these issues rather than just going back into the old bib and brace overalls mentality of the previous Labor movement—to which many of these people still ascribe.

This legislation is about business being able to survive. It is about business being able to provide jobs—and, if a business is surviving and making a profit, it can provide jobs. What is the matter with that? It is unbelievable for the Australian Labor Party to say that this will affect jobs, when the unemployment rate is currently six per cent. Where was it under the previous employment minister, the current member for Brand, when the Labor Party held this side of the parliament for 13 years? We know what the unemployment level was then. So much for their great intervention in the Australian work force and their provision of jobs for Australian workers.

As I say in this place all the time, one of the greatest myths in this country is that the Australian Labor Party is here for the workers. It is not here for the workers at all; it is here for the elites and the hereditary peers in the Australian Labor Party and it is here for the elites in the union movement. The front bench of the Australian Labor Party is festooned with former presidents of the ACTU and shop stewards. Seventy-eight per cent of members of the Australian Labor Party in this House have some sort of union connection in their background. They are totally out of touch, given the fact that about 20 per cent of the Australian work force belongs to a union.

Come into the modern age. Come and walk with us into the 21st century so you can do the right thing by Australian workers instead of feigning this mock moral unction, such as when the member for Batman went on about the wharfies. In fact, if you want to use his case, as the member for Barton did, remember that we have provided far more jobs for people in this country on the wharves and ships—as I just indicated—
because we now have an economy that is one of the greatest economies in the world. It is the second fastest growing economy in the OECD. As a result, jobs and certainty flow to this country from that economic benefit. It is not something that the Australian Labor Party in any way intended to provide to the Australian people during their previous management of this place.

In the few moments I have left, I need to address a couple of specific issues. This bill is better targeted than the previous bill and it is fairer. It expands the category of people who may apply for an order and it refines the categories of people who may make submissions. The previous bill allowed only an employer to apply for an order before transmission. This bill allows employees covered by this agreement to apply after the transmission of business. The bill will also allow those who would work for the new employer under the agreement, plus any other relevant union, to have a say if an order is sought. No-one is leaving out the union movement. We are quite happy for them to act as agents or to act on behalf of people. We are actually encouraging their involvement through this bill, which addresses previous anomalies.

I turn to the commission’s powers regarding the transmission of certified agreements. The problems which may arise following the transmission of a certified agreement may be different from, and sometimes more complex than, the transmitting award. The bill gives the commission power to make orders in relation to the transmission of certified agreements. The bill also gives the commission powers to deal with certified agreements that are equivalent to those it already has for awards.

I could go into several case studies, but let me return to the issue before us today. The member for Barton mentioned several cases, including the wharfies. It must be wharfies day today in this House. I will raise the Ansett issue. This is a prime example of the unions basically cooking Ansett’s goose. What a legacy they provided for the poor old Ansett workers! Mr Deputy Speaker, do you realise that an Ansett pilot received more money—more salary—than a Singapore Airlines 747 pilot? The unions put conditions on Ansett to such an extent that the situation became untenable. The unions of this country saw the destruction of Ansett because they allowed it to become totally fat, useless and uncompetitive in terms of its involvement in the airline industry.

What was the result? Do people think that Solomon Lew and Lindsay Fox would have been happy to just take Ansett Airlines over as it was? No, they wanted to restructure it. They wanted to deal with the issue. They were not going to take on this greatly fat-tened goose that the unions had produced. This was one of the reasons why you would not take on agreements that had been put in place previously. You would want them arbitrated on. What was the upshot for Ansett employees? Everyone lost their jobs. The airline went down the tube as a result of the unions allowing it to get out of control in terms of size and greed—as compared with a slimmer, meaner, more competitive Qantas and other airlines in this country and around the world.

This is good policy. It needs to be endorsed. I support the bill. (Time expired)

Dr Emerson (Rankin) (12.40 p.m.)—
The Workplace Relations Amendment (Transmission of Business) Bill 2002 makes it easier for employers to strip away the wages and working conditions of employees. There are no two ways about it: that is the purpose of the bill; that would be its effect. That is why Labor is opposing it.

The previous speaker asked the Australian people to ‘walk with us into a new era’. Walk
with them into a new era all right! It would be a new era of a journey down the low road of low skills and low wages. This bill, along with many other bills in the parliament in the area of workplace relations, reflects fundamentally the government’s philosophy—taking Australia down the low road of low skills and low wages. The government sees that low road as being Australia’s future. It is a very bleak future indeed, because it is a future where Australia and Australian workers will be competing on wages against the countries of East Asia and our broader region—countries like China and India.

No government should enter Australia in a race to the bottom—a race to low skills and low wages. This government has precisely that. It is certainly not a race which Australians should aspire to win. But that, again, is what the government wants to happen—that Australians, somehow, should win the race to the bottom against China, India and other countries in our region.

In relation to China, some 30 million people on very low incomes are leaving the land with the restructuring of the Chinese economy. They are leaving the land to seek employment in factories in China. China will be the manufacturing powerhouse of the world in the coming decades. This government wants Australia to compete against China on incredibly low wages. That is what this bill is about. It is another instalment in the government’s program of Australians competing on that low road of low skills and low wages.

Set against that philosophical background, there are four arguments against this bill. The first is that the government is interested only in helping employers to slash labour costs by enabling certified agreements to be junked in the process of corporate restructuring and contracting out. That is the purpose of the bill—to strip away wages and conditions. If an employee is in one business and that business changes and is transmitted into another business, entitlements are lost and therefore the worker is effectively put on lower wages. That is the purpose of the bill—for workers at one level of wages to be put into a situation where they are subsequently on lower wages.

The second objection is that the bill would disadvantage regional communities in instances such as where banks contract out their services following branch closures. That is a real problem in regional Australia. The flashing red light under the Prime Minister’s desk has lost its battery. They thought that it would be better to have the battery wear out and not replace it because, if they stuck another battery in, the red light would start flashing. It will be flashing all right—the whole place will go red—because of the way this government are treating regional Australia. The Treasurer is on the record as saying that there should be lower wages in regional Australia—that somehow this would be a good thing for people living in regional Australia. They are at it again with this bill. This bill allows employees in those banks in regional Australia where jobs were contracted out, or the nature of the business was transferred to another business, to be put in a position of lower pay with a loss of working conditions. We oppose the bill for that reason.

The third compelling argument against this bill is this: when you buy a business, you honour existing commercial agreements—contracts with suppliers and commercial relationships that have been established over many years. When you buy a business, you do not say, ‘We’ve now bought this business and we are going to renege on these agreements.’ It would be unlawful to renege on contracts that have already been signed with commercial creditors, such as contractors and other businesses. Why shouldn’t the
same principle apply to employment agreements? Why aren’t employees entitled to the same certainty and security as commercial creditors?

The answer to that is plain: in the eyes of the government there are two classes of people. There are the employers and those on higher incomes and then there are the employees. The government treats employers and contractors on higher incomes with one level of decency and respect, but employees who are in the situation where a business has been transferred get a separate deal—a bad deal, a poor deal—from the government. I do not think anyone with a sense of fairness, with that traditional egalitarian streak on which all Australians pride themselves, could possibly support this two-class system that the government is proposing in this bill where commercial contracts between an employer and another business are honoured—as they should be—but contracts between an employer and his or her employees are not. But that is precisely the proposition that the government is putting forward.

The fourth argument against this bill is that, if employers consider a certified agreement unsuitable, they should seek the agreement of their employees to vary it or terminate it and negotiate a new agreement. After all, that is what workplace democracy is all about. The government is fond of talking about workplace democracy. We support workplace democracy. So why not support a situation where, if a business is transferred, the employees who are transferred with it into the other business get a say in whether or not the certified agreement should remain in place? Perhaps they would express a view that, to maintain the viability of the business, they would be prepared to modify that agreement. Isn’t that the decent, reasonable way to proceed instead of the government saying, ‘No, the employees will have no say in this matter at all’? They should have a say in it.

Employees have an interest in remaining in employment. The argument that this is necessary to keep employees in employment is fallacious in this sense: why wouldn’t those employees have a vested interest in keeping their jobs? Wouldn’t they be in a better position than the government or anyone else to judge whether there might need to be some modification to wages and to employment conditions in order for them, in this new structure, to retain their jobs? That is exactly what workplace democracy is all about. This government says it is for workplace democracy but, when it comes to this legislation, it says it is against workplace democracy.

The truth is that this legislation is yet another instalment of the government’s agenda of stripping away the wages and working conditions of vulnerable workers, because its philosophy is that Australia should travel the low road of low skills and low wages. That is a recipe for disaster, because we will never beat the countries of Asia—China and India in particular—in that race along the low road. A government should never enter us into that race, but that is what this government has done. That is the philosophical difference between the Australian Labor Party and the coalition government. The Australian Labor Party considers that the future of this nation is as a high-skill, high-wage community producing high-value goods and services, especially for export. That is the future. It requires two inputs that this government has been unprepared to provide. The journey along the high road to high skills and high wages requires an investment in education and skills formation in this country that the Howard government has been unwilling to make. You cannot take the journey to high skills without an investment in skills formation.
The Treasurer just yesterday in question time lauded the Australian Industry Group’s report into the state of Australian manufacturing. Of course he omitted the section on skills formation, which shows that Australia is lagging badly behind the rest of the world in relation to skills formation. That is one of the two essential items in any agenda to take Australia along the road to high skills and high wages. The other essential item is innovation. An examination of the Australian Industry Group’s report shows that, here again in this vital area, Australia lags behind the rest of the world badly. In business spending on research and development we are well behind, and the gap between Australia and the rest of world—certainly the OECD countries—continues to widen year by year. This should be alarming for Australia—and it certainly should be alarming for the Howard government, but it is not. The Howard government has presided over a situation where business spending on research and development as a share of gross domestic product has fallen in each and every year except the last one, in which there was a small increase. The latest figures will be out on 1 July and we will see exactly what is happening there. The government, very consciously, turned its back on the idea of taking Australia down the road of high skills and high wages by cutting the research and development tax concession in its first budget.

The R&D tax concession was introduced by Labor. Following its introduction, business spending on research and development increased in each and every year. In 1997, as a result of the first budget of this government, the R&D tax concession was cut from 150 per cent to 125 per cent, precipitating the fall in business spending on research and development. The consequence is that innovation in Australia is lethargic at best. The gap between Australia and the rest of the world—the OECD countries—continues to widen.

So the two critical components of a race to the top towards high skills and high wages are missing from this government’s agenda—that is, skills formation through education and training and innovation to add high value to our goods and services for export. They are missing, but what are not missing are the essential ingredients for taking Australia down the road of low skills and low wages—the low road. The bill before us today is an important instalment on that agenda, because it allows for the cutting of wages and working conditions of vulnerable workers. Disgracefully for this parliament, this is not a bill to be viewed in isolation. The current Minister for Employment and Workplace Relations introduces pieces of legislation into this parliament with monotonous regularity all with the same purpose. He has introduced legislation which has been blocked in the Senate time and time again that, for businesses with 20 or fewer employees, would result in employees being able to be dismissed unfairly without recourse. The reason for that is that the government wants to put those employees in a vulnerable situation such that they can be told exactly what to do and exactly what wages and conditions they should receive from the employer under the threat of dismissal—and immediate dismissal without recourse.

Another piece of repugnant legislation brought into this parliament by the Minister for Employment and Workplace Relations is legislation to completely strip away the safety net for the lowest paid workers in this country. It does make sense that, if you are keen on Australia being in the race to the bottom of low skills and low wages, you had better take away the safety net for the lowest paid and most vulnerable workers in this country—and that is what the government
seeks to do. It is complete folly. It is an unworthy race, it is a betrayal of Australia’s national interest and it is a race that we could never possibly win. There is the fundamental difference in this entire area of innovation, industry policy and workplace relations. The government has a philosophy of Australia journeying down the low road to low skills and low wages and the Australian Labor Party has a philosophy of boldly taking Australia along the high road of high skills and high wages. The government’s neglect—in fact, deliberate strategy—in these key areas is being reflected in our trade performance, and it is in this area that I want to make a few short remarks.

Australia’s exports of sophisticated manufactured goods—that is, goods embodying high skills and a high level of innovation—slumped 60 per cent since this government came to office. They are 60 per cent lower than the corresponding period of the previous Labor government. Labor embarked upon a program of diversifying Australia’s export base away from primary commodities into high-skill, high-wage goods and services. But upon coming to office this government deliberately set upon a strategy of reversing that and, to that extent, it has been very effective. Our exports of primary commodities, in what the Treasurer has described as the worst drought in 100 years, account for 59 per cent of our total merchandise exports, compared with 53 per cent in the last year of the previous Labor government. So not only has this government failed to continue the diversification of Australia’s export base into these high-skill, high-wage goods and services; it has reversed it. It is taking Australia back to a farm and quarry where we rely on good seasonal conditions and on high prices for our primary commodities.

Of course, last year Australia’s luck ran out again. That is what is going to happen from time to time if your trade strategy is to pray for rain. Sometimes it does not rain and that is called a drought. We had a big one. The government says that it was bad luck. It was not bad luck; it was this deliberate policy of ripping away the employment conditions and wages of the most vulnerable people in Australia. That is a disgraceful policy. It is critical at the next election that the government changes so we can move along the high path of high skills and high wages which, for Australian families, means more secure jobs because they have the skills to stay in those jobs or to move to other jobs to which they aspire. With those improved skills they are less vulnerable to the sorts of callous actions that this government is proposing to take in this legislation. They are the fundamental differences yet again between the Australian Labor Party and the Liberal and National parties. Labor wants to improve the quality of work in this country and the coalition government is intent on tearing it away.

Mr CAMERON THOMPSON (Blair) (1.01 p.m.)—The member for Rankin, the previous ALP speaker, the opposition spokesman, has demonstrated just why Labor are caught in this Jurassic mire. One day, like at the Lark Quarry up at Winton, tracks will be discovered in Canberra that were left by the dinosaurs of the ALP with their attitude towards issues like this where they continually repeat again and again the same tired old rhetoric they learned from their daddies and the same old nonsense—the union politics of envy that went out back in the fifties. They still believe it. They are still crawling around in the mire trying to dig a hole for themselves. We have this low road, low rent debate that we heard from the member for Rankin, and it is abysmal. People across Australia are fed up with hearing it because it is total nonsense.

The member for Rankin says the whole idea of buying a business, this old class
struggle idea, is that the evil employers are out there trying to buy businesses so they can automatically renge on the conditions that apply there. What nonsense. That is absolutely ridiculous. The fact is that people buy a business because they believe they can add value to it. They believe they can be more competitive. What happens when they do that? Their employees profit along with them. Under the coalition government you can see how employees have benefited dramatically from policies encouraging people to invest in and to support small business in this country. We are all a richer nation as a result of that. The continuing carping and this dinosaur rhetoric from members opposite do them no good at all because people have caught on. They have recognised the advantage that comes with business investment and with encouraging and supporting that investment. They support it too. The Australian community has moved on and left those dinosaurs over there struggling in the mud, dying slowly. They are dying very quickly. Very sadly for them they are going to have to do something pretty serious if they want to try to connect with the people of Australia, and this is not how they are going to do it.

Their rhetoric has demonstrated that the member for Rankin has very little understanding of the bill at all and has given no consideration to the issues surrounding it. In his address he made nonsense statements. He said that the government has a vision against high wages and high skills and, by inference, he was saying that his mob over there have some kind of interest in that. If that is the case, why did wages go down under Labor? Why did Labor drive those wages down? We have been putting wages up in this country under the coalition and they drove them down. Something does not add up there. The member for Rankin is on the wrong tram. He is back there in the mud, drowning like a dinosaur. He cannot add up his figures. He has somehow got the whole argument inverted, but he continues to plough on.

Their vision is not about high this or high-tech that; their vision is about people voting ALP, and they do not care how they get them to do it. They do not care what they say. They do not care what kind of twisted rhetoric they apply. They are interested in misery and envy. If they can encourage those two things, they believe that is the way to surf into government. We have seen it from them once and we will see it again—misery and envy from the members opposite. What is missing on the ALP side is an interest in creating incentives for the very people at the top end of the wage earning structure and the research community for them to contribute to the future of this country. Labor continue to promote this envy argument, and of course we have to suffer the brain drain that goes along with it. By continually banging on the head anything that encourages people to seek advancement and to promote their position, they continue to create disincentives.

The top research scientists look at Australia and they say: ‘The top tax rate in Australia applies to me. But if I go to the US the top tax rate doesn’t cut in until $US250,000.’ That is a huge disincentive for people to stay in Australia and to continue to contribute.

Mr Brendan O’Connor—I rise on a point of order, Mr Deputy Speaker. What relevance does this have to the Workplace Relations Amendment (Transmission of
Business) Bill 2002 which we are debating now?

The DEPUTY SPEAKER (Mr Lindsay)—I refer the member for Burke to the amendments that have been moved.

Mr CAMERON THOMPSON—Precisely, Mr Deputy Speaker. The member for Burke obviously has not read the bill either—just like the other nincompoop who spoke a minute ago. The fact is that I am commenting on their arguments in relation to this bill. What possible objection can the member for Burke have to my responding to the ridiculous, tortured and twisted arguments that have come from the person from Rankin?

I will look at another issue raised by the shadow spokesman. He spoke about the arrangement of the Patrick Corporation and its various companies as part of that long-running imbroglio which was the waterfront dispute. He said that the arrangement of those companies defied logic. Of course, if you look at it, it was pretty illogical and it was all twisted, and all kinds of difficulties came from that. But what could you possibly say about the union arrangement that applied on the waterfront at that time? If you did not say that it defied logic then you would have to be totally crazy. It is as though you cannot see the forest for the trees. Those dinosaurs over there probably could do with a good feed, but they cannot see the forest for the trees. It is a sad situation.

The situations that Labor fostered, encouraged and supported with their union mates on the waterfront led to some severe difficulties in this country, cost jobs, cost business in this country and drove our country down the tube, and they were happy to endorse that because it was at the behest of their union mates. The opposition spokesman referred to the Stevedoring Levy (Collection) Amendment Bill 1999. I have just been looking at the Bills Digest in relation to that. It refers to the fact that, in 1951, 24,500 people were employed on the waterfront. Through the decades that number gradually fell to fewer than 300 in 1999. But the Bills Digest also makes this point:

Average crane rates in the five major ports dipped slightly in the 3 months to December 1998 with a significant improvement in Melbourne being offset by equally significant declines in Sydney, Brisbane and Fremantle.(13) ... but the Sydney figure of 17.7 containers per hour is still below the December 1997 figure and well adrift of the Government’s target rate of 25 lifts per hour.

What has happened as a result of the intervention of the government in that dispute? We have met that target. That is what we have done. We have done things—we have created freedoms on the waterfront that have driven business forward and created opportunities for employees in this country. But over there, in the mud, the opposition, while they are looking for mud to throw at people and they are looking for all the other things that they try desperately to hang their hats on, still cannot see the forest for the trees. They cannot see the need to reform. They cannot see the need to do something to support business in this country. It is a shame for the country that they put up their hands and say, ‘We’re in opposition and we’re seeking to get into government,’ when they have that pathetic attitude.

We had the comment from the opposition spokesman about the CSL Yarra. The mess on the wharves resulted in union thugs being paid all kinds of backdoor money for stupid tasks like washing out the hold of a ship which had already been washed out. They got a special allocation and a special deal that allowed them to get that done. The same featherbedding applies in relation to the maritime situation in Australia. The unions in this country, if they want to have a competi-
tive industry, have to drag themselves into the 21st century. They have to get there because they have been left behind. If they do not realise it, I do not know who else can tell them, because it has been told to them by every office in the land, from the media to anybody who looks outside their front door.

Once again, in relation to this initiative we have the opposition proposing more union bureaucracy. We have an eminently sensible proposal from the government that is structured on a proposal from 2001 which had wide support in the Senate. Were it not for the proroguing of parliament the chances are that it would have been endorsed. This legislation is built on that. In fact it provides even more flexibility. It gives an opportunity for employees to make a submission in relation to these things. It has the flexibility to ensure that it does not act as a disincentive to investment, but that is what members opposite want. The opposition spokesman says that every time a business changes hands we should have a whole new certified agreement. ‘Let’s start again,’ he says. Anyone who thinks about buying a company cannot have any certainty or any real knowledge of what it is they might be getting themselves into in relation to union disputes, because along will come the union and their ALP mates who will say, ‘Hey buddy, let’s get on the merry-go-round; let’s go a few laps and see what we can encourage you to cop if you want to take on this business.’

I have a few things that I want to tell members opposite. In terms of business exits, let us look at how many certified agreements there are in the country. As at 31 December 2002 there were 10,345 current federal certified agreements covering 1,582,300 employees. That is a huge constituency that we are dealing with—a very important sector of the workforce and of the business community. They sought certified agreements because they want special flexibility. That is why they are there. In relation to the number of businesses in which these conditions would apply—in other words, there could be a change of ownership—according to a Productivity Commission report 7.5 per cent of businesses exit each year; that is, they cease to exist or they transfer into new ownership. That represented in excess of 34,000 businesses in this country. Those guys opposite—those people over there—want to say that every time that happens, 34,000 times a year, they want to have the opportunity to put on a good old union blue. Isn’t that pathetic? Isn’t that something from way back in the dim, dark past? It is just a shame that a bunch of people who regard themselves as forward looking would put that forward today, but that is what they are doing, in opposition to something that the government has put forward which I think is highly sensible.

The government had a discussion paper that covered the whole question. It was put out in September 2000—so it has been out there for some time—by the then minister, the Hon. Peter Reith, who was an excellent minister who contributed more than anyone else in this country to the reform of the waterfront. He achieved great things for this country, and here is another example of it. Twenty-one submissions were received in response to the discussion paper from 12 employer organisations; four employers, including two labour hire firms; the ACTU—one union; gee, is that all?—the Queensland and Western Australian governments; and the federal Joint House Department, which also weighed in. All those submissions were about what should be done in relation to this question on the transmission of business. Following that, we had a bill—the 2001 bill—which put forward many of the same provisions that are now covered in this bill, and I might now talk about some of the things that this bill seeks to address.
The fact is that, when you transfer from one business owner to the next, a range of things can create difficulty. A transmitted agreement from one to the other—in other words, an old certified agreement going to a new employer—may contain impediments to productivity and efficiency. As I said, when you have a new employer that has the opportunity to add value or to create some new advantage in relation to a business, that is what they are seeking. If the transmitted agreement contains impediments on its face that stop that from happening, not only is that affecting the employer but also it is affecting the opportunity and future employment prospects for all the employees in that business. So it is very important that it be dealt with effectively.

It also means that provisions in transmitted agreements may be irrelevant to the business operations of the transmitter. The new business may be suddenly saddled with obligations that are irrelevant to them. I think that for the benefit of all parties involved those irrelevant issues need to be dealt with. Obviously, the way to do it is through the AIRC, through precisely the structures that the government are proposing. There may also be practical difficulties involved in applying transmitted agreements. If the transmitted agreement means a change in location and the old agreement applied specifically to the old location, that is a practical difficulty which needs to be taken into account by an independent umpire, such as the AIRC. It is logical, it is sensible, it is obvious and it is going to assist business. It does not tie them down with a whole bunch of round-and-round arguments with whoever the self-serving union official might be—who is seeking ALP preselection or other things. They do not get tied up in a debate with them; they get on with the job. They use the independent umpire to do it.

Also, following a consolidation of the two businesses at the same site, employees working side by side at the same job may have different entitlements. That is pretty obvious too. Once again, our solution is to get together and resolve it using the independent umpire. The opposition’s solution is to put their hand out to create a huge bureaucratic bunfight, and who knows how long it might then take to resolve an issue. By the time that has occurred, the whole enterprise might be under water. It might be broke. But that would not concern the opposition.

There can also be practical difficulties in attempting to vary or terminate a certified agreement, especially given the need to have agreement from all parties involved. So, quite obviously, it is necessary for the government to seek the remedy that it has put forward in this proposal. Basically, the government is seeking to empower the AIRC to make an order that a certified agreement does not bind an incoming employer as a result of the transmission of business or that that agreement only binds the employer to a specified extent. The AIRC already has and exercises similar powers in relation to awards. It does that under the Workplace Relations Act, and the proposal put forward by the government is entirely complementary to that. I have already said that the opposition have said that they would prefer, in all instances, that incoming employers negotiate a new agreement with their new workforce. They are proposing that, 34,000 times a year—and more now; that figure is from several years ago—new incoming employers should get engaged in negotiations with the union movement. What a wonderful source of employment for more trade union hacks. What a lovely gravy train for them to get on. I am sure they would love to do that and, with the support of the members opposite, that is exactly what they would seek to do.
We have seen ALP senators arguing that it is necessary to ensure that employees affected by the transmission of business orders do not suffer a reduction in their conditions of employment. That is something that the government have effectively recognised. In this new proposal, we have put forward a set of circumstances that enable, for the first time compared with the 2001 bill, employees to make submissions as to what should happen. Under the old proposal, the previous employer could come back and try to engage themselves in the process later on. We have also taken a position on that. I commend the bill to the House.

Mr BRENDAN O’CONNOR (Burke)
(1.21 p.m.)—I feel a little sorry for the member for Blair. Clearly, not only was he given the short straw and so had to come and speak on something he knows nothing about but also he has obviously picked up the wrong Bills Digest, because the Workplace Relations Amendment (Transmission of Business) Bill 2002 is about transmission of business and whether it is fair to remove existing entitlements to employees as a result of transmission. Just for the benefit of the member for Blair, although I see him leaving the chamber because he does not really want to listen to the debate, the fact is that the transmission of business provisions of this country have been around almost since Federation. They have been around since only some years after the establishment of the Court of Conciliation and Arbitration in the first decade of last century. They were there quite simply in order to protect employees if there was a sale of a business, so the undertakings given from one employer to his or her employees would not be yielded or removed if that employer sold his or her business.

Those provisions have been there for just under 100 years. To put it in that context, to attempt to actually remove existing entitlements of employees by providing the capacity for an order to be made is worrying. That is not to say that orders have not been able to be made in the past. Indeed, orders of the commission have been able to be made under section 149(1)(d) of the Workplace Relations Act. That provision mirrors the provision of the 1988 act and allows for the commission to make orders in relation to transmission. However, there have been some recent developments in that area which make things a little different from not only the turn of the century but also perhaps 30 or 40 years ago, and I want to touch upon some of those.

I grabbed the Bills Digest myself and noticed that there is a reference to indicate why the government would be putting this bill up now, and the supposed nexus is between what was being claimed to be done going into the 2001 election and what is now being proposed. The Bills Digest said that this issue: was touched on in the Coalition’s 2001 workplace relations policy, Choice and Reward in a Changing Workplace ...

Then it went on to quote the campaign slogan for the coalition on this issue, saying: Simplify the legal rules that regulate employment rights and obligations of the transmission of businesses from one employer to another. It sounds rather innocuous: a simple rule change to allow for employers to simplify the rules of transmission. That is apparently what the government is relying upon as a mandate to change the provisions that currently protect those people that enjoy conditions contained in a certified agreement pursuant to the Workplace Relations Act. That is what is being argued here. That was indeed referred to in the Bills Digest. It is a very long bow to draw to argue that this is about simplification of a process. This is about much more than that because, as the transmission of business provisions prevailed
from awards to awards and agreements, the certified agreements provision that almost mirrors the award provisions—that is, section 170MB of the act—has not provided for employers to be able to seek such an order.

For those on this side of the House who have been watching now for at least seven years as this government tears asunder the powers of the commission, it seems to us truly ironic that we have a government that argues that it wants to confer powers upon the commission to intervene and make an order to diminish the conditions of employment of a work force. It would appear that the only time this government will provide the whistle to the independent umpire is when it is able to penalise the worker in the field, not the employer. That is the concern I have about the changes, and it also undermines the argument that this is about simplification of existing rules. It is about much more than that.

If allowed to pass, this provision would enable an employer to establish a shell company to bid for work under some sort of contracting-out arrangement or bid to purchase all or part of the first company. That new company could then argue that it is not bound by the agreement under which the original employer is bound and would seek to find an order. I can assure you that in every case it would be seeking the commission to make an order to diminish—not enhance—the conditions of employment of those employees. We the parliament should not accept that capacity. It is clearly not in the interests of the Australian work force.

The member for Blair did raise one point which I am happy to acknowledge. He did raise the fact that there are many thousands—in fact millions—of employees under certified agreements. Their conditions of employment would potentially be far worse if this provision were allowed. It would then allow the employer to seek that order. Some have said to me, ‘What is the concern about allowing the commission, the umpire, to make an order?’ In normal circumstances I would say that there should not be a problem with that. There are two points I make in relation to that, and I have already touched upon one of them—that is, for the first time this government wants to provide powers for the commission to invoke only against the work force, not against the employer nor indeed in favour of the work force. That is obviously a concern.

But there are other concerns too. Increasingly, the Australian Industrial Relations Commission comprises commissioners who are on the record as either showing contempt for the Industrial Relations Commission or, indeed, being all from the employer’s side. That is not to say that there are not very good commissioners and senior officers of the commission from the employer’s side—historically there have been quite a few very good commissioners drawn from that side. But this government has gone about choosing individuals to be appointed to the commission who hold a very narrow view on industrial relations, some of whom are on the record as condemning the actual existence of the Industrial Relations Commission. So along with this unusual, almost paradoxical, step of the government to allow powers to the commission only in the instance where it can act against the interests of the work force, it is also allowing an order to be made by an increasingly partisan statutory authority—and it is a partisan commission due to the fact that, of the last 15 appointments of commissioners, 14 have come from the employer’s side.

So the bias that is being entrenched in the commission, and the fact that the government wants to allow an order to be made by the commission only in circumstances where the work force could be worse off, is another...
reason why this bill is inequitable and pernicious. It should not be agreed to and certainly not supported by the parliament.

The fact is that there are many other reasons why this bill should not be agreed to. It is easy to talk about provisions. I do not think everybody is particularly concerned about one provision or another, but I think they understand the general point that is being made—that is, there should not be a provision in any act that would disadvantage one group in the work force in favour of another. It is also important to note the timing of this bill. This bill is a manifestation of a bill that was introduced some years ago. In fact, it is the third attempt to amend the transmission of business provisions of the Commonwealth, and it comes against the backdrop of Federal Court decisions which found that the recent spate of contracting out in the work force was a transmission and that therefore the provisions of the Workplace Relations Act would apply. So there have been recent judicial determinations which have brought back into favour the notion that contracting out and outsourcing are covered under transmission of business. Having said that, the High Court recently made a decision that overturned a part of those judgments that were made in the Federal Court, but there are still areas of uncertainty, and I presume the government would like to see some of those areas rectified in favour of the employer.

For my own purposes today, rather than just talking about the number of provisions and continually emphasising the inequity, I would like to refer to a specific case where, if this bill were to be passed, workers would be left with no relief whatsoever. I refer to a company that bid for work under the Kennett government’s compulsory competitive tendering legislation that was in place at that time in Victoria. Silver Circle bid for the work that was then being undertaken by employees of the Greater City of Dandenong. There were 90 home carers at that council who were getting paid about $11 an hour. Their job was to undertake the care of the disabled, the infirm and the aged, and they were the lowest paid local government employees in Victoria. They were permanent workers whose work was put up for competitive tendering and they were subject to that bid. This was not a group of workers against another group of workers. Notionally, people could think that, when you have competitive tendering, you have two sets of workers competing for the same work, but that was not the case. This company had no workers putting in a bid to undertake the work for $9 an hour, even though they had no work force for that contract at that time.

Those home carers working for the Dandenong City Council refused to yield to that level. They refused to accept that their conditions of employment—historically and relatively low compared with all other employees in that workplace—would change for the worse and refused to accept that they would have to go lower than $11 an hour. Therefore, they chose to put in the bid on their own conditions of employment, tendering for their own work—and many of them had been working there for more than a decade. So they put in the bid on their own conditions—they were not fantastic conditions, but that is what they chose to do—and they lost their tender and were all sacked. So 90 home carers who had been looking after 1,000 recipients of care—the elderly, the infirm and the aged—were sacked.

Interestingly, within a week Silver Circle asked whether they wanted to be employed with them—not only to come back and do some work but also to look after the same clients they had been looking after when they
were paid $11 an hour—and offered them $9 an hour. The only quantifiable change in the circumstances of that transmission of business—which is how the member for Blair likes to refer to these ‘great innovations’ and savings that will be made if we pass this bill—from Dandenong City Council to Silver Circle was that the lowest paid workers in local government, who had been undertaking the care of the elderly and the aged, lost $2 per hour. They went from $11 per hour to $9 per hour. That is an absolute disgrace. I suppose it is easy for the member for Blair to get up here and rail against the views being put here because he could plead the defence of ignorance; otherwise, he would be ashamed to argue in defence of this bill, and I will tell you why.

We took the matter up. Those workers stood together and chose not to accept the decision that they were to lose their employment with Dandenong City Council, and they sought relief before the Federal Court of Australia. So we had the wigs at the bar table for the state government, the Dandenong City Council and Silver Circle against those workers. The wigs at the bar table were arguing why it was quite right that those workers, who would have been doing exactly the same work they were doing only a month before, should be paid $9 per hour, not $11 per hour, to look after the elderly and the infirm in our community. That argument was being put at the bar table. Fortunately, a simple provision of the Workplace Relations Act ensured that the company settled on accepting that they had to be bound by the Dandenong City Council agreement which contained the conditions of employment of those home carers, because section 170MB, which is referred to specifically and constantly through this bill, did not allow an employer to argue before a commission that they could change the conditions of employment of those employees as a result of a transmission.

Unlike with the qualification in section 149(1)(d), which goes to transmission of business under an award, the conditions in a certified agreement under the Workplace Relations Act are not able to be obviated by the new employer in a transmission of business. That is the effect of the provision which exists now. This government wants to remove the protection afforded to those low-paid workers who look after the elderly, the infirm and people with disabilities. It wants to remove the protection currently in place that allows those workers—by the way, it took 18 months of them sticking together to fight for their rights—to be in receipt of just $11 an hour to look after those people in need. That is what will happen if this bill is passed. It will allow an employer to seek an order from the commission that would diminish the workers’ entitlements—and, with all due respect, with the way the commission is operating at the moment, the employer would have quite a good chance of having that order made. In other words, in the circumstances of the Silver Circle case I referred to, it would mean the capacity to diminish the workers’ conditions, to get them to accept that they could be moved from $11 an hour to $9 an hour. I do not think any reasonable person would think that a fair outcome for hardworking people who undertake work that many of us would not want to undertake—and for little money. I will accept that the member for Blair’s comments arise out of ignorance, because I cannot believe that anybody in this place, if they fully understood the consequences of not providing protection for certified agreements, would accept that home carers—or any workers, for that matter—could lose their entitlements in the circumstances I have just mentioned.

This bill has effectively been rejected twice already in other forms, and for good reason. There is no genuine reason to not accept that workers who have reached
agreement with their employer are not entitled to expect that undertaking to be transferred to the new employer. Why would you not accept that? That employer would have other contractual obligations, for example—no-one is asking that those contractual obligations be obviated or removed as a result of the transmission. There seems to be no argument to support this legislation, only a blind ideological pursuit of diminishing ordinary working people’s wages by using the Workplace Relations Act. Something smells when you have a government that eschews providing powers to the commission now asking us to accept that the commission should have the power to make an order. There is something ironic in that. Clearly, it is because the government wants to confer a power on the commission that could only eventuate in the worsening of employees’ entitlements as a result of the transmission of business.

I ask this parliament to reject this bill because it is unfair and it is pernicious. In the case of Silver Circle it would mean that those workers, who undertake such a valuable service to this community, would be on poverty-line wages. This bill should therefore be rejected. In the event that it is not, I would be asking that the amendments we put forward on this side be accepted because they would provide the means by which the workforce in this country could at least have some degree of protection when this provision is applied in the real world.

Ms JACKSON (Hasluck) (1.41 p.m.)—Like the member for Burke, I rise to speak in opposition to the Workplace Relations Amendment (Transmission of Business) Bill 2002. Like me, he has recent experience in Australian workplaces where the issue of transmission of business as it affects the employment conditions and rates of pay of Australian workers is of great concern. It seems to me that this legislation reflects the fact that many members opposite have not had practical, day-to-day experience in Australian workplaces for many years.

I oppose this bill principally for four reasons. Firstly, it is yet another example of how the Howard government wants to further weaken one of the remaining protections for employees that currently exist within the system. Secondly, it ignores the impact of certified agreements in the area of contracting out and, frankly, facilitates the reduction of labour costs—specifically, employee rates and conditions in the contracting industries. Thirdly, as the member for Burke concluded, it is right and proper for an employer taking on a new enterprise to honour existing commercial arrangements. In that context, I think it is only fair and proper that they also be required to honour employment contracts they take on when taking over a business. Lastly, it removes the right of employees to be directly involved in determining the terms and conditions of employment.

As many members should know, currently, under the terms of the Workplace Relations Act, an employer may seek to change the terms of a certified agreement, particularly in the context of a transmission of business, but to do so requires that they properly consult with their workforce and entitle the employees directly concerned to have a vote in establishing the new terms of a certified agreement. I notice with great concern that in the explanatory memorandum this process of requiring a vote is said to create a practical difficulty for some employers. I find that an extraordinary proposition—particularly from Minister Abbott, who regularly berates us in the House about the need for greater democracy and for balance on certain matters. Here we have that great advocate for allowing employers and employees in individual workplaces to be involved in establishing the terms and conditions seeking, with one
amendment, to remove the involvement of employees in that process altogether.

The government, and the minister in particular, regularly preach in this place and to the Australian people that they have transformed the labour market for the better and that life has improved for working Australians and their families since they were elected in 1996. One thing is for sure: Australian workplaces have changed dramatically since this government were elected. Those changes have been that employees have been stripped of one workplace protection after another and that workers in Australia are now having to live with insecure and uncertain workplaces that have largely been created by the policies of this government.

As I said, this bill seeks to give the Australian Industrial Relations Commission the power to order that a certified agreement does not bind a new employer as a result of a transmission of business or only binds the employer to a specified extent or for a specified period. The provisions that are proposed in the new bill give no guidance to the Industrial Relations Commission on how this power should be exercised. It seems to me that commissioners may need to consider what I will describe as the strongly pro-employer explanatory memorandum as guidance for exercising their jurisdiction, as well as the now substantially amended objectives of the act. The opportunity is provided for employers, unions and employees to make submissions, but it is my view that this is likely to cause increased litigation as well as uncertainty of employment conditions whilst such consideration is being given to submissions by the commission.

The impact of this amendment on the contracting industry, especially the employees of contractors, has not been considered. I say that as someone who has very recent and relevant experience dealing with the contracting industry. As I have previously explained to this House, a significant component of any employer’s costs are labour costs, particularly in the areas of contract cleaning, contract security and contract catering. For those not familiar with the contracting industry, people pick up contracts by, from time to time, being required to go through a tendering process. One of the advantages of the current provision in the legislation is that an employer who is seeking to tender for a particular contract or work is aware of what the employment conditions—rates of pay et cetera—are for the employees concerned. Frankly, that has always meant in our industry that employers compete on issues of quality, technique and how they intend to do the work, rather than competing on how low they can cut their labour costs.

We had first-hand experience in Western Australia over the late nineties with a conservative government that contracted out many services in the Western Australian public sector. They were often left with a situation where people won a tender not based on quality, as I have indicated, but on price—in other words, the lowest price got the job. In many circumstances those employers had developed and submitted their tender on the basis of employment conditions and rates of pay they would like to apply, as opposed to those that they were required to apply by the terms of certified agreements or existing industrial instruments. That led to, in many circumstances, employees having to perform with a new employer exactly the same job they did with a previous employer for as much as $2 less an hour.

There is no circumstance where I believe you can see that as a fair or equitable arrangement. It is made even worse by a situation where the only recourse employees have is to accept a job with a new contractor or a new business and go to the commission and hope to be able to justify their current rates
of pay and conditions of employment. I think there is potential in the contracting industry for this amendment to give many of those employers who are seeking to reduce labour costs the opportunity to tender for work on the basis of unrealistic prices that they have established in their tender arrangements. They will subsequently have to take those matters to the commission to have them resolved one way or another. At a practical level, the process that is envisaged to be put in place by this legislation will be ridiculous.

The only thing that gives me some comfort is that I know that members of the Australian Industrial Relations Commission have a far greater knowledge of the reality of Australian workplaces than members opposite, even though their powers to act on the basis of equity, good conscience and the substantial merits of the case have been severely curtailed by amendments to the Workplace Relations Act by the current government over many years.

One of the other arguments that the government promote in support of this legislation is that it restores a power originally held by the Australian Industrial Relations Commission that was lost with successive redrafts of the act. It seems to me arguable as to whether this power did in fact exist. I assume they are referring to section 149 and the broad definition of an award that used to be contained there. It was never used, to the best of my knowledge, with respect to certified agreements as we now understand them under the Workplace Relations Act. Indeed, amendments to the Workplace Relations Act in 1992 specified that the Australian Industrial Relations Commission would have no such power in respect of certified agreements.

As I understand the case being put forward by the government, they argue that this power is required by the commission to ensure that new employers—for want of a better description—are not locked into certified agreements that are inappropriate to the new workplace. As I have previously indicated, under the terms of the existing legislation, employers can apply to the commission for a certified agreement to be varied or terminated, and the only requirement is that a valid majority of the employees concerned approve the variation or termination. Essentially, this amendment seeks to remove the opportunity for employees to be directly involved in determining their terms and conditions of employment—the very rhetoric and ideology we have regularly shoved down our throats in this place by the minister. This amendment seeks to remove the ability for employees to have a say about their terms and conditions of employment. Once again we see the government hard at work, attacking the democratic rights of Australian workers. This proposal does not give employees a right to vote at all. The government describe this right to vote as a practical difficulty for employers.

The bill gives only the parties to the certified agreement the right to make submissions to the commission before an order is made and actually reduces that employee choice or the democratic process in the workplace. We have already seen how employees lose the benefit of an award under the Workplace Relations Act, particularly when services are contracted out. There have also been a number of recent decisions in various courts, in particular the High Court, of transmission of business provisions governing awards. It was a very ‘employer friendly’—if I can use the colloquialism—interpretation of those provisions by the High Court, particularly in its decision in the case following the closure of the St George Bank branch in Byron Bay and the contracting out of bank services to a local pharmacy. The High Court held that former employees of the bank who had transferred
to the pharmacy to deliver the same services they had provided when they were with St George Bank lost the benefit of their award. Subsequent decisions by other courts have of course followed the same approach as the High Court, and we have seen more and more employees lose the benefit of an award by contracting out. With the greatest respect, if this particular bill is introduced it will be a sign of things to come with respect to certified agreements.

It seems to me that the government is particularly interested in helping large employers reduce their labour costs by enabling certified agreements to be made redundant in the process of corporate restructuring and contracting out. Frankly, contracting out should not be a mechanism by which business can seek to increase its profits by unfairly cutting back labour costs. It is evident that many companies are already attempting to bypass transmission provisions by stealth and unfair means. This bill proposes to take away one of the few protections in the act that these provisions offer and hence make life easier for these sorts of companies. I do not make these allegations lightly. Many will recall the maritime dispute, where the company concerned set about constructing a contract-out arrangement with precisely the intent of avoiding a certified agreement’s terms and conditions.

An example closer to home, in my own state of Western Australia, involves Burswood Pty Ltd, which is the operator of the casino in Western Australia. That matter was ultimately dealt with by the Western Australian Industrial Relations Commission, which, as a result of the election of the Labor state government last year, again has the power to determine matters on the basis of equity, good conscience and the substantial merits of the case. In that particular decision, Burswood had a number of employees whom it employed directly in its food and beverage area. The company created a subsidiary company as a labour hire company and then transferred all of the staff from the directly affected area to that new company. The Western Australian Industrial Relations Commission found that Burswood Pty Ltd had created, as an independent business, a subsidiary company purely as a labour hire company, which did not operate in the usual way that such a company would operate. In reality, the commission found, Burswood was contracting to itself. The CEO of the new company is an employee of the parent company. The company does not have its own equipment or facilities and does not purchase its own supplies; rather, it uses the equipment and facilities of the parent company, with food provided by the parent company’s kitchen. It also uses the management and corporate services of the parent company, with all the profits—surprise, surprise!—going to the same parent company.

To all practical effects, it was the same company. However, when Burswood Pty Ltd created the subsidiary company, it sacked 113 employees from the parent company and subsequently offered them employment on wages and conditions that were less than the industrial agreement that applied when they were employed with the parent company. Employees were performing the same work in the new operation as they did when they were working with the parent company. The Western Australian Industrial Relations Commission subsequently—and rightly so—decided in favour of the employees.

This bill will effectively make that sort of devious corporate restructuring a perfect avenue for such employers to undercut existing pay and conditions. Instead of employers competing in industry on quality, they have commenced a downward spiral in wages and conditions—reducing labour costs—and leaving employees at the mercy of compa-
panies that seek to increase profits at the expense of a fair and equitable workplace. By weakening an already inadequate and unfair transmission of business provision, this bill will further encourage the types of contracting out and corporate restructuring that have been proven to so unfairly affect working Australians and their families. If the commission makes an order, employees would lose the benefit of a certified agreement that they negotiated in good faith with their former employer, which in most cases would still have time to run.

It is a requirement when you purchase a business that you honour existing commercial agreements and contracts. Why shouldn’t the same principle apply to employment agreements? Employees are entitled to the same certainty and security as commercial creditors. This government’s objective in the area of workplace relations is not to make the workplace more equitable and democratic and, subsequently, more efficient; this government’s objective—or should I say obsession—is to strip the few remaining employee protections that exist in the workplace and to place the total control of the workplace in the hands of the employer—surprise, surprise! As the government so eloquently stated in its own 2001 workplace relations policy document:

In a third term: we will simplify the legal rules that regulate employment rights and obligations upon transmission of businesses from one employer to another.

All is revealed in this bill about the government’s real agenda for workplace relations. When the government says it will simplify the legal rules, it is obvious that it means that it will not only simplify them but also facilitate the process by which employers can, in order to obtain a better price when they sell the business or purely to reduce labour costs and increase their own profits, diminish wages and conditions and escape their responsibilities under agreements that were signed in good faith with their employees. I am sure that this government, which is fixated on the union movement, sees this as an avenue for employers seeking to reduce their exposure to unions to outsource to non-unionised workplaces on lower rates of pay and conditions of employment.

The SPEAKER—Order! It being 2 p.m., the debate is interrupted in accordance with standing order 101A. The debate may be resumed at a later hour.

QUESTIONS WITHOUT NOTICE

Telstra: Service Charges

Mr CREAN (2.00 p.m.)—My question is to the Deputy Prime Minister and Leader of the National Party. Can the Deputy Prime Minister confirm that three years ago telephone line rental fees were $11.65 per month and that, following the government’s new pricing policy—which Labor opposed—line rental fees have just gone up to $26.50 per month and will soon exceed $30 per month? Won’t these enormous line rental increases result in a net gain for Telstra of around $150 million over 12 months? How will privatising Telstra reverse this consumer rip-off and deliver fairer phone prices for all Australians? Why won’t the Leader of the National Party adopt Labor’s policy to keep Telstra in public hands and make it do its job of serving all Australians?

Mr ANDERSON—As the Leader of the Opposition knows, of course, the real cost of telecommunications to consumers has come down massively over the last few decades. When I was young, to ring my grandparents in Sydney was an expensive exercise and you thought twice about doing it. Now, nobody thinks about the cost of a long-distance phone call. In real terms, it gets cheaper and cheaper.

The cost of sophisticated telecommunications is plainly on the way down, and it
comes down faster the more competition you have. Let me make one other point. I am very proud of the improvement in telecommunications standards and outcomes in rural Australia since we came to power. In relation to adopting the Labor Party’s policy, I will adopt, firstly, the Treasurer’s approach to the counsel that we should always look at what the Labor Party does, not what it says, and, when it comes to privatisation, I will take my cue from what you said about Qantas and the Commonwealth Bank.

**Solomon Islands**

Mr JULL (2.03 p.m.)—My question is addressed to the Prime Minister. What action is the government taking in response to the Solomon Islands government’s request for help in dealing with the law and order difficulties that that government is currently facing?

Mr HOWARD—I thank the member for Fadden for his question, which touches upon a very important regional issue for Australia. The House would be aware that in April the Prime Minister of the Solomon Islands, Sir Allan Kemakeza, wrote to me seeking Australia’s assistance to deal with the serious law and order problem in his country. He, accompanied by other senior ministers, came to Canberra on 5 June and held discussions with me, the foreign minister, the defence minister and the minister for justice. It was made clear by the Australian government during those discussions that, if the Australian government were disposed to become involved to assist the Solomon Islands government, it would have to be upon the basis of a properly backed and properly issued legal request from the government of the Solomon Islands so that, in every way, any action taken would fully comply with the requirements of international law.

Subsequently, a team of officials from Australia and New Zealand visited Honiara to consult the government and the broader community of the Solomon Islands. The National Security Committee of Cabinet met this morning and had a detailed briefing on the outcome of that scoping study. I can inform the House that the government is strongly disposed towards responding positively to the request made by the government of the Solomon Islands on the basis of our anticipation that that response would be in concert with New Zealand and with other countries in the Pacific Islands Forum.

The assistance that is being contemplated includes substantial policing, law and justice and economic assistance, backed up by significant operational support from the Australian Defence Force. The latter is crucial to the safety and effectiveness of any external assistance. It is the judgment of both the Chief of the Australian Defence Force, General Cosgrove, and the Commissioner of the Australian Federal Police, Mr Mick Keelty, that backup of that kind is essential for any successful intervention and any successful operation of this type.

The next step is for the foreign minister to chair a meeting of forum foreign ministers in Sydney on 30 June. I discussed the matter with the New Zealand Prime Minister, Helen Clark, after the national security meeting this morning. I have also taken the opportunity of personally briefing the Leader of the Opposition. I stress that no final decisions have been taken, but there is a very strong disposition on the part of the government to act. But of course it will not and cannot act—and I make this very clear to the House—unless proper legislation authorising external assistance is put in place.

Our willingness to undertake an operation of this kind does represent a very significant change in regional policy. It is not in Australia’s interests to have a number of failed states in the Pacific. The Solomon Islands
has a long association with this country. We have been willing in the past to act as an honest broker. The Townsville peace initiatives came very much as a result of diplomatic efforts by the Minister for Foreign Affairs, and I congratulate the foreign minister for the role that he played in that.

It is a challenge to the international community, and the international community naturally and understandably expects Australia to play a leading role. If we do nothing now and the Solomon Islands becomes a failed state, the challenges in the future of potential exploitation of that situation by international drug dealers, money launderers, international terrorism—all of those things—will make the inevitable dealing with the problem in the future more costly and more difficult, and we would pay very dearly for our indifference if we were to adopt that course now.

Mr CREAN (Hotham—Leader of the Opposition) (2.08 p.m.)—Mr Speaker, on indulgence, just to respond briefly, I do appreciate the fact that the Prime Minister briefed me on this issue earlier today. The situation in the Solomon Islands has been deteriorating for some time. We here cannot ignore it. It does have serious consequences for us. The Labor Party has been arguing for some time the importance of regional security. We would support an Australian commitment to restore security if a request from the Solomon Islands came. On the question of the composition of that commitment, we will be seeking further briefings from the relevant departments. We will also be seeking the view of our neighbours in the region.

Telstra: Staffing

Mr TANNER (2.09 p.m.)—My question is to the Deputy Prime Minister and Leader of the National Party. Can the minister confirm that Telstra has shed around 13,000 workers in just the last three years? Is it not the case that most of these staff were employed in direct customer service and network maintenance activities, particularly in regional Australia? Can the minister confirm that Telstra has just made redundant a further 100 network maintenance staff in Sydney, an area which has suffered huge fault levels due to rain upsetting Telstra’s dilapidated network? Minister, how will privatising Telstra ensure that recent massive cuts in Telstra’s staff, investment and service are reversed?

Mr ANDERSON—I thank the honourable member for his question. Can I say at the outset—and I will table this graph in the House—that the overall fall in telco prices since we came to government in 1996 is 24.8 per cent. I think that is quite a relevant consideration for the House.

Mr Tanner—That was the last question.

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

Mr ANDERSON—The general point that has to be made to the opposition is that they no longer believe in competition. The reality is that, in the sort of environment that the member for Melbourne is talking about, competitive pressures will always drive better customer outcomes. That is a basic rule of economics. The fact is that competition is driving those price reductions. If Telstra is not able, in an area where there is dense business caseload, to hang on to its customers its customers will go somewhere else.

Mr Tanner—That’s the problem.

The SPEAKER—That member for Melbourne!

Mr ANDERSON—that is the way the market ought to operate. Let me make it quite plain that, wherever there is a sufficiently dense business caseload or load for Telstra and for telcos to operate, competition can only produce better outcomes for consumers. We have upgraded the USO and introduced a CSG—never done by Labor.
troduced a CSG—never done by Labor. Where there is not a sufficiently dense business load and where those mechanisms are necessary it is a question of the willpower and willingness of the government of the day to ensure outcomes that will produce a result—not the ownership structure, as has been well proved by past history.

Telstra: Services

Mr HAASE (2.11 p.m.)—My question is addressed to the Deputy Prime Minister and Minister for Transport and Regional Services. Would the Deputy Prime Minister advise the House of improvements to telecommunications services in rural and regional Australia?

Opposition members interjecting—

The SPEAKER—Order! The member for Kalgoorlie is entitled to ask his question and to be heard in silence.

Mr HAASE—Thank you, Mr Speaker. What measures are the government putting in place to further improve services? Is the Deputy Prime Minister aware of any alternative policies?

Mr ANDERSON—As the member for Kalgoorlie—who actually lives out there—would know, services have improved dramatically. Not only are we intent on continuing those improvements and closing any remaining gap but we are the only government that has ever moved to future-proof these arrangements to ensure that the gap that Labor left us in telecommunications standards does not re-emerge. If there is a black hole in communications, we have gone a very long way to filling it. Over the next little while we will fill it and, what is more, we will ensure that it does not re-emerge.

I will come to some specifics—they are worth working over again, if members are interested. They include, firstly, I would think, the world’s leading consumer safe-

guards in terms of the universal service obligation and the customer service guarantee—which is a first; it has never been done before anywhere—to set timetables for installing and repairing phone services, and the network reliability framework to target and fix local network problems. We have vastly improved telephone services. People in remote areas now have untimed local calls. Who did that? We did that. It was a dream under the previous government. Service connection times in remote areas have been slashed from more than two years to less than six months. All Australians have dial-up access to the Internet for the price of a local call. We have set minimum speed standards for Internet connection and guaranteed access to a 64 kilobytes a second Internet service.

We also have one of the world’s best mobile phone networks. We have replaced the mobile phone network that Labor killed off—never forget that. They now talk about their commitment to regional services—but they killed the analog service and they had no replacement. It was under this government that CDMA was rolled out. We have now funded more than 900 mobile phone towers to cover 98 per cent of the Australian population. Was ever such a performance contemplated by the Labor Party in government? Have they ever put up a policy proposal to match that in telecommunications? We have funded near-continuous mobile phone coverage on major national highways, and for people in the most remote areas we subsidise the cost of a satellite phone.

The measures announced this morning—another $181 million in response to the Estens inquiry—build on that record and, most importantly of all, lock in the benefits and improvements for the future to make certain that we do not get another black hole opening up. We will upgrade radio concentrated phone systems so that people in the most remote areas get yet another improve-
ment in their service. There will be a further extension of mobile phone services and satellite phone capacity. We will be putting in place a national broadband strategy, very importantly, which includes more than $100 million of incentives so that people in rural and remote areas will be able to access broadband at prices reasonably equitable to those in urban areas. This broadband strategy is a very important step in ensuring that continuing improvements in technologies are delivered to people in regional Australia as well as to people in the cities.

In addition to that, there will be a parliamentary group headed by the member for Hinkler. It will conduct a monitoring process and report regularly to the Prime Minister and to the government. On top of that there will be—and this is very important—continuing regular independent reviews of telecommunications services. That will be set in legislation and the government will be obliged to respond to reports.

Mr Tanner—Will you get another one of your mates to do it? First Dick Estens; who will be next—Doug Anthony?

Mr ANDERSON—The opposition spokesman is not in the slightest bit interested in this.

The SPEAKER—The member for Melbourne has been shown a great deal of tolerance. If he continues to abuse the chair, I will deal with him.

Mr ANDERSON—We will be imposing a licence condition on Telstra to ensure that it maintains a presence in regional Australia. Quite frankly, that is probably not necessary for the simple reason that Telstra Country Wide is a profitable operation in its own right and it has performed very well. I doubt that Telstra would want to wind it back, but that licence insurance policy will be there to ensure that Telstra Country Wide remains.

Telstra: Sale

Mr McMULLAN (2.17 p.m.)—My question is to the Treasurer. Is the Treasurer aware of independent dividend forecasts, for example by Macquarie Equities and by UBS Warburg, which indicate that the forgone dividends from Telstra would exceed public debt interest savings even if Telstra were sold for $5.25 a share? At 1.30 p.m. today it was $4.43. How can it be good for the Commonwealth budget to spend hundreds of millions of dollars to sell an asset that will make the budget worse off?

Mr COSTELLO—What the government has said is that it seeks parliamentary authorisation to offer additional equity to private investors in Telstra and will do so at a time which is commercially appropriate. We have said that on a number of occasions. I have also said, incidentally, that we missed the opportunity, when the Labor Party frustrated the sale earlier—

Mr Tanner—That was the National Party!

Mr COSTELLO—and I do find it rather interesting that the Labor Party now gets interested in the proceeds in relation to Telstra. The government equity in Telstra, from peak to trough, has fallen by $30 billion. I did not have any questions from the member for Fraser, when the Telstra price was up at $8 or $9, about the financials of offering the shares, surprisingly enough. But I must congratulate you: the fall from peak to trough represents, in the Commonwealth’s hands, a loss of net worth of $30 billion.

Mr Tanner—You can’t be running it very well. You should resign, shouldn’t you?

Mr COSTELLO—The member for Melbourne says this is some—

The SPEAKER—The Treasurer will resume his seat. I have both privately and publicly cautioned the member for Melbourne
against persistent interjections. I now warn him!

**An opposition member**—What about the Treasurer for saying ‘you’?

**Mr Costello**—Mr Speaker, let me make one final point which perhaps even the member for Melbourne could understand. At the moment, Telstra is half in the hands of private investors and half in the hands of government. If the Labor Party policy really is that we need a nationalised telecommunications company, surely they would be proposing to buy back that 49 per cent interest. What logic is there in having a utility which is half in private hands and the other in relation to taxpayers? If you really do believe in nationalisation and the socialist objective of the Australian Labor Party, then come forward with your policy and buy back 49 per cent. There used to be an old saying: what is a socialist? A socialist is a Communist without any guts. And the Labor Party is a socialist without any guts. Have the courage of your convictions. Come on; tell us about the virtues of nationalised telecommunications.

**Mr McMullan**—Only an idiot would half privatise Telstra; is that the argument?

**Mr Speaker**—If it would facilitate the member for Fraser, I remind the Treasurer of the use of the word ‘you’, which is inappropriate in response to a question.

**Iraq**

**Mr Baird** (2.21 p.m.)—My question is addressed to the Minister for Foreign Affairs. Will the minister inform the House of further discoveries of mass graves in Iraq? What do these discoveries reveal about Saddam Hussein’s regime?

**Mr Downer**—I thank the honourable member for Cook. He has asked me privately about this issue on a number of occasions, and I recognise the sincerity of his concerns not just in relation to Iraq but more broadly for human rights issues, which on this side of the House are enormously important questions.

As time has gone on since the end of the war in Iraq, the sheer scale of the brutality of the former Iraqi regime is becoming increasingly apparent, with almost daily discoveries of grave sites. Some 150 mass grave sites have been found in Iraq. Estimates—and these are only estimates—indicate that some 300,000 people were brutally slain by Saddam’s regime and buried in mass graves. But the reality inevitably is that we may never know the true extent of the atrocities visited upon the Iraqi people.

No corner of Iraq was spared from Saddam’s wrath. Graves have been discovered all over the country.

**Ms King interjecting**—

**Mr Speaker**—I heard the minister ask a question by the member for Cook that I thought would be a matter of concern and interest to all members of the House, and he is entitled to hear the answer in silence, regardless of the standing orders.
Mr DOWNER—It is not just the scale of the massacres that have taken place in Iraq that is troubling but also the horrific way that many of these people died. Baghdad markets are apparently selling copies of macabre video recordings of executions the regime recorded for later reference. Some footage shows execution by explosives strapped to victims’ chests. People have come forward to give eyewitness accounts of how deserters were bussed into an intelligence facility near Baghdad and apparently summarily executed in the final days of the regime of Saddam Hussein.

The Coalition Provisional Authority is helping the Iraqi people unveil the true extent of Saddam Hussein’s brutality. It has deployed specialists with relevant expertise to locate, preserve and analyse material evidence of atrocities. It is searching for and detaining members of the regime who may be of interest to any future prosecution for atrocities.

Atrocities and crimes against humanity committed by the former regime against Iraqi nationals should ultimately be dealt with by the Iraqis themselves. The Coalition Provisional Authority is now preparing to re-establish an Iraqi system of criminal courts. Judges and prosecutors under the re-established court system will be vetted to ensure that they have not themselves contributed to egregious human rights abuses under the former regime.

The revelations that have come forth in the last couple of months of human rights atrocities in Iraq are as bad as any we have seen anywhere in a very long time. On this side of the House it reminds us of the pride we take in having liberated that country.

Telstra: Services

Mr ANDREN (2.26 p.m.)—My question is to the Deputy Prime Minister and Minister for Transport and Regional Services. Given his comments in a media conference this morning that the real test on the outcome of the full sale of Telstra would not be known for 10 to 15 years and that future governments will be responsible for maintaining so-called future-proofing, how can the minister ask country people to have faith in gaining equity of access to telecommunications services when his own statements indicate he has no idea of the outcome and when the current regulations requiring voice quality standards only for land based services are patently insufficient now for Internet connection to many areas in my electorate?

The SPEAKER—Let me remind the member for Calare of standing order 144 before he writes his next question.

Mr ANDERSON—That of course is a highly partisan interpretation of what I said this morning. In relation to the member for Calare, that is increasingly something of a pattern, I have to say and I regret to say.

Honourable members interjecting—

Mr ANDERSON—It is. It is just a matter of record. I made the point this morning that in all of this debate nothing is more important to me, to the people I represent and to my colleagues from country electorates than getting telecommunications right—the services as sound as possible, at the lowest possible cost and with the greatest possible reliability. I made it very clear that that is plainly not a function of ownership. If it were a function of ownership, I would not have had the greatest gap that could ever have been described between what urban Australians enjoyed and what I enjoyed living out in the north-west of New South Wales 15 years ago under a Labor government. That is the simple fact of the matter: it was never worse—and I see the member for Calare nod.
Public ownership per se is no guarantee of services—none. Firstly, the guarantee of services is, wherever the business case is dense enough, competition. It is as simple as that. Competition is what drives the price reductions that I tabled a moment ago and that the great majority of Australians, including the great majority of rural Australians, have benefited from, enjoy and now expect. Secondly, where competition will not do it, only a government with a regulatory framework and a commitment to see it through will guarantee it.

My point this morning was a very strong one. We have taken the steps to close the divide—and I outlined them at some length a moment ago to get them on the record. It is a proud record; I am proud of it. I can look anyone in rural Australia in the eye and say, ‘Your services now are one heck of a lot better than they would have been if the ALP had still been in power.’ It was just pointed out to me by one of my colleagues—I think it was the member for Maranoa, who has a very good eye—that the former Labor minister who canned analog is in the gallery today. Michael Lee, thank you very much for canning it. That was a clear demonstration of the Labor Party’s commitment to rural and regional Australia. One of the things we have done under this legislation—

Opposition members interjecting—

Mr ANDERSON—This is very interesting, but they do not want to hear it. It will be a licence condition for Telstra to continue to operate that they maintain a presence in rural and regional Australia. I note with very great interest that the ALP were never going to privatise anything—they were not going to privatise the Commonwealth Bank! Did they put a condition of licence into the Commonwealth Bank Sale Act to ensure that it maintained a rural presence?

Let us get real. Let us concentrate in a visionary and forward-looking way on what will deliver what country Australia needs—not opportunistic rhetoric, not the ideology of opportunism, but some actual vision and commitment of the sort that this government has shown in getting the service gap closed and putting in place a future-proofing mechanism to ensure that it will remain closed, provided only that you have governments with the willpower and commitment to deliver on the future proofing. Our record there is second to none.

Howard Government: Economic Policy

Mr NAIRN (2.31 p.m.)—My question is to the Treasurer. Would the Treasurer inform the House of the government’s approach to economic management? Is the Treasurer aware of any alternative approaches to economic management?

Mr COSTELLO—I thank the honourable member for Eden-Monaro for his question. I can inform the House that in six days time, on 1 July, thanks to the policies of this government, every Australian income tax payer will receive an income tax cut. This is consistent with the coalition’s approach to economic management, which is that, after funding responsible social services, our troops in the field and assistance to those who are suffering from the drought, taxes ought to be kept as low as possible.

What alternatives have we seen in Australia? In Victoria we saw the Bracks government lift 300 taxes and charges, increase motor vehicle registration fees by 12 per cent and try to tax every user of the Scoresby Freeway. In Western Australia we saw stamp duty increases on insurance policies. In Queensland we saw an $88 tax increase on every electricity bill. In South Australia we saw the Labor Party put a $30 levy on every water bill. And yesterday, in a clean sweep of the Labor governments—eight out of eight in
Australia—the New South Wales government increased fees, taxes and charges in very significant areas.

Let me tell the House what those areas were. There were gambling tax hikes for clubs and hotels to raise $46 million; a new parking space levy, an increase of $40 a year for city business districts; and TAFE fee increases. TAFE graduate diploma course fees will increase in New South Wales—get a load of this—from $700 to $1,650 per year. That is a 230 per cent increase. Let us get this straight. Apparently the Labor Party is against a possible 30 per cent increase in university fees because it is in favour of a 230 per cent increase in TAFE fees. What about the interest-free loan? Is there a HECS scheme for TAFE students?

A government member—No.

Mr COSTELLO—So what is the Labor Party’s message to the students of the western suburbs of Sydney? If you go into a TAFE course, the Labor Party wants to increase your fee by 230 per cent with no HECS scheme, no loan and no interest-free facility. The Leader of the Opposition has had every opportunity to condemn one state Labor government for its tax rises. If you want to see what Labor would do in office, look at what they are doing; do not listen to what they say. The Labor socialist alternative today is, as it always has been, higher taxes, slugging the people on median incomes, making them much worse off.

DISTINGUISHED VISITORS

The SPEAKER (2.37 p.m.)—I inform the House that we have present in the gallery this afternoon members of a parliamentary delegation from the Philippines, accompanied by the Ambassador for the Philippines and led by the President of the Philippines Senate.

Mr Martin Ferguson interjecting—

The SPEAKER—Please, member for Batman, I exercise a great deal of tolerance and restraint. The least you could do is be silent when I am on my feet—particularly when we are extending a welcome to friends. I also notice in the gallery the Kenyan High Commissioner, and I believe he is accompanied by officers of the Kenyan foreign affairs department. I extend to each of them a welcome. As one of my colleagues has already pointed out, we have in the gallery the Hon.
Honourable members—Hear, hear!

QUESTIONS WITHOUT NOTICE

Iraq

Mr RIPOLL (2.38 p.m.)—My question is to the Minister for Veterans’ Affairs and the Minister representing the Minister for Defence. Can the minister confirm that there are two rates of allowance for Australian troops currently deployed in Iraq—one of $200 per day and the other of $125 per day according to troop activity? Can the minister confirm that the $75 combat allowance was withdrawn as at 9 June 2003 due to a change in the government’s assessment of the level of threat? Given that 28 troops have been killed in Iraq since hostilities ceased and a further six British troops were killed just last night, how can the minister justify the removal of the $75 combat allowance when Australian troops remain in such danger?

Mrs V ALE—I thank the honourable member for Oxley for his question. I can inform him and the House that personnel deployed to the Middle East as part of Operation Falconer are being paid a tax-free salary and a tax-free allowance of $125 a day, in addition to other benefits. It is important to understand that the $125 a day recognises not only that ADF personnel in that region are considered to be serving in war-like conditions but also that the major combat phase of the operation in Iraq is over.

Mr Hatton interjecting—

The SPEAKER—I warn the member for Blaxland!

Mrs V ALE—The ADF personnel in Iraq during the war received a $200 a day allowance, and this was consistent with the government’s commitment before the war that more generous conditions of service would apply to those personnel who were directly involved in combat operations. On the advice of the Chief of Defence Force, and following the end of the major combat phase of the conflict, the allowance for all personnel in the Middle East reverted to $125 a day. This was from 9 June 2003. However, following a recent review of the security situation in Iraq, the rate of this allowance has been increased to $150 for those personnel serving within Iraq. This change will take effect from 9 June 2003 and will soon be communicated to our troops. I think this is a great opportunity to again salute our troops for the fantastic job that they are doing in Iraq.

Mr Ripoll—Mr Speaker, I seek leave to table the Australian Defence Headquarters’ communication confirming the withdrawal of the $75 combat allowance.

Leave not granted.

Mr Ripoll—Mr Speaker, I seek leave to table the 11 June media statement from Minister Danna Vale denying that this actually took place.

Leave not granted.

Australian Protective Service

Mr PYNE (2.41 p.m.)—My question is addressed to the Attorney-General. Would the Attorney-General inform the House how the government is assisting the Australian Protective Service to protect airline travellers and Commonwealth property? What are its powers to search and remove dangerous objects?

Mr WILLIAMS—I thank the member for Sturt for his question, and I commend him on his continuing interest in security matters. As part of our continued commitment to the safety of the Australian community, the Howard government will strengthen the security powers of the Australian Protective Service. The APS is a front-line agency in the new security environment. It is responsible for protecting Commonwealth
property, it is responsible for performing a counter-terrorism first response role at our major airports, and it is responsible for the provision of air security officers on domestic flights. Recognising this role, the government has funded an additional 156 APS officers in a counter-terrorism role at airports. This includes an increase in the number of explosive detection canine teams from six to 18. Building on this, the government has decided to introduce legislation to give the APS new powers to enable it to more effectively protect the community. In the new environment it is essential for the APS to play a stronger preventative role and to provide an extra layer of security at our airports. Rather than waiting until a person has committed or is committing an offence, APS officers must be able to respond appropriately in suspicious circumstances where an arrest is not immediately necessary or possible.

The government proposes new powers that would allow an APS officer to request a person’s name and address and reason for being in the vicinity of a place or a person in certain circumstances. It is also proposed that, in strictly limited circumstances, APS officers have the power to stop and undertake a frisk or ordinary search of a person or seize an item from a person. Those circumstances would be where the APS suspects on reasonable grounds that the person possesses a thing that can be used to cause damage or injury constituting an offence over which the APS has jurisdiction.

An example of where these powers would be effective is where an APS officer sees a person at an airport who appears to have something hidden under their coat. With these powers, the officer could approach the person and ask their name and address. This would enable the officer to make an assessment of the demeanour of the person. If the officer remains concerned, he or she could request that the person take off their coat. If the person has in his or her possession a potential weapon, the officer could seize the item. This would obviously be a positive result in terms of protecting the travelling public against potential threats.

This is not a plan to do pat-down searches or frisking of all passengers as they enter the secure areas of airports. Privacy issues have been taken into consideration in the development of the powers. The new powers are a balanced and appropriate response to the changed security environment in which APS officers operate, and they reflect the government’s continued commitment to the protection of the Australian community from terrorist and other threats to our security.

Immigration: Visa Approvals

Mr LAURIE FERGUSON (2.45 p.m.)—My question is directed to the Minister for Immigration and Multicultural and Indigenous Affairs. Given that the minister has now had some days to consider the matter, will the minister inform Australians as to how many ministerial intervention matters Mr Karim Kisrwani has been involved in and in what percentage of those cases the minister granted a visa?

Mr RUDDOCK—I suspected the member for Reid would come back to the question he asked yesterday, and I checked my memory as to the question he asked of me. He asked:

in how many cases has ... Mr Karim Kisrwani had contact with the minister and his office in relation to intervention?

In responding to that request, I said:

I have no say over who approaches me. The numbers of times that people approach me vary greatly. Some members of parliament never approach me. Others approach me on one or two occasions. Others approach me on tens of occasions. It is the same with migration agents and community representatives.
In order to satisfy the request made by the member for Reid, who believes that some indicative answers I gave on a limited basis in relation to specific requests by members in specific time frames against specific categories where it was possible to ascertain a limited number of cases—

**Opposition member**—Can you qualify it any more than that?

**Mr RUDDOCK**—No—

**The SPEAKER**—Minister!

**Mr RUDDOCK**—I think the member should be aware of the volume of requests that have been made to me in relation to my intervention powers since I became minister in 1996. It is some 27,000 requests for intervention. Given the volume of requests I have received and the period of time covered, it would be a major task to isolate, collect and assemble the details sought by the member for Reid concerning contact with me and my office in relation to every request for possible intervention that has been made over that time frame and then to identify in how many cases we were successful. It has been the practice of successive governments over a long period of time not to authorise the expenditure of time and money involved in assembling information on a general basis, and I would not be prepared to authorise such expenditure.

**Political Parties: Fundraising**

**Mr McARTHRU** (2.48 p.m.)—My question is directed to the Minister for Employment and Workplace Relations who is representing the Special Minister of State. Is the minister aware of Senator Bolkus’s claim on the ABC’s AM program this morning that his failure to declare a $9,880 cash cheque from Dante Tan’s company, Universal Lionshare Pty Ltd, was ‘an innocent mistake’? Is the minister aware of any other information on the ‘rafflegate’ issue? If so, what is the minister’s response?

**Mr ABBOTT**—I am aware of Senator Bolkus’s claim that writing out 494 raffle tickets was ‘an innocent mistake’. I am also aware that today Senator Nick Bolkus has lodged a new return with the Electoral Commission. Senator Bolkus’s amended return claims that on 11 July 2001 he received $9,880 from Dante Tan’s company, Universal Lionshare. On the very same day he gave $11,000 to the South Australian Labor Party. On AM this morning, Senator Bolkus claimed that this particular $9,880 payment ‘fell between the gap’. Yet last night on the Channel 10 news Dante Tan’s business partner, John Hadchiti, said:

And we said:

‘Can we donate without this going ... to say the whole world that we donated?’ And he said—

that is, Senator Bolkus—

‘Yeah, it can be done. You have to buy raffle tickets.’

In other words, Senator Bolkus gave Dante Tan’s business partner the way around the disclosure rules. Senator Bolkus’s previous declaration to the Electoral Commission simply stated that he made an $11,000 donation to the South Australian Labor Party in September-October 2001. Of course, this was entirely consistent with Dante Tan’s request for anonymity, but it was completely false and it demonstrates that Senator Bolkus was in it up to the neck in this attempt to evade the disclosure rules. And there is more.

Two days ago, Senator Bolkus issued a press release in which he said that he had been involved in a number of major raffles for the Hindmarsh campaign in accordance with South Australian law. In South Australia, major raffles must have a licence. There is no record of any such raffle or any such licence being granted. If on the other hand it was just a minor lottery, a minor raffle, not
requiring a licence, with prizes less than $2,000 but not less than 20 per cent of the face value of the tickets, then under those circumstances a $9,880 cash cheque would have bought Dante Tan 494—or 99 per cent—of the theoretically possible 499 $20 tickets. You can just imagine Senator Bolkus writing out 494 tickets, can’t you? He would probably get RSI. But somehow he cannot remember it.

Writing out those tickets would be entirely consistent with Senator Bolkus’s statement on AM this morning, in which he said: All I know is that my advice to them—that is to say, Dante Tan and Mr Hadchiti—was that there was a limit, in excess of that limit I checked for them, but my understanding was that they wouldn’t be able to exceed that. This was not a raffle; this was a rort. There was only one winner of this raffle and that was the Australian Labor Party.

A $9,880 cash cheque would have been designed, first, to avoid the money being traceable to Senator Bolkus and, second, to escape scrutiny under the financial transactions tracking requirements and quite possibly also to avoid the South Australian lottery licensing requirements. Clearly, this was not an innocent mistake; it was money laundering—pure and simple.

If it was just an innocent mistake, why didn’t Senator Bolkus tell his flatmate two weeks ago? Why didn’t he tell his flatmate, the Leader of the Opposition, two weeks ago that he had received a significant amount of money from Dante Tan and failed to properly declare it? Since this story broke, Senator Bolkus has been the biggest fugitive since Dante Tan himself. The Leader of the Opposition should release Senator Bolkus from house arrest and make him come clean. Then we will see who is really going to get consumed in Dante’s inferno.

**Immigration: Visa Applications**

**Mr LAURIE FERGUSON** (2.54 p.m.)—My question is directed to the Minister for Immigration and Multicultural and Indigenous Affairs. It follows the pattern of successful visa interventions following representations from Mr Kisrwani. Has the minister satisfied himself that Mr Kisrwani has not accepted a fee from Mr Dante Tan in return for successful representations he made which resulted in the reinstatement by the minister of Mr Tan’s cancelled visa and the expediting of his citizenship? What investigations has the minister conducted into this matter since these issues were first raised?

**Mr RUDDOCK**—The fact is that I have studiously avoided any contact with Mr Kisrwani since these issues have been raised. I do not consider that it is incumbent upon me to undertake investigations of the sort that the member has alluded to.

Let me just make one point: the question itself is based upon assumptions which are clearly flawed. I have outlined fully to the House the circumstances in which I was involved in this matter, the fraud that I believe may have been perpetrated in relation to the citizenship issue and the instructions I have given that that issue should be addressed by the department. The assumption on which the question is based is flawed.

**Education: TAFE Fees**

**Mr SCHULTZ** (2.56 p.m.)—My question is addressed to the Minister for Education, Science and Training. Would the minister inform the House of additional help offered by the Commonwealth to the states to support TAFEs and training, particularly in traditional trades? Is the minister aware of other statements or policies which undermine the training offered by TAFEs?

**Dr NELSON**—I thank the member for Hume for his question—a man who has come from a hardworking life as a meat
processor, a meatworker, to be the Liberal member for Hume in the federal parliament.

The Commonwealth government announced in the budget that in relation to the next three years of funding for the Australian National Training Authority it would be offering a 12.5 per cent increase, or $3.6 billion, to the states and territories—a 2.5 per cent real increase per annum for each year of those three years—requiring the states to match it with only a 1.5 per cent real increase over the three years of that agreement. The ANTA agreement principally is the mechanism through which the Commonwealth government funds and supports TAFE.

I was asked about any other policies in relation to TAFE. I should advise the House, as the Treasurer has already ably done, that the New South Wales government issued its budget yesterday. TAFE and TAFE fees in particular featured very prominently. Just so that the House knows exactly what we are talking about here, 26 per cent—just over a quarter—of all of the students who attend TAFE come from the poorest socioeconomic suburbs in the country. In TAFE, fees have to be paid up front. It is compulsory up-front payment in TAFE; you pay the fee when you go to the TAFE. They will not let you in the door until you have paid it. In relation to TAFE, unlike HECS for universities, there is no loan provided by the Commonwealth or indeed by state and territory governments. In fact, many of those low-income families have to go along to banks and other lenders to see if they can get hold of the money.

Yesterday, the New South Wales Labor government announced it had increased fees for 40 per cent of its students—that is 170,000 TAFE students in New South Wales—by up to 300 per cent. A building studies diploma has gone from $710 to $1,000; a meat processing diploma from $710 to $1,200; and a telecommunications engineering diploma from $710 to $1,650. They are compulsory up-front fees for which no loan is available. When the New South Wales Treasurer was asked to explain why this was occurring, this was the response, as reported in the Daily Telegraph today:

A spokeswoman for the Minister said the changes also were made because wealthy students had been exploiting cheap courses.

What needs to be highlighted here, apart from the extortion being perpetrated in New South Wales TAFE on some of the poorest and most vulnerable students from the poorest families in the country, is the rank hypocrisy of the Labor Party here in Canberra. Mr Speaker, if you go to the member for Jagajaga’s web site, you will find a photograph of the member for Jagajaga with two dogs. One is called Fats and the other is called Billie. Yesterday morning, the member for Jagajaga was here in a crispy, cold Canberra, making the toast and brewing the coffee—

Mr Latham—Mr Speaker, I rise on a point of order. I know that the Treasurer is interested in—

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

Opposition members interjecting—

The SPEAKER—Before the minister continues, I point out to the member for Sydney that I have already on one occasion this week required her to excuse herself from the House. If she persists with her interjections, she will not be dealt with as leniently.

Mrs Crosio—Mr Speaker, I rise on a point of order. To clarify for the Hansard, it was not the member for Sydney who said that the microphone was not turned on for the member for Werriwa—it was me.
The SPEAKER—For the benefit of the member for Prospect, I thank her for her intervention. I point out to her that, for at least the last half of the minister’s reply, the member for Sydney has knowingly or unknowingly been a persistent interjector, and it was in that context that I reminded her of her responsibilities.

Dr NELSON—So on this crispy, cold Canberra morning, Fats brings the Sydney Morning Herald to the member for Jagajaga. She opens it and, to her delight, sees that the—

Mr Latham—Mr Speaker, I rise on a point of order.

The SPEAKER—I will deal with this matter. The member for Werriwa will resume his seat. Enough of this nonsense with points of order. There is nothing unusual in what the minister has done in order to illustrate a point. If the illustration he uses is not relevant to the answer, I will deal with him. But he is perfectly entitled to illustrate his answer.

Dr NELSON—So she opens the Sydney Morning Herald to find to her great delight that there is a story that one university might be considering increasing its HECS charges to the maximum possible of 30 per cent. She phones the Leader of the Opposition and says, ‘I must do a press conference immediately.’ Then, for the first time, she brings a matter of public importance on education—

Mr Latham—Mr Speaker, I rise on a point of order. This is making a mockery of question time. The question is about TAFE policy.

The SPEAKER—I will deal with the member for Werriwa if he persists with irrelevant points of order.

Dr NELSON—Yesterday, we had the member for Jagajaga and the Labor Party running around, doing press conferences and accusing the government of doing the wrong thing in relation to higher education with changes that had been argued to it by every one of the nation’s 38 vice-chancellors of leading universities. Then, this morning, Billie brings the paper in, and he is wagging his tail very excitedly. She opens the Australian newspaper and finds this headline—

Mr Albanese—Mr Speaker, I rise on a point of order. How is it possible for the minister to simply make up stories during question time? He is abusing question time.

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

Dr NELSON—What we find in this morning’s papers, and especially in the Australian newspaper, is a headline that says ‘TAFE students face 300pc fee rises’.

Mr Martin Ferguson—Mr Speaker, I rise on a point of order. You previously pulled the minister up with respect to holding up extracts from the newspaper. You asked him to resume his seat. He continued and defied you by holding up another extract from a newspaper. It is about time the government treated you with some respect, and I ask you to rule so.

The SPEAKER—I thank the member for Batman for his support.

Dr NELSON—Today we have had not one word from the federal Australian Labor Party condemning up to a 300 per cent increase in TAFE fees in the state of New South Wales, but we have heard—

Mr Martin Ferguson interjecting—

Dr NELSON—I thank the member for Batman for reminding me of his family. We have heard a lone voice. The Treasurer said that he was not aware of any voices speaking out from the Labor side. We have had a lone
voice, a voice that more or less says, ‘Oh, brothers, where art thou?’ We have had no-one other than Mr Andrew Ferguson, the state secretary of the CFMEU in New South Wales, who told ABC radio this morning:

We’ve got very high levels of youth unemployment, in particular in Western Sydney, and we need a state government that works with employers to not slug them for TAFE fees for them doing the right thing.

What the Labor Party need to remember is that the day that they start to focus as much, if not more, on meat workers, electrical fitters and people who are training to carry this country, instead of the member for Jagajaga asking one question without notice about these issues in 18 months—the day that it focuses on those people more than on double-income families with doctors, lawyers and dentists from the upper North Shore of Sydney, they might start to make some traction in the outer west.

Miss Jackie Kelly interjecting—

The SPEAKER—I warn the member for Lindsay.

Immigration: Visa Approvals

Ms Gillard (3.09 p.m.)—My question is to the Minister for Immigration and Multicultural and Indigenous Affairs. Can the minister confirm that he attended a lunch this year at Rimal Restaurant in Brighton-Le-Sands hosted by his friend, Mr Karim Kisrwani, on the minister’s 60th birthday? Can the minister confirm that, along with Mr Kisrwani, two other persons who have donated to the Liberal Party attended this lunch? Can the minister confirm that 25 immigration matters were brought to his attention for ministerial intervention at the lunch?

Mr Ruddock—My 60th birthday was in March. A function was organised to celebrate my birthday, not by Mr Karim Kisrwani—

Opposition member—He was there.

Mr Ruddock—Yes, he was there. I cannot recall any matters being raised with me on that occasion.

Ms Roxon—How much did you drink?

The SPEAKER—The member for Gellibrand will withdraw that remark.

Ms Roxon—I withdraw that remark, Mr Speaker.

Mr Ruddock—I think that those who organised the event would have thought it quite offensive for matters of that sort to be raised on an occasion such as that.

Opposition member—They weren’t raised?

Mr Ruddock—I do not recall any matters being raised. That is the point I am making.

The SPEAKER—The minister will respond through the chair.

Mr Ruddock—I do make this point. I said, I think about three weeks ago, that community representatives were entitled to raise matters with me, and there are no limitations on people raising matters with me. But I did say that, if the opposition were minded to look at these matters, one might well restrict access to ministerial intervention to applicants only. What I found quite fascinating were the comments of the member for Lalor, the shadow minister, in relation to this matter. She said that I was playing politics over the issue.

Mr Hatton—Too right you are.

The SPEAKER—I am exercising more latitude than I should. I ask the member for Blaxland if he is aware of the fact that he has already been warned—some time ago.

Immigration: Visa Approvals

Mr Lloyd (3.12 p.m.)—My question is addressed to the Minister for Employment and Workplace Relations, representing the Special Minister of State. Is the minister
aware of allegations about improper donations by Mr Karim Kisrwani? Is there new information about these donations? What is the government’s response?

Mr ABBOTT—I am aware of repeated allegations—repeated scurrilous allegations—coming from the member for Reid and the member for Lalor concerning Mr Kisrwani. Let it be very clear that Mr Karim Kisrwani is a long-time friend of the member for Reid. That friendship has been torched by the member for Reid in a desperate attempt to launch a cheap smear campaign against the minister for immigration. Not only that—the member for Reid and the member for Lalor have engaged in what amounts to a campaign of racial vilification against Mr Kisrwani’s community.

The SPEAKER—Minister—

Mr ABBOTT—If it assists, I withdraw, Mr Speaker.

Mr Adams—Mr Speaker—

The SPEAKER—Because of the level of noise in the chamber, the member for Lyons may not have been aware of the fact that the minister withdrew the statement he just made.

Mr ABBOTT—I have here a joint reference for Mr Karim Kisrwani and Mr Safwat Arfan-Sayed. This reference says:

I am supportive, due to the active leadership of Karim Kisrwani and Mr Sayed in this grouping. Both of these gentlemen—

that is to say, Mr Kisrwani and Mr Sayed—

have displayed ceaseless activity for the Lebanese and broader Arabic population of my region. Additionally, they are widely respected in their professional careers. The proponents—

that is to say, Mr Kisrwani and Mr Sayed—

have the history, contacts, experience and analysis to make a very real impact, and I endorse their initiative.

This reference was not written 10 years ago; it was written on 30 September last year, and it was not written by Philip Ruddock. It was written by Laurie Ferguson, the member for Reid. There is more. The member for Reid now says that Karim Kisrwani is ‘no friend of mine’. Let me quote from this letter, addressed ‘Dear Karim’:

I write to thank you very much for your donation of $300 to my campaign.

This letter on parliamentary letterhead says:

Your support is very valuable to me—

very valuable indeed, so it seems—

and I will endeavour to continue to uphold the Labor principles for the people I represent in this electorate.

The great Labor principle that the member for Reid is currently upholding is ratting on his mates when it suits him in a good cause.

Yesterday I told the House that the member for Reid had asked for Mr Kisrwani’s help to stack branches in order to support Mr David Borger’s preselection and that someone else—someone other than these stackers—had paid their membership fees. The member for Reid came into the parliament and made a personal explanation denying what I said. Since that personal explanation, I have sought corroboration and I have got it. I have here the words of Mr Ahmed El Dirani, who says:

In late October 2001 I received a phone call from my friend Karim Kisrwani … if I can arrange another two people with me to assist the ex Lord Mayor of Parramatta David Borger by request from Laurie Ferguson, MP for Reid.

It goes on to say:

I or my brother never paid any membership fees. It was paid on our behalf: $37 per person.

Mr Speaker, it is not just Senator Bolkus who is living on another planet; the member for Reid is living on another planet. I suppose you can hardly blame the member for Reid. Let us face it: no less an authority than
the member for Werriwa has said that the Fergusons have been disconnected from reality for quite some time. The member for Werriwa has also accused the member for Reid of being a chronic branch stacker.

Mr Latham—Mr Speaker, I rise on a point of order.

The SPEAKER—The member for Werriwa has momentarily resume his seat. The member for Werriwa may or may not have been aware of this: I had already cautioned the minister. I will not tolerate people coming to the dispatch box other than to address the chair.

Mr Latham—In the minister’s answer he repeated a false allegation against the member for Reid that was the subject of a personal explanation by the member for Reid yesterday. The allegation is that Mr Kisrwani has requested the member for Reid to—

The SPEAKER—The member for Werriwa cannot proceed with this; in fact, technically, he does not have a point of order. I have heard him out of courtesy. If in fact the member for Reid has been further misrepresented, there are of course facilities of the House to allow him to respond.

Mr Latham—I draw your attention to a ruling by former Speaker Halverson. He made a ruling that, if a member has taken a personal explanation to clarify and correct a false allegation, that false allegation should not be repeated in the House. The minister is repeating the false allegation that the member for Reid asked Mr Kisrwani—

The SPEAKER—The member for Werriwa will resume his seat. If it is any reassurance to the Manager of Opposition Business, I suspect that the ruling to which he refers may well have been Speaker Halverson’s—I do not want in any sense to detract from his speakership—but it is one that I have in fact made myself during the time the member for Fraser was Manager of Opposition Business.

As I have indicated on a number of occasions, it is not the role of the chair to determine what is right or wrong in what is being said; this is a place of free speech. In the response being given by the minister—rightly or wrongly, I do not know—he has been attempting to advance additional evidence as to why his statement stood. That was why I have allowed him to continue.

Mr ABBOTT—Thank you, Mr Speaker. Let me say that there is a moral in this tale. The moral is that members opposite should give up this futile pursuit of the minister for immigration, for which they have no evidence whatsoever. There is an abundance of evidence of wrongdoing by the member for Reid and others, and no evidence whatsoever of any wrongdoing by the minister for immigration.

Immigration: Visa Approvals

Ms GILLARD (3.21 p.m.)—My question is directed to the Minister for Immigration and Multicultural and Indigenous Affairs. I refer to events that followed his 60th birthday lunch this year, attended by his friend Mr Karim Kisrwani, at Rimal Restaurant in Brighton-Le-Sands. Can the minister confirm that, following this lunch, he instructed a member of his office to meet with the people whose immigration matters had been raised at the lunch at the meeting hall of the Lebanese Christian community in Punchbowl, and that this meeting occurred about a week after the lunch? How many of these 25 matters have been resolved successfully?

Mr RUDDOCK—Quite frankly, I have no recollection of those matters. I will make some inquiries and find out. It would not be unusual for me to ask my office in relation to matters that have been raised with me to follow those matters up with those who make inquiries.

Mr Zahra—You said they were not raised with you.
Mr RUDDOCK—I am simply saying that I do not recall any matters being raised with me and I do not recall such a meeting being requested, but I will check with my staff to find out whether any such meeting occurred.

Education: Higher Education

Mr LINDSAY (3.23 p.m.)—My question is addressed to the Minister for Education, Science and Training. Minister, would you inform the House of the benefits that will flow to James Cook University in Townsville and Cairns when the government’s higher education reform package, Backing Australia’s Future, is implemented? Is the minister aware of other statements or policies which place the future of higher education at risk?

Dr NELSON—I thank the member for Herbert for his question. His advocacy for James Cook University is matched only by his advocacy for defence personnel in his electorate. The James Cook University will benefit substantially from the government’s $1.5 billion transformational reform package for higher education, as will all regional universities. Apart from a 7½ per cent increase in its core Commonwealth grants, it will also get a 7½ per cent extra loading for Townsville, Mount Isa, Mackay and Cairns campuses and will be able to access additional places in nurses and teaching, increased funding for the training of nurses and teachers, and 25,000 scholarships to support students in educational costs and, for regional and rural students, to support their accommodation costs. It will also be able to access a $138 million learning and teaching performance pool and a whole variety of government initiatives which include support for low-income students and Indigenous students. As has been said by Eric Wainwright, an official from James Cook University, in the Cairns Post on 27 May:

If the proposed changes go through parliament, access to university education in Far North Queensland is likely to be improved overall. James Cook University, he said, will be a beneficiary of the extra funding proposed for regional universities, particularly that proposed for nursing and teaching education, so much needed in far North Queensland.

Today the alternative policy, if you could describe it as a policy, is one of obstruction and obfuscation from the Australian Labor Party, adding to the Treasurer’s very long list of things that the Labor Party is doing to hold back Australia’s economic and social development. Having refused to participate in a year-long review of higher education, which included not just universities and the business community but also unions and students and a whole variety of people, including regional communities, the member for Jagajaga stood up at the Sydney Town Hall five days before the federal budget and announced to union officials and a few friends that she would be opposing, before they were even announced, the government’s reforms to higher education. Now Labor have announced that they want a Senate inquiry which will finish at the end of November. The Australian newspaper today reported that:

... the Australian Vice-Chancellors Committee described Labor’s move as “pointless” last night and said it would endanger federal funding and deprive students of the time to make course selections.

The AVCC believed there was “no point at all in putting it to yet another Senate review”, executive officer John Mullarvey said.

What is it about the Labor Party that has enabled it in the space of 18 months to alienate a group of people who traditionally were seen to be essentially supportive of Labor Party largesse? That takes a lot of skill, and one would wonder who might be responsible for it. Finally, as Professor Gerard Sutton, Vice-Chancellor of the University of Wol-
longong, told the *Bulletin* magazine last week:

Labor is quite wrong. My view is that overall the package is a strong positive for universities; $1.5 bn of new money in the sector is a substantial increase in anybody’s language. I would have hoped that Labor would be prepared to negotiate on it because, if this package goes down in the Senate, then universities will be facing a genuine crisis.

That is Professor Gerard Sutton, Vice-Chancellor of the University of Wollongong. Every person on the Labor Party side should reflect long and hard about his or her contribution to the future of this country and either get out of the road or get on the bus.

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

QUESTIONS TO THE SPEAKER

Ruling: Clarification

Mr Tanner (3.28 p.m.)—Mr Speaker, I ask you for clarification on the ruling you made on the statements by the Minister for Employment and Workplace Relations with respect to the member for Reid where you indicated that it was acceptable for him to restate an accusation against the member for Reid that had previously been refuted in a personal explanation on the proviso that he was adducing additional evidence to support that claim. Are you therefore ruling that, if all we are dealing with is a simple repetition of a previous claim that has subsequently been refuted by personal explanation, that will be ruled out of order?

The Speaker—I would like in the first instance to refer the member for Melbourne to my fairly extensive statement on this—I am guessing—about two years ago. It was certainly during the period that the member for Fraser was the Manager of Opposition Business. What I indicated then, from memory—and this is certainly my feeling now—is that clearly, once someone has indicated that they have been misrepresented, their word for that ought to be taken and that it ought not to be right to revisit something that is without substance and in some way maligns another person’s character.

The bind for the chair, and I indicated this two years ago, is that this is a place of free speech. I have to allow people to say what they genuinely believe to be is a statement of fact or something which can be substantiated. In today’s instance, I was trying to be consistent with that because it seemed to me that the minister was endeavouring to indicate what he had said was in some way substantiated. It is a difficulty for the chair. I will endeavour to be as even-handed as possible. I do not believe, as I have indicated before, that where someone has been misrepresented and has indicated that by way of a personal explanation, that that misrepresentation should occur. But, as I am sure the member for Melbourne will concede, neither do I have the right to prevent people from saying whatever they may genuinely believe.

Mr Latham—Mr Speaker, given your ruling, will you now review the *Hansard*? I maintain that what you will find is that the minister was, in fact, repeating the same false assertion by Mr Kisrwani that he had requested the member for Reid to do certain things, things that the member for Reid said in his personal explanation to the House yesterday were false and never happened. If the Minister for Employment and Workplace Relations has in fact repeated these false allegations after a personal explanation by the member for Reid, will you now require the minister to withdraw and apologise?

The Speaker—I will review the *Hansard*—that is the least I can do. Whether or not accusations are true or false is sometimes difficult for the occupier of the chair to determine. As I indicated earlier, the Leader of the House and the Minister for Employment
and Workplace Relations—in this instance representing the Special Minister of State—had read from a letter which obviously made me feel that he was making a substantially different point. It was for that reason that I had not intervened.

Mr Abbott—Mr Speaker, I rise on a point of order. I simply make the point that it should be impossible to gag debate by way of a personal explanation. If it were possible to gag debate by way of a personal explanation, the minister for immigration would be able to make a personal explanation and there would be no question time for members opposite.

Mr Latham interjecting—

The SPEAKER—Order! The member for Werriwa and the Manager of Opposition Business will resume his seat. I do not deny people points of order. In fact, when I feel someone has the call and has done something outside the standing orders, I facilitate them. In this instance, the Leader of the House was making what seemed to me to be a non-provocative point and I was prepared to hear him. I did not hear the latter part of his comment. He had indicated that one should be very wary about gagging debate, the very remark I had made, not as eloquently, earlier myself. Has the minister anything further?

Mr Abbott—Mr Speaker, you have expressed it very well.

The SPEAKER—If the Manager of Opposition Business has a point of order, I will hear him, but I will not have him interrupting.

AUDITOR-GENERAL’S REPORTS
Report Nos 56 and 57 of 2002-03

The SPEAKER—I present the Auditor-General’s audit reports Nos 56 and 57 of 2002-03 entitled Management of specialist information system skills: Department of Defence and Administration of the payment of tax by non-residents: Australian Taxation Office.

Ordered that the reports be printed.

PAPERS

Mr Abbott (Warringah—Leader of the House) (3.33 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.

MATTERS OF PUBLIC IMPORTANCE

Telstra: Privatisation

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

The Government and the National Party’s support for the 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) (3.34 p.m.)—We are here today to mourn the passing of a once great political party—a party which first won seats in the House of Representatives in 1919 and early in its life managed the singular achievement of destroying the prime ministership of Billy Hughes, for which we in the Labor Party are eternally grateful. We are also here to mourn the passing of the party which very cogently pointed out that Bob Menzies had a brilliant military career that was only cut short by the outbreak of war. The National Party has had many great achievements in Australian politics. But, unfortunately, today we have to mark the passing of a once great political party.

Today we have had the formal announcement that the National Party is going to sup-
port the full privatisation of Telstra, in direct contradiction to the wishes of its constituents, in direct contradiction to the wishes of its party organisation and in direct contradiction to the wishes of the people it purports to represent—the people of country Australia. I make these observations with some genuine sorrow in my heart because, as some members will know, I have some past connections with the National Party, and I am not ashamed to admit that. In fact, my first political act was to hand out how-to-vote cards for the National Party. I should add that I was 10 years old at the time and I soon learnt from my mistake. My father was in fact the first FEA secretary for Peter Nixon, the former National Party federal minister, and my mother worked as his electorate secretary for seven years.

So try as I might, I cannot help but feel some sentimental nostalgia about the National Party and the glory days of Peter Nixon, Doug Anthony and Ian Sinclair, who were renowned for being tough, for being straight—at least most of the time—and for fighting hard in the interests of their constituents for a good deal for people in country Australia. Sometimes the outcomes were not so great for the Australian nation—and I accept that—but at least they had the guts to stand up to the Liberal Party, to stand up for the principles that they fought for on behalf of their constituents, in the good old days of the National Party when it believed in something, and when it was different from the Liberal Party.

The modern-day Nationals are fundamentally different. They are a pale shadow of these giants of the past. It is lucky that these giants of the past are all still alive because, if they were not, they would be rolling in their graves today. Instead of the 'tough as old boots' characters that used to run the National Party, we now have a leader in Gucci gumboots—a leader who looks, sounds and acts like a Liberal—we have the third generation of the Anthony family, who is living proof of the benefits of inbreeding, sitting at the table today; and we also have the weirder half of the McGauran family, who joined the National Party five days before he got preselected—and the fact that his father made a very substantial donation at the same time had absolutely nothing to do with it! What we have ended up with is a bedraggled bunch of misfits and no-hopers. That is why they are letting their constituents down. That is why they are abandoning the interests of people in country Australia and capitulating totally on the Telstra sale.

Mr Tuckey—Mr Deputy Speaker, I rise on a point of order. I draw your attention to the principles laid down by the member for Werriwa, which he suddenly seems to have forgotten. I do not think this is the purpose of the MPI. If it was listed as a personal attack on certain individuals, those words should have been included; otherwise he should get back to the subject.

The DEPUTY SPEAKER (Hon. I.R. Causley)—I do not see any point of order.

Mr TANNER—Thank you very much, Mr Deputy Speaker. That is wise counsel from the minister—very wise counsel. I am sure that he, being a great friend of the National Party, takes great offence at some of these matters. In any event, the National Party has capitulated on the Telstra sale and wiped out the last remaining fundamental difference between the National Party and the Liberal Party. The one remaining issue on which people in the National Party could go to their constituents and say, ‘We’re still different from the Liberal Party,’ has now been eliminated, finally and once and for all. The National Party is now a wholly owned subsidiary of the Liberal Party.

The one issue on which there is virtual unanimity in rural Australia is that people in
country Australia do not want Telstra privatised. That is the issue that the National Party have chosen to betray them on. No wonder they lost New England. No wonder they lost Farrer. The member for New England is sitting up there. He knows why they lost New England, and he will speak later in this debate. He knows why the National Party lost New England—naturally he does. They also lost Farrer and Murray to the Liberal Party. And when it next comes up, when the member for Mallee retires, they will lose Mallee too. And they will probably lose the seat of Gippsland, even with the current member still contesting the election. This announcement of supporting the Liberal Party on the sale of Telstra is the last death rattle of a once great party.

Country people know about government services and about government infrastructure. It has been a long time since I lived in the country, but I can still remember how we first got electricity. It did not happen because it was a private company delivering it. If the SEC had been a private company, we would still have direct current electricity in East Gippsland, run out of the butter factory on an old generator. Country people understand that governments are needed to deliver and extend infrastructure and to maintain that infrastructure and services. That is why they want Telstra to remain in public ownership, and that is why they will never forgive the National Party for this betrayal.

Country people understand that a privately owned Telstra will be a giant private monopoly that will be too powerful for any government to effectively control. No matter what competition occurs under the government’s inadequate competition arrangements in metropolitan Australia, that competition will have a negligible effect on consumer choice, services and delivery in regional Australia. Telstra in private ownership will be a giant private monopoly that will leave town faster than the banks. Telstra, in private ownership, will take no account of the interests of communities in regional Australia. It will focus on the most lucrative markets in the bigger cities—that is where the dollars lie—and it will get out of town and abandon the interests of country Australians, just like the banks did.

Why do people understand this? They understand this because it is already happening. In country Australia right now thousands of Telstra workers are being sacked, the network is held together with bits of string and band-aids and people have temporary cables across their front lawns, across hay bales and across barns—all because Telstra, under John Howard, is already being allowed to act as if it were already privatised.

This government has a litany of disasters on its hands with its handling of Telstra: a crippled network that is barely held together with all sorts of temporary fixes, a work force that has dropped by 20,000 within the space of the last few years—from 57,000 to 37,000—and it is on the verge of outsourcing its entire information technology operations to India. Telstra has 100,000-plus faults waiting for maintenance, waiting to be fixed. It calls these ‘routine maintenance’ so it can pretend they are not faults. Meanwhile, we have serious outages occurring whenever we have heavy rains in places like the Illawarra and parts of Sydney. Telstra’s capital investment has dropped in the past three years from $4½ billion a year to $3.2 billion a year, and it has lost billions of dollars in dubious investments in Asia.

As the Leader of the Opposition pointed out in his opening question in question time today, line rental fees for the privilege under this government of having a telephone in your home have gone up in three years from $11.65 per month to $26.50 now per month on the higher plan and will rise to over $30
within the next year or two. It costs $30 a month just for the privilege of having a phone in your own home.

So we have ended up with the worst of all worlds. There is no serious competition—inadequate competition. Telstra is still totally dominant but it is a company that, because of the Howard government’s privatisation strategy, does not fulfil its community obligations throughout Australia. On broadband—supposedly the focus of the package that the government has announced and which the National Party to its eternal discredit is supporting in return for privatising Telstra—we have achieved the glorious position of 19th in the OECD. We were 13th a year ago and we are now 19th in broadband access because of this government’s failed policies on Telstra.

Yesterday the National Party finally buckled, after a whitewash inquiry conducted by a personal friend of the Deputy Prime Minister. He is also a member of the National Party—they had the numbers on the inquiry; two out of three—and he ignored the vast bulk of the submissions that that inquiry received. So what did the National Party receive? What did the National Party get for their treachery on this issue? They got a few fig leaves—a few minor initiatives that Telstra should be doing anyway—totalling about $180 million over four years. That is serious money—I concede that—but looking at the totality of the Telstra budget and the trend in the Telstra budget puts it all into context.

The reduction in Telstra’s capital expenditure per annum over the past three years is $1.3 billion. So, in other words, Telstra is spending $1.3 billion less investing in telecommunications networks and infrastructure this year than it did three years ago. It is proposing to spend $45 million a year for four years. This sort of puts it all into some sort of context, doesn’t it, that what we are dealing with here is a complete and utter fig leaf. It sounds nice when all those things are rattled out, but ultimately there are no guarantees. We have got some licence conditions that ultimately Telstra will wriggle out of, avoid and find ways around. The Estens response that the government has put forward does little other than force Telstra to do the sorts of things it should be doing anyway as a government-owned organisation responsible for telecommunication services all around Australia.

The government’s arguments for selling Telstra are totally facile. One is that it is a conflict of interest: they cannot own and regulate Telstra at the same time. That is also an argument for privatising the ABC and Australia Post, because they do both of those things; they regulate and they own both of them. So let us see them proceed to privatise those things as well. They say that private minority shareholders in Telstra are threatened by government meddling, and yet at the same time they are saying that they can do the same thing by government regulation. They walk one side of the street on the issue but then say, ‘Don’t worry; we’ll still achieve the same outcomes by government meddling in other ways.’ They say that Telstra is disadvantaged in its ability to compete globally. There at least they have got some evidence, perhaps, because Telstra has lost several billion dollars in its ham-fisted attempts to compete globally recently—so perhaps that is an argument. But I suggest that the end result will be that they will do it more and they will lose more money than they have already lost at the expense of ordinary Australian citizens and consumers, who are funding the cash flow that has been poured down the drain by dubious investment decisions by the Telstra management, accepted and supported by the Howard government.
They say that Telstra is exposed to the vagaries of the share market and the government is exposed to the vagaries of the share market by its ownership. The Treasurer pointed out that under his stewardship over the past few years Telstra has lost $30 billion in value. He seems to think that somehow that is our fault. He stands up here proudly and announces that, under his stewardship and the Howard government’s stewardship and Ziggy Switkowski’s stewardship, Telstra has lost $30 billion worth of value. I would have thought that it might actually have something to do with the people in charge, but maybe that is a heretical thought. And their great final argument is that we need to sell Telstra to pay off debt. As the shadow Assistant Treasurer has very ably pointed out on many occasions, that is all this government has done: sell assets to pay off debt. That is easy. If you want to get rid of your mortgage, sell your house. That is a very easy way to get rid of your debt. There is the slight problem that you have not got anywhere to live after that, of course. All this government has done is sell assets—and sell them cheaply in many cases—in order to pay off debt.

The government’s real position is that telecommunications services are a luxury, that it does not matter whether you have got them or not. As Senator Alston, in a very memorable line in the Senate in September last year, said, ‘If you can’t afford to be on the line, you do not have to have a phone, do you?’ That is its real position, that is its real philosophy, and as a result it thinks Telstra should be privately owned. If people, particularly in regional Australia and lower-income earners, cannot afford to pay the price then that is just bad luck.

According to the Treasurer, wanting to retain Telstra in government ownership is socialism. There are an awful lot of socialists out there, then, Treasurer, if that is the case. About 80 per cent of the Australian community on that basis is supporting the socialism that you identify as maintaining government ownership of Telstra. The people of Australia have a clear, simple position on this issue. Telstra, in private ownership, would be a giant private monopoly—too powerful for any government to regulate. It would be out of control, it would not look after the interests of people in regional Australia or lower-income earners. It would abandon those people by chasing the most lucrative markets in the bigger cities. That is what it is already doing; that is what it is being allowed to do and that is where it will head as a private company. (Time expired)

Mr ANTHONY (Richmond—Minister for Children and Youth Affairs) (3.49 p.m.)—This debate gives me a great opportunity to rebut a lot of the hypocritical arguments put forward by the member for Melbourne. The member for Gippsland, who would normally handle these important issues, is abroad.

It was a moment of truth when the member for Melbourne was acknowledging that his genesis into the world was within the bosom of the National Party. I suppose we all make mistakes from time to time, and he made a grave error in his youth. But the reason for the birth of the National Party in 1919, which he so eloquently outlined, was to represent people in regional and rural areas and to ensure that they got an adequate slice of the Commonwealth budget. We have done that since 1919, and we will continue to do it through our forceful advocating for extra concessions to ensure that we future proof Telstra and telecommunications requirements for regional and rural Australia.

The member for Melbourne talked about the great people of the past. Perhaps he should have mentioned—and I am quite proud to say—that there was a period when
my grandfather was head of the PMG. I recall many stories in which he was able to intervene to get better telecommunications. If he were alive today, he would acknowledge—as would my father, who is alive—that the scope and the breadth of telecommunications that we have today would be out of the realm of expectations back in the 1950s and 1960s or even 10 years ago. What this particular government has done is to ensure that capital expenditure by Telstra is prioritised and goes into areas to ensure that the gap between the city and rural areas is narrowed.

I also find it interesting how, as a debating point, he mentions elements of inheritance. We know that three-quarters of the Labor Party here are from their direct hereditary peerage: they come through the trade union movement or they inherit a seat. Some of us over here certainly never had to inherit a seat; we took it off the Labor Party. The reason why we won against the Labor Party is because they fundamentally failed in their stewardship when they were last on this side of the House seven years ago. The area of telecommunications is the greatest area of failure that I would like to talk about.

It is amazing how the member for Melbourne comes in here and puts on a bit of theatre and a bit of smoke and lights. When we look at the Labor Party’s record and the member for Melbourne’s indignation that we might even contemplate selling Telstra—notwithstanding the enormous advances that we have been able to accomplish through the Besley report, Networking the Nation and the Estens inquiry and the fact that we will spend $181 million on the roll-out—we see that they themselves were the greatest advocates of selling Telstra. No matter which way they bob and weave—and we will go through the history shortly—their hypocrisy is extraordinary, as was demonstrated by the Treasurer and by the Deputy Prime Minister in question time.

I find it interesting that Labor come in here preaching the virtues of government ownership, yet anything that moved was sold, was flogged off, while Keating and Hawke ran the country. They were ably assisted, no doubt, by the young Lindsay Tanner. Perhaps he should have stayed with his National Party traditions, because at least he could have had a say; he might have been on this side of the parliament arguing for better services, as we have done. There are enormous services to capital cities that we want for regional Australia. In that period, Qantas was sold. Was any investment put into retiring debt? No.

Do you remember the Commonwealth Bank? They were never, ever going to sell it. They sold 50 per cent and then they flogged the rest before you could say Jack Robinson. Was that money reinvested? Was it reinvested to repay the $96 billion debt that we inherited? The member for Melbourne talks about Telstra and future-proofing. Did they have requirements to ensure that the Commonwealth Bank did not move out? They put no requirements on the banks. In the latter part of the nineties, the banks deserted a lot of regional communities because the then Labor government failed to put any type of control or regulatory environment in place. Whether it was the Commonwealth Serum Laboratories, the Snowy Mountains Scheme or the Moomba gas pipeline—you name it, they sold it. If they had had a chance to get their paws on Telstra, they would have sold that too. That is ably demonstrated by history. It is interesting to look back at history. Beazley was then the potential alternative leader.

The DEPUTY SPEAKER (Hon. I.R. Causley)—The member should be referred to by his seat.
Mr ANTHONY—Mr Deputy Speaker, he wanted to be the leader. The head of the rooster clan from Brand wanted to sell Telstra not so long ago. Back in 1996 he and Paul Keating tried to sidle up to, at that time, Australia’s biggest company, BHP, to do a little side deal. In 1995, when the member for Brand was the Minister for Finance—here we are talking about the potential future leader; he has failed twice as a leader of the Labor Party—he commissioned his own department of finance to work out how they could flog Telstra in five separate tranches.

Let us look at further issues. It is extraordinary that the member for Melbourne is defending the Labor Party’s position, as a good old socialist—as the Treasurer said, he does not have the courage or guts to be a communist—because even he wanted to flog off sections of Telstra. Was that back in 1996 or in the Hawke-Keating era? I do not think so; it was last year and the year before. Before the last election, he came up with this grand plan. He said that we have this partially public and private ownership of Telstra and it should not be half pregnant, so to speak. His theory was, ‘I’ll sneak along to Macquarie Bank and we’ll flog off some of the divisions; we’ll flog off some of the high value items so we can get some of the money back into the coffers,’ and of course leave the Commonwealth with just the copper wire network, which would be valueless.

The point of these illustrations is to demonstrate that, whatever position is taken or pious rhetoric spoken by the Australian Labor Party on Telstra, their record clearly shows that, if they were on this side of the House, Telstra would have been sold a long time ago. Where would the money have gone? It would not have gone to retire the debt that they created. It would not have gone to the Natural Heritage Trust. It would not have gone to Networking the Nation. It would not have gone to what we have done with the roll-out following the Besley report, which is around $400-plus million dollars, and what we are doing now subsequent to the Estens inquiry.

We on this side of the House—certainly members representing regional and rural seats—share the basic core principles of the National Party of representing people out of the urban sprawl of Australia by ensuring that the types of services we get are at least comparable over the long term with what our city cousins have. That is where we have tried to guarantee for quite some time the improvement of Telstra services. I have to say that the improvement of Telstra has been quite phenomenal. I think it is quite uncharitable of the shadow spokesperson on telecommunications to be highly critical of it, especially when you look at the costs of calls.

I would like to table a document in a minute. It shows that, since 1996, the overall cost of telecommunications has gone down 24.8 per cent. International calls have dropped by 61 per cent; long distance has dropped by 29.6 per cent; local calls have dropped by 29 per cent; mobile calls have dropped by 27 per cent. The story is consistent. The only reason those costs have come down is that the policy regime that we put into place has increased the number of carriers from three to over 40; it has ensured that, with that competition, prices came down and, through the proceeds of Telstra tranches 1 and 2, we reinvested back into regional areas to ensure that there are adequate communications services which those areas certainly did not have before. I correct myself: 89 companies are now involved. More than 40 per cent of these companies are directly servicing regional Australia—service that regional Australia has never had before. I well remember when we had a farm out near Wee Waa the amounts that Telstra would charge us to put basic telephonic services
onto the property. They were not hundreds of dollars; they were thousands of dollars, which was an absolute rip-off.

What has happened within the telco industry? The Labor Party again talk about jobs. There is a pleading here as the workers party; well, they are certainly not the workers party. They have criticised the National Party, but they are just a factional party more interested in their own personal advancement and clawing each other down—which we certainly saw over the last couple of weeks with the dispute between the roosters and those backing the member for Hotham.

The interesting thing is that there have been 100,000 new jobs created in the telecommunications industry over the past 10 years. Why is that? Because there has been more capital going back into it, more jobs and more opportunities, particularly in regional Australia. One of the things that we have done—and this was driven to a large extent by National Party members and regional members within the Liberal Party—is to ensure that we have an adequate universal service obligation. This means there is a legal requirement to ensure that those telecommunications companies deliver services and that, if they do not do that in a timely manner, they will be charged. That was never there under the old ALP regime. We have created customer service obligations to ensure that there is an adequate time frame put into place and have also created a network reliability framework.

I see the member for Parkes here. When it comes to untimed local calls, in the past you would have horrendous costs to make a call from one town to another. Even in the same geographical area you would pay substantially more. We have extended the zones, and we have put $150 million into place. When it comes to the Internet, through the Internet Assistance Program our requirement is that Telstra provide a minimum line speed of 19.2 kilobytes. We have ensured guaranteed access to 64 kilobytes, particularly with the new roll-out and digital data service obligations. Again, these things would not have happened if it had not been for the requirements that we put into place through future-proofing and the regulatory framework. This argument about who owns it is fallacious. We know on this side of the House, the public knows and deep down they know—because they advocated it a couple of years ago—that if the Labor Party were on this side they would have flogged it a long time ago.

One of the points that perhaps the Independents should raise when they have their say in the debate later on in this session is to do with taking on some of the mantra from the ALP. What they should be asking is: if there ever is a future ALP government—because there certainly will not be a future government of Independents—what types of regulatory requirements and what types of policy initiatives do they have to future proof it? None.

Mr Tanner—Keep it in government ownership.

Mr Anthony—we know, because of the past, that government ownership is an absolutely fallacious, hypocritical argument.

The Estens inquiry was pushed along by many members on this side of the House. We have adopted all 39 recommendations. The funding going back into it is $181 million. A large part of that is going into getting adequate broadband width, digital communication and improving the mobile phone coverage. This was mentioned in question time today by the previous member for Dobell. That policy on analog phones was a disaster. Talk about some of the major structural problems that we have with telecommunications! When were they created? They were created
back in the early nineties, through recklessness or short-sightedness. The analog network is part of Australia’s history now. This government improved it, and there was a large influence by the National Party, particularly with the roll-out of mobile phone networks, for which we have seen a huge amount of coverage. We will see in the not too distant future over 98 per cent of Australians having at least some type of adequate mobile phone service, whether it is terrestrial mobile coverage or through satellite subsidies.

We have put the argument that ownership really is not the issue. The issue is the regulatory framework that we put into place to enforce compliance on each telco, whether it is Telstra, Optus or one of the plethora of other communications companies that have now come into Australia. We are going to ensure that we have a group of people who will keep the pressure on, report directly to the Prime Minister on the rollout of the Estens money and ensure that the compliance regime is maintained. I think this is a great credit to the member for Hinkler, who is here. I am sure there will be other members on this side of the parliament from both the National Party and Liberal Party seats. I see the member for Kalgoorlie is in the chamber as well. It is this side of the House that is doing that, because if the Labor Party were in office Telstra would have been sold a long time ago, that money would have been spent and we would be further in debt.

When it comes to the part of this motion criticising the National Party, I think we can hold our heads high. There has been concern in regional Australia—I do not deny that. Our members here, along with Country Liberal Party members, have represented those concerns in their own individual ways very forcefully and adequately within this parliament. That is precisely why there is going to be an increased injection of funds: to ensure that those people who live outside the urban fringe maintain an adequate telecommunications service into the future and to ensure that there is future-proofing. The member for Melbourne put forward other erroneous arguments, and I would like to address some of those while I have a few minutes. He talks about selling assets to pay the mortgage. They sold everything. I seek leave to table a document I referred to earlier, and I am happy to pass it over to my old National Party colleague. (Time expired)

Leave granted.

Mr SNOWDON (Lingiari) (4.04 p.m.)—Here you have another! Let me fess up to my National Party heritage. My grandfather stood against John McEwen for preselection in the late 1940s. I wish he had won. He would be rolling over in his grave to see the poor performance by the National Party. Where are they? Where are these great supporters of the government’s view? Apart from yourself, Mr Deputy Speaker Causley, for whom I have the greatest respect—

The DEPUTY SPEAKER (Hon. I.R. Causley)—While I am in the chair I do not represent the party.

Mr SNOWDON—I know. But you are, Mr Deputy Speaker, nevertheless a member for the National Party. But where is the member for Cowper? Where is the member for Maranoa? Where is the member for Riverina? I know the whip has been ringing around trying to get them all into the House to support the honourable member for Richmond, who has just spoken, but they are not here. They are not here because they are embarrassed by the government’s decisions, and it is no wonder they are embarrassed.

We have heard through the eloquent submission made by my colleague the shadow minister for communications that there have been $1.3 billion in cuts in capital expenditure over the last three years. What we are
getting as a result of the deal which is being done by the National Party with the government over this little exercise is $182 million over four years. You have to ask: what benefit is that going to give to the people of country Australia? How can the member for Dawson go back to her electorate and say she has done a reasonable job on their behalf in getting these commitments? Let us just recall what the member for Dawson said in July 1998. She told this House:

My objections to the Telstra sale ... cannot be construed as disloyalty. My first loyalty is to my constituents.

She told us a year ago how these constituents felt. In the Canberra Times on 28 May last year, she was reported as saying:

There was no evidence country services were up to the levels enjoyed in capital cities.

Hear, hear to that! She was quoted as saying:

“Rural and regional constituents ... say that they want Telstra to remain in majority government ownership”.

Hear, hear to that! She knows that remains the case. She continued:

“It is certainly questionable that further legislation would be enforceable on a totally privatised Telstra,” Mrs Kelly said.

“What is known is that legislation for banks to re-open branches in country towns would not succeed. Why would future Telstra services be any different?

That is a very good question and a sentiment I agree with. We know, she knows and the National Party know that they have been sold out by this government. They have drawn the short straw with their leader. He has demonstrated very clearly that the way he was described by the member for Melbourne remains absolutely correct.

Mrs Crosio interjecting—

The DEPUTY SPEAKER—Order! The member for Prospect knows she is out of her seat and is disorderly.

Mr SNOWDON—It is also worth contemplating that the member for Dawson was not on her own; her Queensland comrades have also been outspoken on the issue. According to the Courier-Mail of 18 March 2000:

Queensland National Party director Ken Crooke said he did not believe any further sale would be supported “until the community says it’s ready”.

Has the community said it is ready? It has not said it is ready in my electorate. Has it said it in your electorate?

Opposition members—No!

Mr SNOWDON—I have not heard a cacophony coming out of regional Australia of: ‘We want you to sell Telstra. We’re happy with our standard of telecommunications. We’re happy with the work that Telstra is doing. We want the government to sell Telstra.’ I think not. The National Party come into this place and support the proposals being put forward by the government, and they are selling out their constituency. The Weekend Australian reported that the Nationals’ Queensland state president, Terry Bolger, told the party’s conference last year:

“The Nationals will not support any further sale unless the people of regional, rural and remote Queensland tell us they are satisfied with standard and future guarantees ...”

Are they satisfied? What guarantees have they been given? The Estens report does not give them these guarantees. The best you can say about the Estens report is that it is a trumped-up job done by a member of the National Party who did not bother to travel to regional Australia and yet purports to represent the views of regional Australia. Let us understand what he has done. Mr Estens said there were consultations with a wide range of key organisations and representatives in regional and remote Australia. Nothing could be further from the truth, because they did not travel around regional
not travel around regional Australia. They got a small number of submissions from my own electorate in the Northern Territory. What this report shows is that there was no knowledge, comprehension, understanding or background in what telecommunications mean to people living in regional Australian communities. You would like to think that these people parading in their Wellington boots and trying to convince us that somehow or other they understand and represent regional Australia actually do something important. They do not; they simply do not.

When people other than those with the Estens inquiry or the National Party have done surveys of Australia, we have discovered that the people of regional Australia are overwhelmingly opposed to any further sale of Telstra. I have told this parliament before that at the time of the Estens inquiry I undertook a survey of my own electorate. I might remind you, Mr Deputy Speaker, that my electorate covers 1.4 million square kilometres—a fairly large portion of remote and regional Australia—and I think the people in that part of Australia would have a fair understanding of the service that Telstra provides. I got over 700 responses to the survey, and 90 per cent of those supported keeping Telstra in majority public ownership. The Australian Financial Review of 29 August reported that a survey done by the Independents of this parliament—and I can see one of those people in the chamber now—of 250,000 rural and regional voters showed that 80 per cent of their constituents did not support the sale of Telstra.

How can National Party members come into this place and expect us to believe that somehow or other they are speaking on behalf of their constituents in regional and remote Australia? They have—as was pointed out by the member for Melbourne—sold them down the drain. The leader of the National Party has been able to have his way with these people. When I say ‘have his way’, you know what I mean! They come in here impure. No longer can they stand with their hands on their hearts and say they properly represent their constituents. No longer can they stand with their hands on their hearts and say that, when they get into the party room, they do all they possibly can to make sure that they are not done over by the Liberal Party. We know they have been done over by the Liberal Party. We know they are continually being done over by the Liberal Party.

Mr Sidebottom—What about the airports?

Mr Snowdon—And this is not the only issue. My colleague from Tasmania talks about regional airports. Where have the National Party been on the issue of regional airports? Where have they been? Whenever there has been an issue of importance to do with regional Australia, they have been AWOL, or they have been stuck down at the Grange drinking chardonnay with their mates from the Liberal Party. They have forgotten absolutely what it means—

Mr Griffin—The Holy Grail!

Mr Snowdon—You are right, the Grail. They were there drinking Grange with their mates from the Liberal Party!

Mr Pyne interjecting—

Mr Snowdon—I know that punchy over here knows what it is like, because when he gets in conflict he gets very vigorous. I know that, in the context of the joint party room, he must be getting very vigorous all the time, because he has got it all over the people from the National Party who join that party room.

I know there are people in the National Party who believe that somehow or other the people who come to the parliament in their name truly represent their interests. What we
have seen in this approach by the National Party in relation to telecommunications is that they are prepared to sell them down the drain for a few pieces of silver—a few pieces of silver that will not deliver and will not guarantee services to rural and remote Australia into the future. When you read the Estens report, you come to understand that there is no guarantee for services into the future. They want you to come back at budget time and try to seek allocations from general revenue to increase and improve telecommunications services to the bush, because somehow or other you are going to future proof them.

What the hell does ‘future proof them’ mean? One interpretation is that it will prevent—and it will certainly do so in this instance—any possibility of people in rural and remote Australia, National Party constituents, getting a guarantee that cutting edge technology will be introduced into their communities, as they ought to be able to expect it to be. They will be locked in time; there is no question about that. They are being future proofed. It will be like being in a bottle of formaldehyde. They will be able to get their wind-up phones, if they are lucky enough to have a phone. I notice the Estens report says you do not need even a basic telephone. What the hell do you need if you do not need a basic telephone? We will have this basic telephone in formaldehyde while the rest of Australia is using broadband. We will see fast, digital communications in the rest of Australia but not in the bush. (Time expired)

Mrs Crosio interjecting—

The DEPUTY SPEAKER (Hon. I.R. Causley)—Order! The Chief Opposition Whip will be out under 304A if she does not behave.

Mr PYNE (Sturt) (4.15 p.m.)—You have to admire the ALP’s front in standing up on a matter of public importance to do with privatisation. The ALP has more front than Eric Bana as the Incredible Hulk, than Cox-Foys, than David Jones—

Ms King interjecting—

The DEPUTY SPEAKER (Hon. I.R. Causley)—The member for Ballarat will remove herself under 304A. She has already been warned.

The member for Ballarat then left the chamber.

Mr PYNE—She likes the attention, I think, Mr Deputy Speaker. She does it far too regularly.

The DEPUTY SPEAKER—The member for Sturt!

Mr Tanner—Mr Deputy Speaker, I rise on a point of order. Under standing order 76, I request that you urge the member for Sturt to withdraw that imputation against the member for Ballarat.

The DEPUTY SPEAKER—I do not think it was offensive, and I called him to order.

Mr PYNE—You have to admire the ALP’s front in coming into this House and trying to argue their position on privatisation. The ALP have not only privatised more government instrumentalities than the coalition has even tried to do but also managed to put all the money that they gained from privatisation into the bottom line of the budget. They simply threw it to the winds on things like the Working Nation program and on huge budget blowouts for the Submarine Corporation to pay for submarines, unlike this government, which actually used the money from privatisations to reduce government debt. But I will get to that in a moment.

When in government, the ALP managed to privatise not only the Commonwealth Serum Laboratories but also National Rail, Qantas
and the Commonwealth Bank. The most egregious of these privatisations was definitely the Commonwealth Bank, because in that case the minister for finance at the time, Ralph Willis, actually wrote in the prospectus for the partial sale of the Commonwealth Bank that the government had no intention whatever of further reducing its shareholding. Let us face it: the minister for finance at the time, who I think was the then member for Gellibrand, was fortunate to escape from being prosecuted under section 996 of the Corporations Law, which states that—

Mr Tanner—Mr Deputy Speaker, I rise on a point of order. The point of order is on relevance. The absurd claim about the former minister for finance has nothing to do with Telstra or telecommunications.

The DEPUTY SPEAKER—The member for Melbourne would have to know that he was given a lot of tolerance by the chair. That is a spurious point of order.

Mr Pyne—The member for Melbourne well knows that matters of public importance traverse widely across a subject, and this subject is privatisation. The former minister for finance was lucky not to be prosecuted under section 996 of the Corporations Law about making false and misleading statements in a prospectus. When the opposition were in government, they actually told people who were preparing to buy shares in the Commonwealth Bank that they could rely on the fact that the Commonwealth government of the time would not sell down their remaining stake in the Commonwealth Bank. In a question in question time, Ralph Willis was asked:
So unlike before, this time your commitment is iron clad?
And he replied:
Absolutely, yes.
That was in October 1993. It was not long after that that they were hawking the rest of the Commonwealth Bank off to the stock markets. What did they do with the money? I could say something that is unparliamentary, but instead I will say that they threw it to the winds by wasting it on pointless exercises—in particular, by the time the Working Nation program had finished, after spending $1 billion, it had not actually created one extra job.

The coalition’s proposals with respect to privatisation have been to reduce government debt. What has been the effect of this? It has taken pressure off interest rates, it has helped to encourage growth in the economy and it has helped to reduce unemployment. The sound nature of our economic management has helped to create jobs, free up the economy and encourage investment from overseas. What makes anybody think that, if the ALP were in power again, they would not sell the remaining part of Telstra themselves? As the Minister for Children and Youth Affairs, who spoke before, has pointed out, they would be as quick out of the blocks as possible in selling Telstra, because that is what they had planned to do before the 1996 election—just like the Commonwealth Bank. Kim Beazley admitted it himself.

The DEPUTY SPEAKER—Members should be referred to by their seat.

Mr Pyne—The member for Brand admitted it himself. He admitted that in 1995 he attended a meeting with Prime Minister Keating and John Prescott about selling Telstra to BHP. Not long after that it was revealed that the department of finance had prepared a five-tranche full sale of Telstra to go ahead in 1994, 1995 or 1996, depending on the outcome of the election. So the Labor Party do not come to this debate with clean hands—far from it. How can the Labor Party stand up here and put their hands on their hearts and say that they are the party of anti-privatisation when the runs are on the board—CSL, Qantas, National Rail and the
Commonwealth Bank, and their plans for Telstra which were exposed by the opposition in 1996 during the election campaign?

Mr Tanner—National Rail? We didn’t sell National Rail; you did.

The DEPUTY SPEAKER—The member for Melbourne will restrain himself.

Mr PYNE—Not long after the 2001 election, when the Labor Party said that they had an ironclad commitment to opposing the privatisation of Telstra, the member for Melbourne himself came out with a policy for the structural separation of Telstra and to flog one half of that off to the public. The member for Melbourne himself exposed the fact that the member for Brand had wanted to sell Telstra, and then he cut him out, junked his policy, for the 2001 election with a new policy for structural separation which involved the sale of part of Telstra. He did not even have a commitment himself to being opposed to the privatisation of Telstra, and what happened to him? His policy was junked as well by his own people. An email that was sent to Sue Mackay in June 2002 said that this was the advice that had been received:

I spoke to—
and the name is blanked out—
today. They say the anti-Tanner forces, led by Senator Sue Mackay, are marshalling their troops to roll Tanner on structural separation in caucus this Tuesday or the following week. They claim there is cross-factional support to kneecap him.

He junked Kim Beazley’s policy and his own policy was junked. The Labor Party are all over the shop on what their true position is on privatisation. They have one policy for opposition and another policy for government. They have one policy for the Right of the Labor Party and one policy for the Left of the Labor Party.

The sad fact of the matter for the poor old member for Melbourne is that now that most government instrumentalities that could have been privatised have been privatised—mostly by the Labor Party—they have handed the policy area back to the poor old Left in the form of the member for Melbourne, because there is nothing left to worry about selling, except for the main one, which is Telstra. Now is the time to prepare for the full sale of Telstra. There are tremendous benefits in the sale of Telstra.

Mr Tanner interjecting—

Mr PYNE—I will be a minister before you are a minister, Lindsay—let me say that much. That is for sure. You will be in opposition a lot longer than the next couple of years. Nevertheless, there are tremendous opportunities and benefits in the full sale of Telstra in the next couple of years, and the appropriate time to pass the legislation is now. The ALP holds itself out as a party that supports greater share ownership in Australia. It says it is in favour of wider share ownership. But it is the coalition that, because of the sale of the first two tranches of Telstra, has made Australia into the largest share-owning democracy in the world per capita. Forty-one per cent of adult Australians directly own shares, and 54 per cent of adult Australians either directly or indirectly own shares—that is in comparison to 32 per cent in the United States and 31 per cent in New Zealand. There are 2.1 million Telstra shareholders. There are 560,000 people in Australia who bought shares for the first time in the sale of the first tranche of Telstra and 321,000 in the second tranche. Almost one million Australians bought shares for the first time when Telstra was first offered for sale, making the point that Australians want to be shareholders, invest in the stock market and have control over their own spending, their own investments and their own destinies.

In the past, the Labor Party has agreed with us on this. The member for Werriwa
himself, when he was obviously a rooster rather than what he is now, which is a turkey—like the member for Melbourne, who is also a turkey, being a Crean supporter, as opposed to the roosters, who are the Beazley supporters—said he was in favour of greater share ownership and planned to act accordingly. But *Workers Online* had this to say about it:

Far from being Labor’s new Light on the Hill, Latham’s share ownership agenda is a dousing of the flame, a desertion of the ideas of working together as a society rather than as individual players for our mutual benefit. If we give up on this we may as well all join the Liberals.

Of course, we would not have the member for Werriwa in the Liberal Party, nor any other member of the Labor Party. But the point is made that Labor mouth support for greater share ownership but their practice is to oppose it—just like they mouth support for lower taxes but their practice, as developed by state Labor governments, is to increase taxes. 

*(Time expired)*

Mr WINDSOR (New England) (4.25 p.m.)—I think it is very sad that this debate is taking place. The way in which the privatisation of Telstra has been debated so far has been about blame, what the other side would do and what speakers intend to do, but the very real issue of the Australian people is being left out of this. In particular, the people that I would like to speak on behalf of, the people who are really being excluded from the debate through the incompetence of the National Party and the Country Liberals, are people who live in the country. You only have to look at history to see what is going to happen in relation to the sale. There is absolutely no doubt that, if you follow a fully privatised arrangement, those people who are in remote areas, those people who are in the small and medium communities or even some of the larger communities and those people who have distance to contend with in terms of infrastructure provision—this is the underground infrastructure that Telstra provides, the very infrastructure that no-one really wants to look at, because that is where the money problems and the really big problems are—are going to suffer. People who live in the country are going to suffer at those three levels.

You can overcome a lot of those issues in the feedlots, which are essentially our cities now. What this is actually doing, through a very basic resource, is encouraging our country people to get out. We now have telecommunications that are going to be the future of our country children over the next 100 years at least. We have an opportunity, through government involvement, to maintain some degree of equity of service. No-one is talking about equity; the government side is talking about having to spend more and more. No-one denies that we should spend more and more. But it is still not equivalent to equity of availability of services. I have hundreds of letters from people who are still going through the battle, going around to the Ombudsman, going to their various service providers and going back to Telstra, constantly facing these infrastructure problems. The fact is that we are trying to use the infrastructure of last century to drive technology through to the next century, and it is not going to happen. The government recognises that if it is to happen it is going to happen at a cost: $45 million a year, which probably will not even fix the problems in one electorate. This major program that the government has embarked on is an absolute farce, and I believe it is a disgrace.

I am very disappointed in the National Party. There has been a lot of talk about the National Party today. I think a lot of people were expecting the National Party to represent their views—and the Country Liberals, for that matter. I think a lot of times the Country Liberals get off the hook and the
poor old Nationals get blamed for everything that ever happens in the country. If that is what the Nationals want to put up with, that is what they have to accept. But they are definitely walking away from country people on this issue for $45 million a year—that is the cost of this. In Telstra at the moment you have a facility that is earning massive dividends. The dividends will outweigh the interest component that is wiped off if this money is used to retire debt. It is an absurd economic argument to start with. It is all about trust, and country people do not trust any government at this level, because history says that country people are always the ones who are disadvantaged. The current government do not trust the Labor Party’s views, because Labor have suggested that at some time they might sell Telstra, and they may well be right about that. It gets down to which government can access the money and how many elections that money can actually buy.

I think the Deputy Prime Minister, at a press conference with the minister, Senator Alston, gave the agenda away today. It is a short-term agenda. It is about the short-term future of the current government. It is not a long-term visionary agenda about telecommunications and country people, or where we want this nation to be—a nation with 20 million people and a vast area. The government’s economic agenda is telling people within the communities to head for the coast, to head for the major cities, to head for the feedlot, because that is where you will get the economic rationalist advantage. Even the New South Wales National Party, at its recent conference in Forster, sent that message out. It was a conference on the coast. All the messages were to defend the coastal seats and forget about the inland seats. The message was, ‘The Country Independents and others are taking the inland seats, and those people in the far west are not worth worrying about anyway, so let’s defend our coastal realm.’

The real giveaway was when the Deputy Prime Minister said that we will not know the outcome of the sale of Telstra, the outcome of these arrangements and the so-called regulations that they are talking about, for about 15 years. That is a cop-out. That is someone saying that they have no idea what the provisions in the legislation are about—what the regulations, the USO and all these things are about. The Deputy Prime Minister has no idea what that will mean for the very people that he is supposed to be representing. I think it is a disgrace. It does not surprise me, because he has walked away on a lot of issues. Prior to the last election, when there was a threat that someone might stand against him, there was a great promise made to the people in his own electorate—the Namoi people—that $40 million would go to the people in his own electorate—the Namoi people—that $40 million would go to the structural adjustment of a groundwater project. Once the election was over, he walked away—$40 million just vanished.

We have seen this happen with Sydney airport, with Telstra before and with the $2.9 billion that could have been spent on the national highway system—he blamed it on his staff and sacked his staff. We have seen it at a number of levels. We have also seen it with the property rights issue that has gone on since 1995 and with water rights. These things are said when going into an election, but at the end of the election they are forgotten. This is an issue of trust, an issue relating to equity. I admit that we have had improvements. I have had a mobile phone for about six months. In my home, I can use a mobile phone now—and I am only 50 kilometres from one of the biggest regional centres in New South Wales, the city of Tamworth. I can go a short distance from there and not be able to pick anyone up on my mobile phone, and there are vast areas that are affected.
I am going to put my trust for some degree of equity in the Senate. In coalition with my Independent colleagues, I hope to attempt to persuade the senators to do one of the things that they are put in place to do—to defend minority groups. The National Party and the country Liberals have decided to walk away politically from 30 per cent of the population on this issue of a very basic service. This is an issue where they can really set the scene for the next 100 years for their kids and grandkids, but they have decided to walk away for $45 million a year. I will be talking to senators about this matter. This is a way in which the Senate can display not only its reform agenda, its purpose for being there, but the consideration that it should give to minority groups. I will be urging that many people across my electorate and other electorates in country Australia do exactly the same.

There is a lot of talk about what is going on with the Senate, the double dissolution and the power of the Senate. Do not be in the least surprised if at the next election you see a country Senate ticket based on this very issue—if this issue is still there, being driven by this $45 million a year so-called solution—because it is a very good example of the sort of thing that is eating away at country communities. If we constantly believe that competition policy and some aspects of economic rationalist theory are the way to go for Australia, and we are going to start applying them to our very basic services such as telecommunications—the service of our very own future—why aren’t we applying them to food? If the National Party are going to apply to these very basic things—water, electricity and telecommunications—why won’t they apply them to food? The answer is: if you apply them to food you can access those things from other parts of the world.

If we allow that to happen it will mean the complete disintegration of food production in regional and rural Australia. There may be some Greens who would agree with that agenda. This is a critical agenda. Country people must stand up on this issue. I am hopeful that some members of the government will stand up on this issue because it is obvious that people were expecting the National Party to defend this issue, and there were promises given that they would. What have they come up with? A $45 million a year agenda. That is absolutely pathetic, given the dividend ratios of Telstra and Telstra Country Wide and, more importantly, the equity issues that I have referred to.

Mrs DE-ANNE KELLY (Dawson) (4.35 p.m.)—It is interesting to follow one of the Independents in the House, because some of the things that they have said have branded them. I remember what the member for Calare said on the border protection legislation in the last parliament. He stood up here angrily one night and said, ‘I don’t care what my constituents say—I am going to vote the way I want!’ Do you know what? I care very deeply about and listen very carefully to my constituents in Dawson. Quite understandably, there was no doubt three, four or five years ago that there was a great deal of disquiet and anger about Telstra’s service. We would get scores of phone calls and letters in the office from country people unhappy with connection times, repairs and a whole host of other things. Let me just tell you what has happened since then—

Mr Windsor—Do you want some?

Mrs DE-ANNE KELLY—Sorry, Mr Deputy Speaker. I listen to others with courtesy but obviously that does not apply to the Independents.

Mr Windsor—I take exception to that!
Mrs DE-ANNE KELLY—I have listened with courtesy and I would like others to pay me the same courtesy.

The DEPUTY SPEAKER (Mr Jenkins)—Order!

Mrs DE-ANNE KELLY—The reality is that in the last three years I have monitored very carefully complaints coming into my office. From the scores of complaints we would get in a week, we now get approximately one complaint a fortnight. We refer these complaints immediately to Telstra Country Wide and they are generally rectified very quickly.

I have to say that I am very pleased with Telstra Country Wide service—very pleased indeed—as are my constituents. They ring me and tell me they are happy with the service. They cannot believe how quickly things have been rectified. As a response to that, there will be further safeguards in the legislation that is coming before the House. One of the things that people have said to me—quite understandably, with a great deal of concern—is that they wonder what would happen to the level of service if Telstra were to be privatised. They are very happy with it now, but they what to know what would happen. That is quite a reasonable and understandable question, and it is one I asked myself. I waited to see what the minister was going to do about the concerns country people have about the future. Sure, the service is good now in the Dawson electorate, but what will happen in the future?

I am pleased to see, in the response to Estens—in which all 39 recommendations were taken up—that there is a very big focus on future-proofing. That means that there will be $15.9 million provided for extended mobile phone coverage to small population centres and key highways, $4 million to extend the satellite phone handset subsidy and $10.1 million to support information technology. There is a national broadband strategy, with $2.9 million for the strategy implementation group and $23.7 million—to be matched by the states and territories—to fund investment in broadband in regional areas for connectivity for health, education and local government sectors as well as the broader community. There is $107.8 million for a higher bandwidth incentive scheme to ensure that people in regional areas have access to broadband services at prices broadly equivalent to the prices in urban areas—which is extremely important.

But it was future-proofing that I was interested in and was looking for particularly. I am pleased to see that, through a licence arrangement, Telstra Country Wide will remain for rural and regional Australians. In terms of future-proofing, reviews of regional telecommunications services will be conducted at least every five years. The concerns that my constituents had about services continuing will certainly be addressed through the future-proofing, and I am very pleased to see that.

I would like to go to some of the statements made by previous speakers. I note that the Labor Party are in a ferment about all of this—but the Labor Party were going to sell Telstra anyway. We know that because, of course, when they were in government one of the leaders brought John Prescott in to talk about how Telstra could be privatised. There is no doubt that the Labor Party would do that. The leading speaker in this debate, the member for Melbourne, put forward a proposal to break up Telstra.

I would like now to go to what the Labor Party actually do as opposed to what they say. It was the Labor Party that privatised the Commonwealth Bank and Qantas. Is there a universal service obligation for the Commonwealth Bank? Do we have unlimited accounts—no fees and charges—for people
Mr Windsor—You are arguing against the legislation.

Mrs DE-ANNE KELLY—I see that the member for New England is very happy with all the Qantas services into his electorate and very pleased with the fees and charges that the banks are imposing in Tamworth. I hope to hear him next time on an MPI complimenting the Labor Party on what they did for bank fees and for flights into his electorate. I am delighted to hear that he is happy, because not a lot of people are. I want to now move to the Independents—

Mr Windsor—There are more of them.

Mrs DE-ANNE KELLY—Not after they start counting things up, mate. There is one less already. In Queensland, the member for Darling Downs is Ray Hopper. Ray came to a meeting recently and said to us that he went in as an Independent. He is a good man; he had good intentions. He went in as an Independent. After he got there, the Labor Party made him head of the local sports club in the parliament—but they did not do anything else for him. They spent a lot of time with him, but they did not do anything. He said that after 12 months he added up what had been delivered to his electorate: $600,000. He went and had a look at what had been delivered to other electorates, and he decided that his electorate was being dudded. He joined the National Party. Do you know what has happened in the 12 months since he joined the National Party? His electorate has got $12 million in opposition, which he can justify. He said, ‘I was doing the wrong thing by my electorate not being a member of the National Party. I wanted to see things delivered.’ Ray Hopper joined the National Party and he has seen it pay for his constituents.

The Independents—with great opportunism, because they thought that the community was going to run with them—decided to oppose our actions to liberate the Iraqi people from a cruel regime. They were going to run with the Labor Party’s line and doom people in Iraq to maintaining a murderous and treacherous regime. I will be interested to see what will happen when people in those electorates actually add up what is being delivered to them and what is happening in this parliament, because the National Party backed the liberation of the Iraqi people. We backed a righteous war. And we will continue to back the right things not only for people in other countries but also for our rural and regional constituency. You will never hear a National Party person say, ‘I do not care what my constituents say.’ Let me say that the National Party does care about rural and regional constituents. We will continue to deliver, and you can back our delivery against that of Independents—in fact, you can back us 20 to one. We have seen an Independent who added up the figures as an Independent, decided his electorate was being dudded and has now become a National Party member and has seen things delivered.
I also have a message for the ALP. They are saying that the National Party is going to be done over. The National Party is doing over the Labor Party in Queensland on sugar. The National Party has told the Labor Party in Queensland to back off and go back to the drawing board on sugar. For the Labor Party to come in here and say that we do not deliver for rural and regional Australians is absolutely wrong. The National Party is going to do over the Labor Party in Queensland—like my Liberal colleagues are doing them over on health funding, on public hospitals. The Labor Party in Queensland—like every other state Labor government—is refusing the funding from the Commonwealth. The National Party is going to do over the Labor Party on road funding. I notice the ALP will not commit to Roads of National Importance; we will. We know how important they are.

Mr TUCKEY (O’Connor—Minister for Regional Services, Territories and Local government) (4.45 p.m.)—I move:

That the business of the day be called on.

Question agreed to.

COMMITTEES
Public Works Committee
Report

Mrs MOYLAN (Pearce) (4.45 p.m.)—On behalf of the Parliamentary Standing Committee on Public Works I present the report of the committee relating to provision of facilities for the ACT multiuser depot, HMAS Harman, ACT.

Ordered that the report be printed.

Mrs MOYLAN—by leave—This report deals with a range of new and redeveloped facilities intended to establish a multiuser depot at HMAS Harman for use by part-time reserve and cadet units. The estimated cost of the works is $13.5 million. The multiuser depot concept allows for maximum use and occupancy of a single set of facilities by a number of reserve and cadet units. Typically, these units use the facilities only one evening per week and one weekend per month.

The project described in this report will allow Defence to relocate a number of units currently accommodated throughout the ACT to a single site at HMAS Harman. Under this proposal, seven units—comprising four reserve units, two cadet units and one regular RAAF unit—will be relocated. In addition to the units already accommodated at HMAS Harman, this will bring the total number of units utilising the multiuser depot facilities to 10. At present, reserve and cadet units in the ACT are located at three sites: HMAS Harman; the Werriwa training depot in Allara Street, Civic; and the RAAF Fairbairn base at Canberra Airport. The decision to relocate units and consolidate facilities at a single site is, in part, driven by the planned closure in 2004 of RAAF Fairbairn and by the planned disposal in 2004-05 of the Werriwa training depot.

Defence expects that the establishment of a multiuser depot at HMAS Harman will minimise duplication of facilities across the ACT, resulting in both operational and cost efficiencies. Units will have access to existing messing, accommodation and sporting facilities at Harman and will be supported by existing essential services infrastructure, without additional expenditure by Defence. The completion of the multiuser depot works will also permit the termination of Defence’s current lease-back arrangements at RAAF Fairbairn, which will deliver further savings. The proposed works will comprise office accommodation; specialised and shared training facilities; general and weapons storage facilities; vehicle storage and maintenance facilities; separate ablutions facilities for reserves and cadets; overnight, barracks style accommodation; and access to messing.
gymnasium and medical facilities and parking.

At the public hearing, Defence informed the committee of two changes made to the design of the new facility since the agency submitted its evidence in March 2003. The new design allows for co-location of the cadet and reserve precincts and the provision of barracks style overnight accommodation for up to 120 cadets. Defence believes that these changes represent better value for money for the Commonwealth. Defence assured the committee that the co-location of the reserves and cadets would not entail concurrent use of the facilities by the two groups. To ensure that Defence meets its duty of care to cadets, separate ablutions blocks will be provided for both unit categories.

In considering the written evidence supplied by Defence, committee members noted that, while the submission outlined a number of proposed energy efficiency measures, no reference was made to consultation with the Australian Greenhouse Office. At the public hearing, Defence stated that it intended to undertake such consultation. The committee recommended that this occur, in order to ensure that the proposed works comply with the relevant sections of the Commonwealth energy policy.

During a confidential briefing on project costs, the committee was curious to learn why the overall budget for the project had remained unchanged despite considerable alterations and additions to the project scope. At the public hearing and in subsequent correspondence, Defence explained that co-location of the reserve and cadet precincts, a reduction in the planned number of classrooms and the excision from the budget of proposed intersection works at Canberra Avenue had freed up funds for expenditure on additional project elements.

Following the public hearing, the committee recommended that Defence provide clarification of altered budget elements and the revised budget as a whole, and that these be supplied to the committee at the earliest opportunity. Defence responded promptly to this request and was able to assure the committee that the revised project costs were in order. The committee was concerned that copies of the revised project costs were not supplied to members prior to the public hearing and requested that in future such documents be made available well in advance of the hearing.

Given that Defence has supplied appropriate budget information and has undertaken to consult with the Australian Greenhouse Office, the committee recommends that the works proposed for the ACT multiuser depot proceed at a cost of $13.5 million. I would like to thank the many people who assisted the committee during its inspections and public hearing, my committee colleagues and the staff of the secretariat. I commend the report to the House.

Mr BRENDAN O’CONNOR (Burke) (4.51 p.m.)—by leave—I wish to supplement the remarks made by the member for Pearce on the report of the Parliamentary Standing Committee on Public Works. The project was undertaken very well. The Department of Defence provided a great deal of assistance to the committee in the way it went about its business. We indicated that there were a number of issues we wanted it to focus on in future matters.

In particular, I want to raise by way of emphasis—not in any way by adding to the report provided by the member for Pearce—the need for members of the Public Works Committee to have before them relevant information, particularly information that may have substantially altered from the time that we first received it. Our recommendation
indicates the need for that to happen. We have been given assurances that that will happen more promptly than perhaps it did on this occasion. It is fair to say that the report provided by the member for Pearce properly and comprehensively addresses this matter.

**Native Title and the Aboriginal and Torres Strait Islander Land Fund Committee**

**Report**

Mr SECKER (Barker) (4.53 p.m.)—On behalf of the Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, I present the committee’s report on the 2001-02 annual reports, together with evidence received by the committee.

Ordered that the report be printed.

Mr SECKER—by leave—The report of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund on the examination of annual reports for 2001-02 reviews the performance of the National Native Title Tribunal, the Indigenous Land Corporation and the land fund in the reporting period.

The Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Fund has a statutory duty to examine the annual report of the National Native Title Tribunal and the Indigenous Land Corporation. This report is prepared pursuant to section 206(c) of the Native Title Act 1993. Section 206(c) of the act requires the committee to report at its discretion to both houses of parliament on matters concerning annual reports to which parliament’s attention should be directed.

This, the ninth annual report of the tribunal, covers the financial year 2001-02. It was tabled in the Senate on 11 November 2002 and in the House of Representatives on 12 November 2002. The Indigenous Land Corporation’s annual report for the same period was tabled in the Senate and the House of Representatives on 18 September 2002. To assist in its evaluation, the committee held public hearings on 4 March 2003 for the National Native Title Tribunal and 18 March 2003 for the Indigenous Land Corporation in Canberra.

I would like to outline briefly some of the issues which have arisen in the course of the committee’s perusal of the annual report for the National Native Title Tribunal. With regard to compliance, I am pleased to report that the National Native Title Tribunal have again provided a report that complies with the requirements set out in the Department of the Prime Minister and Cabinet’s *Requirements for Annual Reports* and other formal requirements. In doing so, they have provided a clear statement of their performance for the year under review. The committee has nonetheless made some observations as to matters that could be included in future annual reports.

During the public hearings the committee learnt that the tribunal had set in place a number of strategies to encourage Indigenous employment within the organisation. The tribunal have developed a cadetship scheme and offer two full-time scholarships for Indigenous employees. They have also altered their advertising style, position documents and selection processes to encourage Indigenous employment at all levels in the organisation. The committee has indicated that it would appreciate regular updates on the success or otherwise of these programs.

The committee noted that the nature and volume of the work of the tribunal was not quite as predicted. The tribunal has four output groups and some of the projections were greater than those delivered. The committee commented on these shortfalls. It also commended the tribunal on the transparent and accountable analysis of its performance and
The explanation of the variations from the estimated outcomes.

An interest in the number and level of consultants retained by the tribunal has always been expressed by the committee and its predecessors. The committee noted that, in the financial year under review, expenditure on consultants under section 131A of the Native Title Act 1993 had increased again. The committee commended the tribunal on initiating an extended consultancy with the James Cook University which will enable the tribunal to commission the university to conduct research on native title matters affecting the Far North Queensland area.

The work trends within the tribunal were also examined by the committee. It considered where the tribunal was directing its resources and noted that there was still work to be undertaken in the area of claims and that the agreement-making work that took the majority of the tribunal’s expenditure remained constant from the previous year. The evidence taken by the committee suggests that this will be the situation for the foreseeable future. Overall, I am pleased to report that the tribunal has again produced an informative and accessible annual report.

I now turn to the annual report of the Indigenous Land Corporation, which also includes the report on the operation of the Indigenous Land Fund. The corporation has a primary responsibility to assist Indigenous Australians to purchase land and also to assist in the management of Indigenous-held land. The corporation’s annual reporting requirements can be found in the Aboriginal and Torres Strait Islander Commission Act 1989. Although the corporation has not met all the formal reporting requirements it has provided sufficient information for the committee to comment on its performance in the year under review.

The 2001-02 financial year was a year of review and restructuring for the corporation. The organisational restructure not only resulted in the reintroduction of the position of deputy general manager but also saw the amalgamation of the corporation’s three outputs into one—the assistance in the acquisition and management of land. The committee noted the corporation’s reason for this amendment but expressed some disquiet over the change. The committee will continue to monitor the impact on the corporation’s operations.

At the public hearing of 18 March the chairperson of the corporation raised the matter of the donation to the Queensland Institute of Medical Research to investigate the occurrence of rheumatic fever among Indigenous populations. The corporation’s board agreed to the donation at a meeting in August 2001. The committee’s comments on this matter in the report are concluded with the suggestion that in the future in such matters the corporation seeks and is guided by legal advice.

In this reporting period, the ILC reports that there was a decline in the number of properties approved for purchase, purchased and divested. The number of acquisitions were half those of the previous financial year, and only 15 properties were divested in the year under review. The report indicates that there has been a deliberate shift in emphasis from acquisition to that based on long-term, sustainable land use planning, including an emphasis on economic planning. The committee noted this shift and indicates that it will continue to monitor the situation. The committee also noted that a matter which has been of concern to both it and its predecessors—that is, the position of Indigenous people living in urban areas and large country centres—is being considered by the committee on social and urban issues. The committee welcomes this initiative.
As a result of the internal status audit of properties, the corporation has given in-principle approval to a new purchase strategy. Properties will be purchased under one of four program streams—economic, environmental, social or cultural. These reflect the language of the legislation. Applicants for properties will be asked to identify their primary purpose in the application. Further, business plans will be required. The committee welcomes these efforts to place the corporation’s work in its statutory context and notes the work of the corporation to re-establish its operational and corporate framework.

Finally, I refer to the Land Fund report of 2001-02. The requirements for this report are established by section 193I of the Aboriginal and Torres Strait Islander Commission Act 1989. The Land Fund finances the operations of the Indigenous Land Corporation. The Land Fund was established in the 1994-95 budget. In 2004, government allocations to the fund will cease, and the intention is that the capital base of the fund will be sufficient to guarantee ongoing operational funding for the ILC. At the public hearing on 18 March 2003, the corporation’s acting general manager indicated that the corporation is aware that, from 1 July 2004, it will have to rely solely on the earnings from the Land Fund. This has led to a number of strategies designed to assist in planning. The committee is of the view that the corporation is prepared for the transition.

PARLIAMENTARY ZONE
Approval of Proposal

Mr TUCKEY (O’Connor—Minister for Regional Services, Territories and Local Government) (5.02 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 23 June 2003, namely: Works to the Treasury Building northern courtyard.

Section 5(1) of the Parliament Act 1974 provides:

No building or other work is to be erected on land within the Parliamentary zone unless ... the Minister has ... caused a proposal for the erection of the building or work to be laid before each House of the Parliament and the proposal has been approved by resolution of each House.

The Treasury Building is located on King Edward Terrace in the parliamentary zone, opposite the National Library of Australia and to the west of Parkes Place. Works approval is now sought for the landscape works comprising the replacement of the existing paving and bollards, the recladding of the low concrete wall along King Edward Terrace, the replacement of soft landscaping and street furniture and the installation of new lighting.

The National Capital Authority has advised that it is prepared to grant works pursuant to section 12(1)(b) of the Australian Capital Territory (Planning and Land Management) Act 1988. As the Parliament House vista is located on the Register of the National Estate, the Australian Heritage Commission has been consulted. In its letters of 20 March 2003 and 28 May 2003, the commission advised that it supports the proposed works. The approval of both houses is sought under section 5 of the Parliament Act 1974 for the landscape works comprising the replacement of the existing paving and bollards, the recladding of the concrete wall along King Edward Terrace, the replacement of soft landscaping and street furniture and the installation of new lighting at the Treasury Building, block 1, section 33, Parkes, ACT.

Question agreed to.

CHAMBER
Approval of Proposal

Mr TUCKEY (O’Connor—Minister for Regional Services, Territories and Local Government) (5.05 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 23 June 2003, namely: Commonwealth Place forecourt works.

Section 5(1) of the Parliament Act 1974 provides:

No building or other work is to be erected on land within the Parliamentary zone unless ... the Minister has ... caused a proposal for the erection of the building or work to be laid before each House of the Parliament and the proposal has been approved by resolution of each House.

Commonwealth Place, an initiative identified in the outcomes report of the Parliamentary Zone Review in March 2000, was constructed on the land axis near the southern edge of Lake Burley Griffin within the parliamentary zone. Three separate approvals under section 5(1) of the Parliament Act 1974 were granted for the construction of Commonwealth Place between 2000 and 2002. The Commonwealth Place project, as completed, included new pavement works up to the edge of the existing Parkes Place roadway but did not include any works to the forecourt area between the building and the lake edge. The ageing forecourt now requires a significant upgrade in order to complement Commonwealth Place and provide suitable public amenity and an appropriate setting for the Lake Burley Griffin promenade.

The design proposed by the National Capital Authority incorporates the forecourt and the Parkes Place road adjacent to the lake’s edge. The forecourt of approximately 6,800 square metres will become a pedestrian zone into which vehicles are permitted in a controlled manner. The road to either side of the forecourt will be reconfigured to calm and control traffic. Realignment of the lake edge and new terraced steps in front of Commonwealth Place will create an interplay between land and water. The terraced steps will allow pedestrians to touch the water and lake users to enter the forecourt from small vessels. New jetties integrated into the land projections will replace the ageing jetties further along the southern shore and allow ferries to dock at the forecourt.

The amenity of the precinct will be enhanced through the provision of shade trees, street furniture, concession pavilions containing food outlets and public toilets. The food outlets and public toilets will be subject to a separate submission for works approval following the identification of funding. The forecourt will be paved in materials matching those used in Commonwealth Place, including charcoal-tinted concrete with feature bands of bluestone paving. Detailing of architectural features will complement those used in Commonwealth Place.

As the parliament house vista is located on the Register of the National Estate, the Australian Heritage Commission has been consulted regarding the proposal. On 8 April 2003 the commission advised that it supports the design intent to improve the amenity of the Commonwealth Place forecourt. The Joint Standing Committee on the National Capital and External Territories has also been briefed about the proposed works.

The approval of both Houses is sought pursuant to section 5 of the Parliament Act 1974 for the design of the Commonwealth Place forecourt, section 56, Parkes, ACT.

The National Capital Authority has advised that it is prepared to grant works approval pursuant to section 12(1)(b) of the Australian Capital Territory (Planning and Land Management) Act 1988.

Question agreed to.
WORKPLACE RELATIONS AMENDMENT (PROTECTION FOR EMERGENCY MANAGEMENT VOLUNTEERS) BILL 2003

Report from Main Committee

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

Ordered that the bill be considered forthwith.

Bill agreed to.

Third Reading

Mr TUCKEY (O'Connor—Minister for Regional Services, Territories and Local Government) (5.10 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

WORKPLACE RELATIONS AMENDMENT (TRANSMISSION OF BUSINESS) BILL 2002

Second Reading

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

That this bill be now read a second time.

upon which Mr McClelland moved by way of amendment:

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

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

(1) further reducing workplace democracy by removing the right of employees to vote on whether a certified agreement should not apply following a transmission of business; and

(2) further increasing job insecurity by enabling the termination of certified agreements, without employee consent, in corporate restructuring and contracting out”.

Mr HATTON (Blaxland) (5.10 p.m.)—The Workplace Relations Amendment (Transmission of Business) Bill 2002 is an unusual bill for this parliamentary session because it is a workplace relations bill that has not been knocked over already in the Senate. It is part of the broad set of disciples or apostles of the original Workplace Relations Act 1999 that did not get up. We have had division and fragmentation of that original bill. We have seen bills pass through in a prior parliament and get knocked on the head. We have seen them knocked back in this parliament.

This is an unusual bill. Prior to the dissolution of the parliament for the election in November 2001, this bill was probably on its way to that inevitable end in the Senate. We do not know, because it was not debated in the Senate and therefore, when the House and half the Senate were prorogued for the last election, this bill simply ceased to go forward. It has been introduced here as a bill from 2002; it will be interesting to see whether it will make it through as the volunteers bill has just made it through this House.

The shadow minister has proposed two lots of amendments: a general amendment which I will talk to in part, and then a series of very specific amendments which go to the question in particular of whether an employer is a successor, a signee or a transmittor. In relation to this bill and the matters dealt with by the Australian Industrial Relations Commission, that very question of whether an employer falls into one of those three categories is an important one when the commission is determining what actions to take. More broadly, the shadow minister has indicated that this will get a second reading but he has moved to condemn the government for:

(1) further reducing workplace democracy by removing the right of employees to vote on whether a certified agreement should not
apply following a transmission of business; and

(2) further increasing job insecurity by enabling the termination of certified agreements, without employee consent, in corporate restructuring and contracting out.

Fundamentally, Labor has been opposed to this bill in the past. In arguing that, the member for Brisbane, a former shadow minister, argued well and eloquently in the previous parliament that this was a bill that should be knocked on the head because effectively, for all the rhetoric that the government uses in relation to these matters, it denied workplace democracy and denied the right of workers to have a part in determining their outcomes, conditions and proper standards of service within a business when a business was sold or otherwise moved and changed.

The excellent Bills Digest quotes the member for Brisbane arguing what he thought was one of the key problems with the bill. A sale of a business can be extremely straightforward. Company A may decide to buy company B and in doing so will be bound by commercial considerations and the commercial undertakings of that business. They will be liable at law for any liabilities of the company they are buying. But when you approach the question of the employees' rights and the certified agreement that binds those employees' rights, duties and responsibilities together, you have to ask whether or not this bill leaves open a vast chasm into which those employees' rights can fall. It is a question of whether or not some dodgy set of arrangements can be entered into to deprive the employees of what was hard won.

During the Hawke and Keating governments we moved towards enterprise agreements from the previous system in which the Australian Industrial Relations Commission operated with full awards covering virtually everyone in Australia. When they are done at a federal level, those enterprise agreements become certified awards. The core argument that has been put forward by the government in this bill is that, when a business is sold, there is a problem in that those certified agreements continue and the person who is buying the business may not be able to do anything until the term of the certified agreement is finished. What the government is saying here is, 'We want to break that nexus. We want to allow the person buying the business to essentially rip to shreds that certified agreement and deny employees the right to have their say as they had before.'

We know that with enterprise agreements which have been changed into certified agreements at the federal level, or have been given that tag, the employees have usually taken a considerable period of time to come to an agreement with the employer. Particularly in the early years when this government was trying to make its changes, it was a long, arduous and difficult process for everyone involved. The core of the ALP's position when this was dealt with in 2001 was well expressed by the member for Brisbane. He said:

Potentially this could enable unscrupulous employers to short-change workers through corporate restructures or contrived sales to shelf companies. All an employer would have to do was set up a shelf company, apply for an order that the enterprise agreement not transfer and then sell the company to the shelf company. At this point, workers could have all their terms and conditions stripped away.

That was prescient. If you look at the history of this government in dealing with relationships between employers and employees, you will see that they have never been on the side of the employees. Through the original workplace relations bill and the waves of changes attempted by the former member for Flinders, Mr Reith, when he was Minister for
Workplace Relations and Small Business, and now through Mr Abbott’s attempts to prosecute the same agenda on a disciple basis, they have sought to break up the conditions of Australian workers by various means. They could have kept it in a single bill but they have not. Here we are dealing with a particular situation.

We do not know what is going to happen when this gets to the Senate. The government should take note of what we have said in our detailed amendments, including the ones concerning the Australian Industrial Relations Commission, and should agree to them. That would make this a more reasonable and responsible bill. But at its core it is inflexible and irresponsible, because it is only directed towards the benefit of one of the parties: the employer. Labor have argued previously and argue now that the conceptual flaw in all of this is that it is just about stripping away rights from workers. It is about allowing a mechanism in going from one employer to another to break what was a costly set of agreements to make in the first place, and to do so in a way that provides an incentive for the person buying a business to strip away all of those terms and conditions and start from scratch.

In commercial and equity law there is no provision to strip away all the liabilities of a company for super, long service leave and other conditions, but this may happen as a result of the Workplace Relations Amendment (Transmission of Business) Bill 2002 going through. There are certainly no provisions to say that, just because a business is being sold, the tax liability that company has built up or its commercial liability for monies owed to people for goods or raw materials should be thrown out the window. The core question you have to ask is why there should be a different order of values and a different way of going about things in dealing with employees and workplace relations.

The Bills Digest covers pretty well the historical position of the ALP and the Democrats at the time of the original legislation. Whereas the Democrats previously had a concerted position, we do not know what position they will take now. I think that the core of this bill and the difficulty it faces is best expressed in evidence given by the Australian Chamber of Commerce and Industry to the Senate Standing Committee on Employment, Workplace Relations and Education which looked into this. The ACCI made a simple statement about proper business practice and where there may be difficulties that they would seek to redress. Referring to the lack of AIRC authority to terminate an extant certified agreement in a purchased business, they said:

A business is looking at acquiring or merging or expanding their business to acquire a similar operation and the business that they are looking at acquiring has a certified agreement. As the law currently stands the acquiring employer cannot seek to modify that current agreement while it is nominally in force, and the acquiring business is looking at a new certified agreement but it cannot take any steps in its proposed agreement to deal with staff of the business under the earlier certified agreement, because the priority system provides that a prior made and non-expired certified agreement is not affected by a later made certified agreement. In practical terms the new business cannot integrate the businesses because they cannot vary the terms of the existing agreement, except to have a valid majority of people under the agreement agree to cancel it.

What is their fundamental complaint? That the system of certified agreements—enterprise agreements—which business has demanded, championed and called for may have a few problems. They wanted—they demanded—to go down this track; they said that they really did not want the Australian Industrial Relations Commission to be involved. There were a lot of champions in the Australian Chamber of Commerce and in
Australian business groups that said: ‘We don’t want anything more to do with the operation that has been around since 1904 or so and that brought us the Harvester agreement and awards both simple and complex and dealt with the key structures of Australia’s industrial relations system. We don’t want any of that. We want to push down a new path and run everything in terms of an enterprise.’ Guess what? There are outcomes when you go down that track.

For all the flexibility provided during the Hawke-Keating years with the introduction of enterprise agreements and their transmogrification in the last seven years into certified agreements at the federal level, there are simple, fundamental realities: if you adopt this approach and say you do not want an independent umpire—you do not really want an arbitrator or a conciliator to be part of that process and you do not want an award structure—why should you run off to the ref, in this case the government, and say, ‘Give us back just that bit of the Australian Industrial Relations Commission that we sort of think we need’? That is the core of what is going on in this bill.

This bill says that the structure is set up under enterprise agreements. But the structure rigidly enforced at the enterprise level by this government and demanded by many in the business community—and those who would go further, as the former minister for workplace relations did and certainly this current minister would—attempt to take that enterprise-level certified agreement and break it into its constituent parts to attempt to achieve Australian workplace agreements on an individual basis from one end of Australia to the other. You would have the same sort of problem, wouldn’t you? Whether they are certified agreements or Australian workplace agreements, when a transmission of business from one entity to another occurs there is no outside arbiter. Even where that transmission of business is not a shonky process, even where it is not designed to compel the employees to give up standards and conditions that are involved in either the certified agreement or the Australian workplace agreements, it is properly the case that those agreements run for a period of time.

If, as the ACCI argued, you have got one business buying a similar one and there are different certified agreements in place with the two entities, it is not beyond the wit or ken of those running that business to operate those two levels until they can negotiate a new certified agreement with their employees and then have those employees—as is incumbent upon the employees and the employer—sign up by ballot to that certified agreement. That is why it is called a certified agreement: you have a ballot at the end of the process to say that you agree to it. Part of the government’s pledge in regard to this is to say, ‘When people have signed off on this process, they have got some ownership of it.’

What is being denied in the Workplace Relations Amendment (Transmission of Business) Bill 2002 is any ownership of the process by the employees at all. This bill will entirely cut them out. This bill will say, ‘Only an employer selling or buying has any real rights here.’ That is what is fundamentally wrong with it. Not only can it be used to strip away all of the conditions that they have—to be used as a simple ruse, as was argued so cogently in 2001 by the member for Brisbane—but also it is designed to get the system that they have championed out of the hole that they are in. It is a confession that the Australian Industrial Relations Commission is not the monster that the coalition thought it was for all those years and that there is a place for the Industrial Relations Commission to operate, whether at an award level or an enterprise agreement level, to make conditions and judgments and to assist those who are employed and those who
do the employing to come to a better set of agreements, whether on an award basis or on an enterprise-agreed basis.

So what we are looking at here is but one fraction of the entire mosaic of the coalition’s approach to workplace relations. We are dealing with what seemingly, if you accepted the Australian Chamber of Commerce and Industry’s approach, is just a technical problem in that certified agreements cannot be broken prior to their expiry. It is quite possible, of course, for the government to seek to make a series of other changes and to say that, when dealing with a problem like this, with the agreement of the employees within a company there may be a renegotiation as part of that sale process or a notification of the fact that the employees have a total stake in it and should be consulted in regard to it. You will not find much in relation to that at all argued by this government or sought here. This is entirely unbalanced. This is the rhetoric of democracy in the workplace without any of its actuality and without it being carried into practice. That is why, fundamentally, we on this side, standing up for ordinary working people—those people who are not stood up for but stood over by the coalition government—do not want to support the key thrust of this bill.

The shadow minister has put to the government not just the general argument and the general view that they have knocked this over by reducing workplace democracy but that they have also increased job insecurity by enabling the termination of those certified agreements without employee consent in corporate restructuring or contracting out. It is quite true—and this is the core of what this is about—that this is another set of messages to workers in Australian industries and factories, whether the business is new or old economy, that their rights, their responsibilities, their duties, their concerns and their conditions are still there on only a safety net basis and that this government would seek to whip away in any way they can any protections that are still there and available to those workers.

We know that the other 11 or so bills that the government has split the original bill into are very clear and very stark. Here it is masked by the practicality of what the Australian Chamber of Commerce and Industry argue, but I think it is fundamental to our rejection of this bill. This is not about employees’ rights; it is about the reduction and the suppression of those. It is about putting the employer over the employee in an unfair, unkind and undemocratic way. (Time expired)

Mr BEVIS (Brisbane) (5.31 p.m.)—I rise tonight to speak on the Workplace Relations Amendment (Transmission of Business) Bill 2002. Since it came to office in 1996, the Howard government has introduced what must now be dozens of bills into this parliament dealing with industrial relations matters. Not one of those bills has sought to increase the rights and opportunities of ordinary working Australians—and this bill is no different. I am quite proud to have the opportunity as a member of parliament to stand on occasions like this to defend the rights of employees to the protections they are due. I take great pride in that, and I think it is an honour to be able to do that. I sometimes wonder what it is that motivates members on the other side of this parliament, as they come into this House bill after bill, to support a new legislative regime that will take away from ordinary Australian workers rights and entitlements that they previously had.

This bill deals with an essential factor within the industrial relations system. An effective transmission of business regime is absolutely essential to the integrity of our industrial relations award system and indus-
trial relations bargaining system. You cannot have a bargaining system or an award system if it is not underpinned by a number of things, one of which is that the parties be required to bargain in good faith—another matter upon which the Labor Party has pursued private members’ bills and amendments to government legislation in the past which have been denied and opposed by the Liberal and National parties.

Equally importantly, the bargaining system must be underpinned by the knowledge that the bargain, once struck, holds good, that the bargain, once struck, will see the term of that agreement continue without interruption in good faith by both parties. Workers, their representatives and advocates in unions, along with the employers, their representatives and advocates in employer associations, having arrived at an agreement, need to be able to hold that true and fair for the life of that agreement. When a company changes ownership, it does not change that fundamental essential factor which underpins that bargaining system. Without that factor, we do not have a bargaining system. Yet the government proposes to change the law so that the fundamental cornerstone by which the bargaining process operates can be overturned purely by the sale of an enterprise to another company or individual.

What does that mean in practical terms for an ordinary worker and an ordinary employer? For the workers and employers, it means that they go through what may be a prolonged, protracted and occasionally difficult bargaining process to arrive at an agreed position; or, in the case of an award, those negotiations can possibly be agreed or arbitrated, depending on whether or not they are allowable matters under the new restricted powers that this government has tied our Industrial Relations Commission’s hands with. But this government is now saying that, after they have gone through that process, if the company changes ownership a week later, the agreement can be consigned to the garbage bin. All of those undertakings, given in good faith by the workers and by the employers, count for naught if there is not an effective and significant transmission of business regime in place.

The fact is that, because we have had many more amalgamations in recent years than we have had in previous decades, because we have had more large companies outsourcing what were once internal operations, this issue has become more prominent in recent times. But it has not been a one-way street. If you look at the cases, you will find examples where the courts have decided clearly in favour of the employer’s view of things and you will find cases where unions have succeeded, where the courts have found in favour of a position more supportive of the work force.

It is worth recording that, on a matter of this importance, there were only two Liberal members of parliament who spoke in this debate and whose names are on the speakers list. There are no National Party members’ names. There are 11 Labor Party speakers in this debate, because we regard this matter as important. If you looked at what the two government members said, to the extent that they said anything about this legislation, you could be forgiven for believing that the courts have taken a massive leap to the political left and that we have a bench of people who have come out of the closet—the reds under the bed—in our courts and tribunals making decisions that are injuring the efficient operation of companies. Of course, that is not true. A couple of very major decisions were made in favour of employers, such as those in the Stellar Call Centre case, involving outsourcing by Telstra, and the case of EDS, a large computer IT outsourcing contract service, both of which were major victories for the employers. There are other
cases you can refer to where unions have had victories.

I can unequivocally say that, during the last parliament, as a shadow minister I had many approaches from union advocates and from employers telling me that the law had to be changed—on the back of the various court cases that had been heard. The employers told me that it had to be changed to make it easier for employers to ditch agreements, and unions told me that it had to be changed to make it harder for employers to ditch agreements. It seemed to me at the time that the courts were making decisions on the facts before them, and whilst I did not personally agree with every decision the courts made I could not see that there was a fundamental flaw in the way in which the system was operating or that there was a structural problem. I was willing to give it time and examine it—but not this government. This government makes no bones about its desire to remove, at every opportunity, the protections that ordinary workers have in our society. In pursuing this bill the government is striking not just at protection for workers but at the very things that underpin the bargaining system and the award system. It is therefore one of the most dangerous bills that this government has sought to pursue.

When this bill, in a slightly different form, was before the parliament in 2001, there was a Senate inquiry to which the major participants in industrial relations made submissions. The ACTU said, amongst other things:

In the event that a transmitted certified agreement is not appropriate to the needs of the workplace, or is in conflict with an already existing agreement, it is open to the parties to agree to vary the agreement or apply to the commission for it to be terminated.

That is an important point that has been skated over by the two government members who spoke in this debate. If a company is sold and there is a legitimate problem with the terms of the old agreement in the operation of the new merged entity—or if there are competing sets of conditions and that becomes a bit of a logistics nightmare for the newly merged organisation—then there are already provisions by which that can be addressed. Yes, it does involve asking the workers what they think about it. That is what this government wants to remove from the legislation. They do not want the workers in that situation to have any say in the agreement and the terms and conditions they will then be subjected to. Even though they may have just gone through a prolonged program of negotiations with their employer and come to an agreement prior to the sale, the government is now saying that their rights should be discarded and they should lose their agreement or award benefits and come under some newly established agreement or award.

ACCI—the Australian Chamber of Commerce and Industry—made the core point in their case along these lines:

The point is that if a new agreement could be developed it would have to pass the no disadvantage test of the two awards but it would be a global test in respect of both work groups ...

I can understand that they would have some concern with that, but it is not a major worry keeping me awake at night. The prospect that the work force would be entitled to argue that their conditions should be no worse than they were under the old employer is not a radical view. Bear in mind that we are talking about a work force that has negotiated an award or agreement using this government’s legislation. So they have jumped through all of the hoops that John Howard, Peter Reith and Tony Abbott put in front of them to get an award or an agreement, and this government says in this bill that it can all be taken away from them overnight.
ACCI says, ‘We think there is a problem because you have to then pass the no disadvantage test.’ Well, yes, you would. But if that were the extent of the problem then Labor’s amendments to the bill would fix that. If ACCI are genuinely concerned about those matters then they should congratulate the Labor shadow spokesperson for seeking to fix their problem. This bill goes way beyond that. This bill opens up not the trapdoor but the garage door through which you drive the semitrailer. In earlier debates on these matters I made comments that this bill would invite those employers who wished to contrive sales of their company or parts of their company so that they could get out of the agreements and awards that they had previously entered into under our existing industrial relations laws. That could be done through shelf companies, friendly acquisitions or sister companies that they own. Labor’s amendments to this bill resolve that issue, I think.

It is worth noting that my comments last time—which were referred to by the previous speaker—are not hypothetical. I well recall the dispute at Joy Manufacturing down in the Illawarra, where workers were locked out. ‘Lockout’ is the L word that you never hear Tony Abbott talk about. Workers are locked out not for one or two days, as might happen in a strike, but for months on end—as they were at Joy Manufacturing. My memory is that it was a three-month lockout. I went to those workers on the picket line a number of times and spoke to them. They were amazed to discover that they did not all work for the same company. They worked in the same premises, wore the same uniform and thought that they worked for the same company. But when this dispute occurred the company decided, part way through the dispute, that it would negotiate a separate agreement with the employees of each of its shelf companies. At that point the workers discovered that even though they wore the same uniform, turned up at the same office and worked for people who seemed to have the same name, legally they worked for different entities. This company had already structured itself with a range of separate legal creations, each of which employed a different group of workers in the same factory.

It is not far to go from that situation, which occurred only a couple of years ago, to imagine a situation in which workers who had entered into an agreement with one of those companies would find themselves sold to one of the other related entities. At that point, under this government’s proposed bill, the workers would be told that their former agreement had no effect. The agreement that they had just negotiated would now be in the wastepaper bin and they would be subjected to a different set of conditions. This is not scaremongering; this is not theory. This is the practice that Joy Manufacturing sought to adopt a couple of years ago in the Illawarra. They are not the only ones; they are not the worst. There are companies that have indulged in worse practices than that.

Mr Fitzgibbon—Imagine if they got their unfair dismissal legislation through.

Mr BEVIS—As the shadow minister at the table, the member for Hunter, points out, were the government to get their unfair dismissal legislation through, not only could they wipe away from those people their entitlements to an award or an agreement they had just settled but also they could sack them without any recourse for the worker—even if it was unfair. This government’s package of bills taken together would truly be draconian for ordinary workers. This proposal that the government brings back into this parliament provides a massive loophole through which employers could drive a semitrailer. It would destroy the integrity of the industrial rela-
tions award system and also the collective agreement system.

I want to briefly touch on another aspect of the bill that I find alarming. The government proposes that, where a transmission of business occurs, workers will be able to argue their case in the commission. But it then sets in place some restrictions on who can argue on behalf of those workers and in what circumstances. As I read the bill—and I would be interested in the minister’s comments to correct this if I am in error—it would require individual employees to identify themselves and to appear in their names or, if they are members of the union and the union appears for them, the union would have to prove that, firstly, it has members and, secondly, that the relevant members have requested the organisation to make submissions for them. That is, the union would have to provide proof, I assume, in an open commission hearing that it had standing in the matter and that it was representing individual employees whose names would be disclosed. This is a matter that we have debated in other industrial relations bills, and the government has been forced to concede the need to protect workers in this environment.

But imagine this scenario, which would certainly occur. Two companies are being merged, which is what would often be the case where there is a transmission of business: a company is being sold to another existing entity and the two are being merged. In that environment there are inevitably a number of redundancies and people who lose their jobs. In an environment in which those workers know that some of them are going to lose their jobs under the newly created organisation, this government says to workers: ‘If you want to protect the rights that you already had—not to get new ones; just to keep the ones you had yesterday—you have to actually put your hand up and tell the new boss that you’re going to fight him in the industrial commission. Or if you’re in a union, the union rep has to turn up and say, “I’m here to represent Arch Bevis, who is a member of the union, and here’s his written request to me asking me to represent him.”’ The effect of that would be to expose every worker to the unemployment line. Every worker who put their hand up would be on the first list of names to go in the merged organisation. If there is protection in the bill, I invite the minister to show me where it is because I cannot see it. That is a major flaw in the bill, and I hope the Senate addresses it, because without that being addressed we are left with workers fully exposed to threat of dismissal and punishment simply for seeking to retain the award conditions that they had prior to a takeover or change of ownership.

I commented at the outset that we have had many bills in this parliament from the Liberal government since 1996. None of them has sought to assist ordinary workers. I want to conclude by referring to the remarks of a respected industrial relations lawyer in this matter. These remarks are in an industrial relations magazine article from October last year entitled ‘Abandon ideology: Catanzariti plea to Abbott’. It quotes Joe Catanzariti, who is a well-respected and well-known industrial relations lawyer, from an address he gave to the Industrial Relations Society in the ACT last year. I will briefly read from the article:

Joe Catanzariti, national chairman and partner in employment and workplace relations for law firm Clayton Utz, has urged the Federal Government to abandon its ideological position on IR and amend the WR Act so that it fits the practical needs of industrial parties.

Clayton Utz, of course, was the company that put John Howard on its payroll when he was shadow minister for industrial relations. They are not what you would call a left-leaning law firm. The article goes on:
He contrasted the AIRC unfavourably with state tribunals’ ability to resolve disputes.

... ... ...

He said that he had been involved in disputes that the federal IRC had refused to hear, because it lacked the jurisdiction.

“There have been a number of protracted industrial disputes that in a perfect world could have been shortened and resolved had the AIRC had more power and the ability to be more flexible”. That is power and flexibility that this government has denied it. It then said:

In recent years … there had been memorable cases “that for want of jurisdiction ultimately required Federal Court intervention”.

He cited as examples Davids Distribution, the G&K O’Connor lockout—one I have referred to many times in this place—and others. He then said:

... that the WR Act has “become as complex as the Tax Act” … [and] Lamented that under the legalistic regime of the WR Act, many lawyers spent an inordinate amount of time trying to find flaws in notices of protected action, rather than try to resolve disputes.

We have a government that has not only sought to attack workers but also put in place a convoluted and complex set of laws that few in the industrial relations community can deal with now without recourse to expensive lawyers. We do not need the complexities that this bill presents. It has serious flaws. I am concerned that, even with our amendments, there will continue to be flaws and I look forward to its close scrutiny in the Senate. I also look forward to the minister’s response to some of the comments that have been raised in the debate on this side of the chamber. (Time expired)

Ms BURKE (Chisholm) (5.51 p.m.)—

The Workplace Relations Amendment (Transmission of Business) Bill 2002 currently before the House seeks to do one thing and one thing only: reduce the employment conditions of employees who work for a business that is sold to another organisation. This is something that happens daily—one business is acquired by another business—and so this affects many thousands of ordinary Australian workers. Ordinary Australian workers who have done nothing wrong face the prospect of reduced pay and conditions on the basis of their employer company being sold. This is patently unfair, and I support the amendments that have been put forward by the member for Barton.

It is interesting to consider that the current government has stripped from the Industrial Relations Commission power to arbitrate and conciliate on many disputes. The government has reduced its impact as an industrial umpire. When the Australian Industrial Relations Commission is a convenient mechanism to reduce the wages and conditions of employees who have previously agreed to a certified agreement, the government is all in favour of increasing the powers of the AIRC. According to the government’s view of the industrial world, the commission cannot sort out disputes but it can arrange matters so that ordinary Australians receive reduced pay packets for no other reason than the company they now work for is owned by somebody else.

The bill deals with circumstances where a business is sold or otherwise transferred to another entity and will allow for the effective cancellation of a binding certified agreement without the consent of the employees of that company. This is not the first time that these proposals have been before the parliament. The first time was in that great bill called More Jobs, Better Pay and in a subsequent bill in 2001. At the time, the relevant Senate committee considered the provisions contained in the bill. The Labor senators’ report described the bill as follows:

... to overcome an obstacle to the business plans of employers who wish to reduce wages and conditions of employees inherited from businesses
they have taken over. Currently, certified agreements are transferable with the employees who are party to them.

Currently, as you would expect, employees who are doing substantially the same work maintain their wages and conditions following the transmission of business. This transfer of wages, conditions and entitlements is quite reasonably seen as an ongoing cost to the business that a purchaser is liable to meet upon purchase of that business. But the government wishes to give purchasing employers the ability to say, ‘Bad luck.’ Even though employees are doing the same job, walk through the same front door in the morning and sit at the same desk or work at the same workstation, employers are trying to give them a pay cut.

This is not the only way that businesses attempt to do this. One of my most famous and more entertaining outings to the commission in my previous life was when the famous HIH overtook a company called CIC. We spent many days in the commission with the legal representatives from HIH arguing that it was not a transmission of business but a share action transaction involving HIH, and HIH was swapping shares in acquiring CIC; therefore, it was not a transmission of business. This went round and round in circles until Deputy President Maher said to the lawyer in question, ‘If it smells like a transmission of business, if it looks like a transmission of business, it is a transmission of business. And there is such a thing called a transmission of business. One day you are sitting at this desk and it is owned by this company. The next day you are sitting at the same desk and it is still owned by the same company. With two insurance companies amalgamating, you cannot tell me the terms and conditions should not go with those employees.’ Nothing changed in their day-to-day life, but we spent many hours in the commission trying to negotiate this through.

We eventually won the case and all CIC employees maintained their terms and conditions, to the chagrin of the ever mighty Ray Williams at HIH.

This is not the only way employers attempt to weasel out of the reasonable terms and conditions that their staff are enjoying. Staff are not looking for something new; they are just looking to maintain what they have already got. The only reason they are getting a pay cut—despite having a certified agreement—is that somehow it is somebody else’s company. You are doing the same work and you have an existing agreement with conditions and monetary compensation for your work, but to the purchaser company it will be useless.

It has been claimed that through this process the bill will introduce more flexibility into the industrial relations arena. I think that to some extent at least it is true. It gives the purchaser of a business the ability to implement downward flexibility without the consent of employees. This was certainly the case with Suncorp Metway when they attempted to reduce the conditions of GIO staff. This is still going on, with matters before the court. An article in the *Sydney Morning Herald* in June last year by Brad Norrington titled ‘Union fights Suncorp bid to slash staff conditions’ clearly outlines the actions by Suncorp Metway. The article states:

Up to 3000 GIO Australia staff being absorbed by Suncorp/Metway face changed hours, less overtime pay and cuts to benefits like sick leave, with the company accused of wanting to rid itself of union involvement. The Finance Sector Union is fighting Suncorp/Metway in the Australian Industrial Relations Commission, where the company is trying to transfer 110 new GIO employees to an existing company agreement. That agreement would require them to work longer hours before receiving overtime, and would reduce employees’ sick leave, retrenchment pay, long service leave and the number of paid rest breaks. GIO employ-
ees who previously worked between 7am and 8pm Monday to Friday could be required to work “any day of the week, and at any hour of the day” under the company plan.

The union’s national secretary, Tony Beck, accused Suncorp/Metway of trying to circumvent the existing entitlements of former GIO staff, who he said would continue to perform the same work.

I am pleased that I never had to deal directly with the infamous Suncorp Metway, the group who set up their own in-house union to try to circumvent all reasonable employment conditions for their staff, because their track record of employee relations is nothing short of appalling.

The actions and intent of this company were clear: to reduce the existing wages and conditions of the GIO staff upon taking control of that entity. The No. 1 factor in most of these cases is to reduce people’s redundancy entitlements. The company acquire the business and make people redundant, but generally employees’ terms and conditions will be a lot worse than those they fought for in their agreement. However, the company claim that the transfer of staff to their new employer would leave them pretty much on the same conditions. This is blatantly untrue. The kind of flexibility that this bill would allow includes longer hours before receiving overtime, reductions in sick leave, reductions in retrenchment pay, reductions in long service leave and an increase in the range of hours that an employee could be required to work—all this without the consent of the employees who would be affected by these changes. This is not the only action taking place.

Currently in the Federal Court action is being taken by the Finance Sector Union against the Commonwealth Bank. In the mid-1990s the bank set up Comsec as a share-trading company to operate within the CBA group. Late last financial year, they made a decision to transfer all employment out of one of the CBA business units, Premium Financial Services, into Comsec. They are doing this by forcing all current employees who want a promotion for one of these new roles to resign from CBA and start up with Comsec. This entails the compulsory acceptance of an individual contract. The conditions of this contract significantly undercut those under the CBA agreement. They include no RDOs, unlimited hours, no overtime, no loading, reduced redundancy entitlements and changes to leave arrangements. Staff had the choice of refusing all promotions and staying with the Commonwealth Bank or having career advancement by resigning and taking inferior conditions. Staff are not even leaving a company; it is just a different business unit. It is not as if companies need the protection of this bill. They are already trying weird and wonderful ways to reduce entitlements by saying that staff now work for someone else.

This bill proposes a process whereby employers, following the transmission of business, can pay staff less and arrange their working conditions in a way detrimental to the employees without their consent. It is important to remember that certified agreements are only possible with the consent of the employees to be covered by that agreement. There needs to be a vote. This means that the people who work for a business have agreed to provide their labour in exchange for an agreed set of conditions. As a result of this, alterations to a certified agreement also require the approval of those covered by the agreement—both the employer and employees. This requirement may be removed were this bill to pass in the form that the government has put forward. The opposition alone in this place recognise the importance of genuine industrial democracy when determining the employer-employee relationship.
The government claims to support agreements between employers and employees but has put forward a bill that allows a certified agreement to be changed without the consent of those who are parties to that agreement. The government—and, particularly, the minister for workplace relations—speaks of industrial relations but, in order to reduce wages and conditions, is happy to put in place circumstances that mean that any concept of democracy or consent can just be trashed. This is simply an outrage. The government supposedly supports the concept of democracy when it can be used to reduce the ability of employees to take industrial action, but it is not in favour of democracy when it depends upon the consent of employees to cut their wages and conditions.

There are currently remedies for an employer, even one who has just acquired a business, who wishes to vary or terminate a certified agreement. They can apply to the Australian Industrial Relations Commission for a variation. The big difference between the current provisions, which apply to all employers, and the provisions in this bill, which would apply upon transfer of business, is that a valid majority of employees covered by a certified agreement are currently required to agree to any variation. The government is asking this House to agree that employees can enter into certified agreements with their employer, but that the agreements can be varied without the consent of employees upon transfer of the ownership of the business. It wants the purchaser of a business to have a clean slate from which to organise industrial arrangements in a workplace.

This is an unrealistic expectation. When someone purchases a business, the contracts and liabilities of that business transfer with it. As with any other contract that a business agrees to, employment conditions and agreements transfer as well. The report by Labor senators that I mentioned earlier also addresses this point. It states:

Labor senators support the notion that industrial participants should bargain in good faith, and the corollary of that proposition, that they should be bound by the outcomes of that process. The capacity for one party to seek relief from the conclusions of their own bargain is simply wrong. In no other aspect of the commercial relationships entered into by the previous owner of a business would such an outcome be tolerated. Ordinary contractual relations entered into by a business survive the sale of the business, so what rationale exists for treating employment relationships any differently?

This is, clearly, a logical proposition that I support. As with any other commercial contract, the purchaser of a business can clearly identify the costs of the contract when negotiating the purchase of that business. The industrial arrangements of certified agreements are not exactly a secret. They are certified and lodged with the commission; you would know exactly what they were when you entered into purchasing that business. Anyone who undertakes to purchase a business without undertaking appropriate and comprehensive due diligence investigations is, quite probably, someone who has not thought through the purchase or their obligations. You only need to look again at the wonderful HIH and their acquisition of FAI to see that, if you do not do due diligence, you get into trouble. If you do due diligence, you find out what your obligations are.

There is a clear obligation upon the purchaser of a business to meet existing contractual obligations, and obligations to employees are no different. That is why the amendments moved by the member for Barton are so important. They recognise that it is essential that there be a tightened test for transmissions of business to ensure that employees who perform substantially the same work before and after the transmission do not suffer reductions in the terms of their employ-
ment. This is a matter not only of fairness but also of principle. Once an agreement has been entered into by consenting parties—in this case, between employer and employees—it is reasonable that that agreement be set aside only with the consent of the parties to it.

In his second reading speech on the Workplace Relations Amendment (Transmission of Business) Bill 2002, the Minister for Employment and Workplace Relations stated as its justification:

This bill will provide a mechanism for resolving complexities which may arise due to the existence of multiple or inappropriate certified agreements following a transmission of business. At best, these complexities can lengthen the transmission process. At worst, they can deter the parties from undertaking it. In other words, they cost jobs.

This is, at best, a stretch of the minister’s credibility and, at worst, simple hypocrisy. This government and this minister—and even the Prime Minister, in question time yesterday—are always keen to talk of the flexibility that individual contracts, or AWAs, offer. They put them forward as the optimal method of organising employee-employer relations. Let us take a hypothetical business with 100 employees. This business could very well have 100 different contracts with varying conditions in each. This is the government’s proposal. This is what they are pushing with respect to AWAs. This does not seem to be a problem for the government, especially when the provisions of such contracts provide for reduced conditions of employment for employees.

According to the minister’s second reading speech, to have more than one certified agreement covering employees at a workplace costs jobs. This claim simply does not stack up when you look at the minister’s numerous speeches selling the AWA system and trying to claim that it is the best way to go. It is ludicrous to say that you cannot have lots of agreements in a workplace. Even if the existence of more than one certified agreement is a bit too cumbersome for an employer who has recently purchased a business—a proposition I do not accept—it is open to that employer to seek to alter that certified agreement. That can be done through negotiation upon the expiry of the agreement, or even during its life if the employer reaches agreement with the people covered by that certified agreement. It is not that difficult.

A certified agreement does not last forever; it has a specified period. At the expiry of an agreement, a subsequent agreement is negotiated with the consent of the employers and the employer. This is one way to deal with a problem that a party has with an agreement: wait for its expiry and renegotiate. The other way is, of course, to seek the agreement of the parties covered by the certified agreement for it to be altered, and then apply to the commission for an alteration. That way, you get the consent of the people covered by the agreement, you go to the commission and you have the new agreement certified. It is not that complicated. If it is for some people, maybe they should not be in business.

The simple reason we are debating the bill before us is to provide yet another mechanism for employers to reduce the wages and conditions of staff without their consent. For this reason, the bill should be rejected. We should look at the sensible and reasonable alternatives proposed by the member for Barton to ensure that employees who are being affected by transmissions of business are not impacted upon by anything more than the uncertainty they are already undergoing when one company acquires another. They are already concerned about the prospect of losing their jobs. They should not have to
think that their hard won terms and conditions might be whittled away as well.

Mrs CROSIO (Prospect) (6.07 p.m.)—In speaking tonight on the Workplace Relations Amendment (Transmission of Business) Bill 2002, I would like to remind government members that this bill is, once again, an attempt to downgrade the rights of working Australians. Since 1999, when the former Minister for Workplace Relations, Peter Reith, presented the disastrous Workplace Relations (More Jobs, Better Pay) Bill 1999—what a laughable title for legislation that was—the government has been hopelessly unsuccessful in getting its legislation through this parliament. The reason the government’s legislation cannot become law is that it is bad and pernicious. I am just amazed by the battle of attrition that the government keeps putting itself into in this fight—which it started—to reduce the working conditions of Australians. The parliament has, bill after bill, rejected various attempts to introduce these laws, and during this sitting the government has introduced numerous pieces of workplace relations legislation. This bill can be added to the list of bad legislation. I totally support the second reading amendment moved by the shadow minister, the member for Barton.

Working Australians will see a further reduction in their right to workplace democracy, where the right to vote on a certified agreement after a transmission of business will be denied. Pursuant to the Workplace Relations Act 1996, employees are able to vote on a proposed certified agreement, whether they are a member of a registered organisation or whether they are negotiating directly with the employer. Also, which I believe is essentially cruel, this legislation will junk a certified agreement when there is a corporate restructuring and contracting out. That means that people who might have been employed for many years at a workplace and then see that business sold, with no real change to their job, will see the instrument of their employment removed. Effectively, their employment status will start again or, more likely, they will be thrown on the unemployment scrapheap. Electorates like mine see this time and time again. A lot of workers in my electorate do not understand English as well as they should, but they are very diligent workers. They go merrily along thinking that the boss may change but their working conditions will stay the same. Then, only a month or two later, they find that they no longer have a job. This is what the government believes is good law. Instead, we on this side of the House propose that, when a business is transmitted, employees who perform substantially the same work will not suffer a reduction in terms and conditions.

The government has reintroduced this legislation after its failed attempts in 1999 and 2001 because, it claims, the buyers of a business are concerned about having to meet the requirements of employment instruments when purchasing a business. I do not see how this is a problem. If a prospective buyer wants to keep a business running substantially the same as it was before the purchase—or even improve on it—why should they have the right to downgrade the working conditions of the employees? Any self-respecting businessperson, you would think, would have done their homework on the all the costs and overheads of the business—especially the cost of labour. If the cost of labour was greater than their budgeted price, why buy the business in the first place? We are proud of the growth of this nation, we are proud of the work done by the employees; so why do we want to turn this nation back into a Third World country?

The fact is that the government is not interested in assisting decent, reputable employers and employees. It seems determined to impose on all parties a highly litigious and
confrontational system that is partial to one side. This cannot be denied. The government seems determined, by this bill, to support only the unscrupulous employers, not all employers. The reason that the government will fail once again to have this legislation passed into law is that it cannot provide enough evidence to prove that prospective employers are adversely affected by the current system. Honest, hardworking employers have no problems with the system presently in place.

The government’s propaganda constantly professes to provide greater flexibility and democracy in the workplace. Mr Deputy Speaker Mossfield, you would know from your past employment, and I know too, that relevant provisions are contained in the Workplace Relations Act for a true democratic process to be followed to terminate or vary a certified agreement pursuant to sections 170MG, MH and MHA. What is the problem? Is it workplace democracy? Is it a practical difficulty to engage in workplace democracy? This government has no belief whatsoever in promoting workplace democracy. All power goes to the employer, and the crumbs—literally—go to employees. That is why the government is so desperate to increase the number of Australian Workplace Agreements—AWAs, as they are called—the quintessential master-servant instrument.

My grandfather often related how, in 1890, before our Labor Party began, the wharf labour strike occurred in Sydney because of the way the workers were treated. He was part of it. I remember, as a young child, Johan Renneberg saying to me, ‘Never go back to those bad old days.’ We seem to be intent on doing that, because, through its pieces of legislation, this government seems to be absolutely determined to make sure the employees stay under the employer’s thumb. It is quite contemptuous of this government, and particularly this minister, to come into this place and pretend that this proposed bill will, in any way, be beneficial to ordinary working men and women.

It is a wonder that the minister did not present this bill as the Patrick bill. This bill is, in effect, a legitimisation of the dogs-and-balaclava tactics that former Minister Reith and his cronies at Patrick implemented in that horrible saga back in 1998. Ordinary men and women were thrown on the employment scrapheap because the managers of the company, with the quite explicit approval of the government, decided that it would be more profitable for institutional shareholders and themselves to create a shelf company. If this legislation is passed it is a stone-cold certainty that there will be an explosion of shelf companies. The government showed in 1998 that it approved corporate skulduggery, and this bill will enshrine this in law.

There are plenty of shelf companies in the corporate world already. Many were established to minimise tax, and others were established to remove the employer’s obligations to their employees. Many in the corporate world do not believe that they have the same moral responsibilities as the rest of us in the community. The greedy lust for more and more profits, with greater share prices and corresponding share issues and bonuses to managers and directors, sees a number of people push the bounds of legality. It could be argued that the government has given tacit approval to some of these less than legitimate practices by its very laissez-faire approach to tightening the legislative provisions relating to corporate governance. Many of us who can remember know very well the Prime Minister’s lack of will, whilst Treasurer in the Fraser government, to tackle bottom of the harbour tax schemes. Back then, the Fraser government tried, as conservative governments always do, to destroy a union and consequently had the Costigan royal commission explode in its face.
Unlike the Howard government, a number of governments overseas are protecting ordinary working men and women. In Europe, under what has been described as the German model, the requirement upon a transfer of business is that employees ‘automatically continue to be employed on the same terms and conditions as before the transfer’. Hence, the new employer must observe the terms and conditions of any relevant collective agreement that was in existence prior to that transfer. The rights of the employee are sacrosanct in Europe. There is continuity of employment and any accrued benefits that are based on length of service are carried forward. It is explicit that renegotiation of an existing collective agreement is not permitted. European case law has also reinforced this principle by determining in the Spijkers v. Gebroeders Benedik Abattoir case the type of business, the passing of tangible or intangible assets, whether the majority of staff were taken on by the new employer, the transfer of customers, the degree of similarity in activities pre and post transfer, and the period of any suspension of activities. These have been determined. Canada has similar provisions, whereby a new employer is bound by any collective agreement that is applicable to the employees employed in the business.

These factors and principles correlate with Labor’s position on this issue. A test should be included in the act for the AIRC to determine whether, after the transmission of business, employees perform substantially the same type of work. I believe that an employee should expect, even though the company they work for has been sold, that if they are performing the same work they should keep their wages and conditions. If a business is being sold for economic reasons and a new owner wishes to purchase that business pursuant to new labour requirements, then the employees should have the right to obtain and consider that information when the likely proposal to vary or terminate the certified agreement is made.

The High Court has found that no test exists to ascertain whether a transmission of business has occurred. In its decision in the PP Consultants Pty Ltd v. Finance Sector Union case of 16 November 2000 the court held:

. . . it is not possible to formulate any general test to ascertain whether . . . one employer has succeeded to the business or part of the business of another.

Labor’s amendment is all the more important considering the problems in defining a test for transmission of business. This legislation will also see workers entitlements, which are of course very close to my heart, fly out the window if it is passed. A private member’s bill presented in my name, the Employee Protection (Employee Entitlements Guarantee) Bill 2003, will guarantee 100 per cent of workers entitlements, but the government refuses to debate the bill. It is a disgrace that this government steadfastly refuses to guarantee the entitlements of ordinary workers, especially considering the consequences that will arise if this legislation passes the parliament.

The government will of course tell us about the good it has done with its employee entitlements scheme. I can tell the government that it is hopelessly inadequate. The government has, like the scrooge it is, placed a cap of $20,000 on payments of entitlements. Most employees would be lucky to get half of that, and the red tape that the workers are made to go through makes the whole process a nightmare. I said when I first presented that 39-page stand-alone bill in 1998 and every year since that I do not want ownership of it. It is fine if the government wants to debate it and amend it, as long as the resulting bill has the same princi-
ple—100 per cent protection of employee entitlements, regardless of what happens to the employers in the future.

As we have seen time and time again under this government, the only entitlement is for the employer to make at times obscene profits, whilst workers scrounge around looking for any savings that they may have or can make. It is about time that the government lived up to its own rhetoric and embraced a more cooperative approach to industrial relations. All this erosion of workers' rights breeds conflict. The government would do well to learn from the approach to industrial relations employed by the Hawke and Keating governments, where cooperation was the operative word in relations between employers and employees. Whilst the government espouses its so-called workplace revolution, it should be placed on the record that it was Labor that introduced workplace bargaining. A cornerstone of the egalitarian history of this country has been the system of conciliation and arbitration established by Labor nearly a century ago. This system created the means for our country to prosper and for there to be an independent umpire to adjudicate in industrial disputes.

It was also Labor that saw that the world was changing during the 1980s and allowed for the peaceful restructuring of globalisation. This government should not forget that it is now living off the fruits of Labor's work—the work that the Prime Minister failed to undertake during his tenure as Treasurer. The transmission of business provisions in this bill and the refusal of the government to provide employees with a voice show just how determined it is to forever alter society and what we believe in this country is the betterment of mankind.

The government constantly comes into this House castigating the union movement, but studies have shown that disputation is much more likely to be caused by employers than employees and their union representatives. This would seem to indicate a trend of incompetent management. It might be more constructive if the government spent more of its time on teaching employers how to be cooperative rather than continually union bashing.

I think it is appropriate to ask members on the other side, while they attempt to score cheap political points on the lack of business experience on our side of this place, how many of them can claim the 27 years worth of experience that I have had with my husband in running a successful small business? There are not too many over on that side of the House who can put their hand up.

The party of lawyers and barristers claims to know all there is about business, but there is more to know than lining your pockets with profits and shares. A long-running, successful business usually eventuates when you develop good, strong relationships with your employees. A business is a partnership as much as anything else and the loyalty of employees should always be rewarded.

This legislation rewards greed over loyalty. The long-serving loyal employee can be easily cast aside by this quite pernicious piece of legislation. I make this appeal to the government in the time I have left to me in this debate: when are we going to have some fairness in workplace relations bills that come before the House? We on this side of the House should not continually get up and castigate the government for what they are trying to achieve in the bills they bring forward. This would not happen if the bills that were presented to this House at least had a balance in what they were trying to achieve.

No-one on this side of the House says that bad employees should continue to be employed. What we are saying is that an employer should not have the right to run
roughshod over a person they are employing. When an employer buys or sells a business, employees should not have no rights left whatsoever. It is also about time we in this parliament honour and respect the working men and women of this country—they can only offer their labour and do expect some reward. It is about time that, in 2003, we come of age and start to defend the rights of the working man and woman in Australia.

I repeat: I never want to hear the stories my grandfather told me of the strike that occurred in 1890. All the working men were trying to do was to get a decent wage for the work they were undertaking. I believe those events were the beginning of the Labor Party. I did not know that my grandfather took such an active part until we started to research part of his life in this country. He was Norwegian and he came out here many years ago, as you would imagine.

We do not want to go backwards. We cannot advance a nation by retrospectivity, as this government seems intent on doing: cast aside the employee and just protect the employer. I believe employer protection is warranted at times but, more importantly, protection is warranted more by those who are least able to protect themselves. That is what good legislation is about. It is about time this government learnt to put that in place and brought that type of legislation into the House so that we can for once stand up and be united in debating legislation that protects the future of Australia and the men and women whom we purport to represent in this place. I condemn the bill and I support the amendment.

Mr ORGAN (Cunningham) (6.27 p.m.)—The Workplace Relations Amendment (Transmission of Business) Bill 2002 is yet another attack by this government on workers’ rights and conditions and the Greens oppose it. The bill amends the Workplace Relations Act to allow the Australian Industrial Relations Commission to order that a new employer is not bound by an existing certified agreement that specifies the terms of employment for the employees of the acquired business or that the new employer is to be bound to a certain extent and for a certain time. This order may be sought by the business seller—that is, the current employer—or by the purchaser.

This is the first time that the commission has been able to terminate a certified agreement without the specific agreement of the employees—that is, without the consent of the workers. That is the problem with this bill. This is the government’s third attempt to introduce this measure. The provisions were contained within a 1999 bill, which the Senate rejected, and the second bill lapsed with the 2001 federal election.

Under the current Workplace Relations Act, when a business is transmitted or sold the new owner or operator is bound by the awards and various agreements that bound the former owner or operator. The Australian Industrial Relations Commission has the power to overturn this but there is, at the moment, no similar provision for certified agreements. Certified agreements are quite common, the best examples being enterprise bargaining agreements registered under federal jurisdiction. The Minister for Employment and Workplace Relations said in his second reading speech:

This bill will provide a mechanism for resolving complexities which may arise due to the existence of multiple or inappropriate certified agreements following a transmission of business. At best, these complexities can lengthen the transmission process. At worst, they can deter the parties from undertaking it. In other words, they cost jobs.

The Greens are concerned that this bill will inequitably benefit employers or potential employers and that employees may lose the security of their employment conditions.
when a transmission of business takes place. The Greens are not convinced that the government is introducing these changes out of concern for jobs and we are suspicious of the minister’s attempt to argue the point in these terms. It appears that the government is introducing this measure primarily for the benefit of employers.

We have seen with previous legislation brought before this House that the government, and the minister for workplace relations in particular, cannot be relied upon to have the best interests of Australian workers at heart as they seek to change our whole industrial relations system. If passed, this bill will allow the Australian Industrial Relations Commission to decide whether to order that a certified agreement will not transmit to an incoming employer or will transmit to a specified extent or for a specified time.

The Greens have a number of concerns with this bill. The government acknowledges in the explanatory memorandum that the proposed legislation might affect the pay and conditions of employees of a business that is being acquired. Might? I would suggest that ‘more often than not’ is more appropriate here. Unions have already expressed concerns at the government’s proposed changes to the act, particularly with the potential for a seller of a business to offer a prospective employer a package of lower cost operations through the elimination of current terms of employment—that is, as contained in certified agreements. As the Australian Rail, Tram and Bus Industry Union put it:

If outgoing employers have entered into a lengthy binding agreement with their workforce they should not have the option to effectively dump that agreement in order to get a better price for the sale of their business.

In his second reading speech the minister for workplace relations said:

... the current bill includes measures specifically designed to ensure that all parties affected by a transmission are treated fairly and that all those who will work under the agreement if it transmits are able to have their views heard before an order is made.

Frankly, this is less than what the workers have at present. The Greens consider it cold comfort for those workers subject to the transmission of a business to have their hard earned wages and conditions as set out in a certified agreement put up for excision at the whim of the new owner, even though the commission will allow their case to be heard before the changes are made.

The process of developing a certified agreement or enterprise bargaining agreement is often long and stressful. It involves the workers and the employer, with the former usually assisted by unions and the latter by employer groups. The thought that the agreement can easily be thrown out the door if a business decides to enter into a transmission process is one which will cause many Australians concern. Australian workers are working hard to improve the productivity and efficiency of this nation. Workers expect government and business, in return, to support fair and equitable wages and conditions, and to provide long-term security of employment. The bill erodes that security and will lead to further erosion of wages and conditions.

The minister includes nothing in his second reading speech about protecting the entitlements of employees who are affected by a transmission, and that is because this is not a priority of the government. The minister has informed us that this bill will reduce the inconvenience to purchasers and sellers of businesses. That is to be expected. But he says nothing about the potential concerns of employees caught in the middle of these transactions, and that is because his concerns do not lie there—they do not lie with the workers of Australia.
Apart from concerns over the fundamental direction of this government in the workplace relations area and the ongoing and concerted efforts to erode workers’ rights and conditions, there are also issues with regard to the detail of this bill which the Greens take exception to. Foremost, it is not clear within the bill what constitutes a transmission of business. For example, does contracting out a portion of a business’s operations constitute a transmission of business? If so, then this bill could encourage the contracting out of jobs at lower pay and conditions than apply to in-house positions, especially as an outgoing employer, looking for a sale, may seek an order from the commission for the certified agreement to be disallowed—an order which would most likely not be supported by the employees who are party to the agreement, especially if they see the outcome as a clear erosion of their pay and conditions and a step backwards. The Greens are concerned by the lack of clarity within the bill on the point of the definition of transmission.

With contracting out and corporate restructuring now commonplace, it is likely that the ambiguity will lead to abuses and misinterpretations within the amended Workplace Relations Act, and these will most likely be to the detriment of workers rather than employers. The ACTU has previously commented on this issue, stating:

The problems of transmission of business, including in relation to contractors and related corporations, as well as the ability of the transmittee to require employees to sign AWAs in order to retain their jobs, do not need to be exacerbated.

Weakening an already inadequate transmission of business provision will further encourage the types of contracting out and corporate restructuring which we have seen can have such an unfair effect on employees …

During this debate, we have been presented with numerous examples of employees suffering as a result of contracting out and the sale or transmission of a business. Let me give you an illustration from my own electorate of Cunningham of the very real concerns raised by the ACTU and of the negative impact the transmission of a business can have on workers.

In 1998, Telstra and US call centre specialists Excell Global formed a joint venture called Stellar Call Centres, to which Telstra outsourced some of its directory assistance functions. In February 2001, the full bench of the Federal Court ruled against a union application which would have seen the workers take their Telstra award conditions over to their new employer—an employer half owned by their previous employer. The court supported the Australian Industrial Relations Commission’s decision and found that, in handling calls on behalf of Telstra, Stellar was performing a support function and was not part of Telstra’s business. The court found the making of those call responses:

... is not a distinct “part” of Telstra’s business ... any more than, for example, cleaning undertaken as a necessary aspect of the conduct of a restaurateur is a “part” of the business of the restaurateur.

The decision was greeted with glee by Stellar management. The company’s Director of Employee Relations, one John Zisis, said in a media statement at the time:

This judgement delivers much greater certainty and clarity to our business. In a practical sense it would have been impossible to be bound by old, inefficient Telstra awards when employees can perform services for a range of clients across industries including energy, transport, finance, logistics and E-commerce.

You can understand why the judgment delivered much greater certainty to Stellar’s business when I tell you that, as a result of the Federal Court’s finding, workers at Stellar earned $28,000 per annum for a 40-hour week, compared to Telstra staff doing the
exact same job in house and receiving $35,000 per annum for a 38-hour week—that is, $7,000 per annum extra for the same job and fewer hours. No wonder this form of ‘outsourcing’ has struck a chord with employers eager to drive down the bottom line! This is an example of strategic industrial relations maneuvrings by Telstra to increase shareholder return at the expense of the wages and conditions of Australian workers. Those savings went straight into the pockets of Stellar and Telstra shareholders and government, rather than into the pockets of workers already struggling on low wages.

But that is only the tip of the iceberg as far as the Stellar example is concerned. The company now employs around 2,000 people in eight call centres across Australia. One of those call centres is located in Wollongong, in my electorate of Cunningham. Another is located in Hornsby, in Berowra, the electorate of the Minister for Immigration, Multicultural and Indigenous Affairs. One is in North Sydney, the seat of the Minister for Small Business and Tourism; another is in Adelaide, the electorate of the Parliamentary Secretary to the Minister for Health and Ageing. Others are in Robina, Brisbane, Melbourne, and Joondalup, in Western Australia.

Stellar’s employee relations record makes interesting reading. For example, Sydney’s Daily Telegraph reported earlier this month, on 3 June, that a heavily pregnant worker employed at the Wollongong centre had been docked $100 for taking too many toilet breaks. That penalty was imposed despite the fact that Diana Ivanovski had produced a letter from her gynaecologist advising that she needed to go to the toilet regularly because her baby was down low and pressing on her bladder. Mrs Ivanovski said that Stellar management made her feel guilty for being pregnant. She got the money back after her union intervened—thank God—and a company spokesman admitted that, while the company provided for toilet breaks, it had made a mistake in failing to adjust for Mrs Ivanovski’s extra needs. A spokesman is quoted in the Daily Telegraph report as saying:

It’s fallen down because Diana had requested flexibility.

That was none other than John Zisis, the director of employee relations, who had greeted the Federal Court decision of February 2001 with such glee. In an astounding turn of events, he told the Daily Telegraph:
The human resource people said it was an error and an apology was made.

Don’t the human resource people come under the control and direction of the director of employee relations? I assume they do. The impact upon the Stellar employees of losing their Telstra award conditions as a result of the so-called transmission of the business is severe. Their wages are now referred to as ‘poverty level’. Stellar employees give examples of having lost bonuses worth up to $5,000 a year for using sick leave entitlements. This has prompted Workers Online, the official Internet journal of LaborNet, to list Stellar—which, we must remember, is 50 per cent owned by Telstra, and whose chief executive officer is a paid Telstra employee—as the debut nomination for this year’s Tony award. Members of this House may know that the Tony, named in honour of the Minister for Employment and Workplace Relations, is regarded as Australia’s definitive bad boss award.

Stellar gives us an interesting case study of the sort of employer behaviour which could occur under the transmission of business arrangements reinforced by this bill. It is therefore not surprising that, as the ACTU has pointed out:

Legal controversies have centred around whether or not a transmission of industrial instruments occurs in cases where part of a business, whether
government or privately owned, is transferred through sale, assignment or contract to another entity, such as through privatisation, or outsourcing and contracting out.

This bill is not the solution. The solution lies with the parties to the agreement. The ACTU further stated:

In the event that a transmitted certified agreement is not appropriate to the needs of the workplace, or is in conflict with an already existing agreement, it is open to the parties to agree to vary the agreement or apply to the Commission for it to be terminated.

Workers must have a say, an equal role, in this process. Unlike the provisions for awards, this bill will allow an outgoing employer to seek an order from the Australian Industrial Relations Commission that an existing certified agreement not transmit to the new owner or operator. The Australian Greens are extremely concerned this could promote the erosion of workers’ rights and conditions. An incoming employer may seek an order that a certified agreement does not apply to a purchased business, even if the incoming employer is not bound by any existing formal or registered industrial instrument.

What kind of protection of employees’ wages and conditions would there be in such a case? As we have heard in this debate, currently, under the Workplace Relations Act, certified agreements can be terminated only when the employees and/or the relevant union have agreed to the instrument terminating, and the termination of the certified agreement can then be approved by the Australian Industrial Relations Commission. Thus the present prerequisite for a certified agreement to terminate hinges on the consent of the parties, and for employees this may mean a ballot. No such provision for this kind of consultative and democratic process is allowed for under the provisions of this bill, for an incoming employer may seek an order that a certified agreement does not apply to a purchased business even if the incoming employer is not bound by any existing formal or registered industrial agreement. In his second reading speech, the minister for workplace relations told us:

This bill is a sensible technical measure which will improve the operation of the workplace relations system. The amendments will continue to give workers and employers more opportunities to manage their relationships at their workplace and give the commission an important specific power to enable them to do so.

The Australian Greens reject these statements. We do not trust the minister’s agenda for workplace relations in this country. We do not believe that the government has a balanced perspective in its management of this portfolio. It clearly does not have the best interests of workers at heart. We see that this bill attacks enterprise and certified agreements reached in negotiation between employers and employees. We therefore cannot support the bill.

Mr GAVAN O’CONNOR (Corio) (6.44 p.m.)—It gives me great pleasure to rise in this House to oppose the Workplace Relations Amendment (Transmission of Business) Bill 2002. The bill is simply another attempt by the Howard government to introduce under another guise various provisions of the Prime Minister’s Workplace Relations Legislation Amendment (More Jobs, Better Pay) Bill 1999—that puerile, deceptively titled piece of legislation that had as its objective the stripping of the hard won award wages and conditions of Australian workers.

The member for Bennelong, Australia’s Prime Minister, is about as visionless and pedestrian as prime ministers come. His great vision agenda for Australia is based around four basic propositions: the destruction of Medicare and the Americanisation of the Australian health system; the privatisation of Telstra and selling what Australians
already own; the introduction of the GST; and the introduction of an industrial relations system that seeks to strip away the rights, award wages and conditions of Australian workers and their families. His whole public life has been devoted to this agenda, and it must be a massive disappointment to the Prime Minister to reflect on this pedestrian policy agenda and to realise that he has largely failed to implement it. He has had one big win: the introduction of the GST. However, he has not managed to sell all of Telstra and he has not managed to destroy Medicare up to this point in time. Due to the efforts of Labor in this House and in the other place, he has not been able to introduce his nirvana industrial relations system in this country.

As much as this grovelling Prime Minister wants to make us the 51st state of America, the Australian people and their parliament steadfastly resist his efforts. They do not want an Americanised education system in Australia that perpetuates inequalities in access, but they do want an independent foreign policy. They do not want an Americanised industrial relations system, but they do want their own uniquely Australian Medicare system. It is with great pleasure, on behalf of workers and their families in the seat of Corio and in the Geelong region, that I oppose this bill and support the amendments moved by the shadow minister, the member for Barton.

The Workplace Relations Amendment (Transmission of Business) Bill 2002 seeks to amend the Workplace Relations Act of 1996 to allow the Australian Industrial Relations Commission to order that a new employer is not bound by an existing certified agreement which specifies the terms of employment for the employees of the acquired business or that a new employer is to be bound to a certain extent or for a certain time. Presently, under the Workplace Relations Act, when an employer transfers a business to a new employer, a certified agreement which bound the old employer will bind the new employer. However, this bill will give the Australian Industrial Relations Commission the power to order that a certified agreement does not bind, or only binds to a very limited extent, a new employer following the sale and transmission of a business.

When you strip away all the Howard government’s rhetoric, this bill is simply there to make it easier for their mates up the top end of town to reduce their labour costs and to restructure their businesses and contract out. The upshot of this particular bill is that it will make employees in the workplace less secure and it will provide employers with an opportunity to once again strip away the hard won wages and conditions of workers in many workplaces.

We reject this bill on several grounds. It is a measure specifically designed to reduce democracy in Australia’s workplaces. Employees whose livelihoods are dependent on negotiated agreements certified by the commission, and whose household expenditures have been structured around certain agreements, can have those agreements substantially altered without having a direct vote in that process. The members opposite are always preaching to us on this side of the House and to the Australian people how they are great promoters and defenders of democracy. And of course, according to the government we have just engaged in a conflict in Iraq in furtherance of the democratic ideal. But it always applies in another place; it does not seem to apply here in Australia to ordinary working men and women.

It is about time that we had a little bit of democracy in Australian workplaces and ensure that when businesses are bought and sold in a very ruthless marketplace and are
restructured, the livelihoods of the people who have created the wealth in those enterprises are at least protected to some degree. We reject this legislation because it will simply operate to the disadvantage of employees. There is no explicit guidance given in the bill to direct the commission on how this new power will be exercised. Therefore, the guiding document will be the explanatory memorandum, which is strongly biased towards giving employers untrammelled power to restructure their businesses without regard to existing certified agreements.

We also oppose this bill on several other bases. When you buy a business, it is customary for the buyer of that particular business to honour existing commercial agreements. We ask members opposite: why shouldn’t the same principle apply to employment agreements? Why is it that you are attempting to make a distinction under the laws governing this country between the responsibility of employers to honour existing commercial agreements and their responsibility with regard to honouring existing employment agreements? Why are you letting them off the hook with regard to the latter? I would have thought that employees were entitled to the same certainty and security as commercial creditors; yet, under this particular piece of legislation, that will not be so.

Provisions already exist in law for an employer to go to the commission to get changes in a certified agreement if that employer regards the agreement as being unsuitable to their enterprise. They can go to the commission to seek a variation or termination of it and they can certainly negotiate a new agreement. Isn’t that what democracy is about? The essence of democracy is that, if an employer takes over another business, that employer at least consults those employees, who have been engaged in the creation of wealth of that enterprise, about the future of the enterprise and the wages and conditions under which they should operate.

This leads us to the conclusion that the real intent of this particular piece of legislation is to help large employers slash their labour costs by enabling them to junk certified agreements when they restructure enterprises and contract out the functions that have been carried out previously by the employees in that business. That is at the real heart of this legislation—the government pandering again to the big end of town. The people who pay the price for this sort of legislation are workers on the factory floor or elsewhere in the workplace.

In the remaining time that I have available to me, I want to bring two matters to the attention of the House relating to industrial relations in the electorate of Corio. I think they typify the ugly side of the Howard-Abbott agenda in this area of policy. The first relates to the recent termination of employment of cleaners at the Market Square shopping complex in Geelong. The complex management, on behalf of the owner, issued a tender for the cleaning of the shopping complex. The tender was won by a new contractor, who indicated that the people who were previously employed to clean up the centre were now redundant and would be given no opportunity to apply for their old jobs or to be retained.

Last Saturday morning I lent my support to a rally at Market Square in support of the eight workers who had had their jobs terminated. Those eight workers had a collective work history at Market Square totalling 60 years. Indeed, two of those cleaners have been cleaning in that particular part of Geelong for some 15 years. That is a big effort, showing great loyalty to the shop owners and the people who shop at the Market Square complex. I am glad that we are joined in the House tonight by the Minister for Employ-
ment and Workplace Relations, who is attempting to ram through these sorts of changes that are impacting heavily on Geelong workers. I would like to know what the minister at the table has to say to Vera Najdanovski, who has worked for nine years in that particular complex, cleaning the food court. Vera has a house and a Commonwealth Bank mortgage and is bringing up two sons. She likes her work and she has turned up every day between the hours of 9.30 and 5.30, five days a week, to clean the Market Square complex. She has built up many relationships in that complex. What does the minister say to Vera when she has lost her job as a result of his government’s legislation? What does the minister say to Val Jackson, who has spent 15 years—

The DEPUTY SPEAKER (Hon. I.R. Causley)—The member for Corio would understand that there have been several rulings in this place that names should not be used only to illustrate a point. I think the point has already been illustrated.

Mr GAVAN O’CONNOR—I want the minister at the table to appreciate the implications of the policies that he is putting before this parliament and expects to get through this parliament. Frank Canadillas has worked there full time for two years. He has a six-year-old boy and a wife and he rents—

The DEPUTY SPEAKER—The member for Corio is now flouting my ruling. I bring him back to the legislation.

Mr GAVAN O’CONNOR—Mr Deputy Speaker, I am very disappointed that ordinary working people in my electorate cannot have their situation put before the minister, who is here in this House tonight. I think that is a real shame. I will adhere to your ruling, but the simple fact of the matter is this: as the minister brings this legislation into this House to support the big end of town to restructure enterprises and to contract out, as has occurred in the Market Square example, he ought to contemplate that it has a terrible impact on the lives of ordinary working Australians who seek nothing else but to earn a decent wage and bring their families up and do the sorts of things that ordinary Australians do.

I want to refer to a second dispute that is occurring in my electorate. It relates to an industrial dispute at Geelong Wool Combing at Lara, where that company locked out 100 workers. The lockout was brought before the Federal Court and the Federal Court ruled that the lockout was illegal. Workers returned to work, only to be reissued with further lockout notices.

I am indebted to the textile union, the TCFUA, for the information that they have provided to me on this dispute and for the manner in which they have supported textile employees at that particular plant. The company wanted employees to take a cut in wages of 25 per cent and to make changes to their other conditions, including a reduction in their hourly rate; changes to shifts from seven to five days, and back to seven days, as the company requires, with only one month’s notice of change; having unlimited casuals and labour hire employees on site with no restrictions on casuals or time for casuals; making approximately 14 to 20 employees redundant on acceptance of agreement; and asking workers to work overtime for less than the current hourly rate, with no penalties. This is the great promised land that this minister in the House wants to lead us to.

Recently I was at a function, held in the Geelong Trades Hall, to support these workers. I pay tribute to John Kranz and the Geelong and Region Trades and Labour Council, other key unions in Geelong and members of the Geelong community for the way they
have stood beside these workers in this dispute. There were many people at this function who are absolutely committed to supporting these workers in their time of need. I say to those workers in this dispute, ‘You are not forgotten on the floor of this House, nor are you forgotten in the Geelong community.’

In the time remaining to me, I want to turn to a matter relating to industrial relations in my electorate. On Monday, the member for Corangamite asked the acting industry minister a question relating to Australia’s car industry and industrial relations in that sector. We know that certain sections of this industry have moved to contract out certain functions and tasks. That contracting out is the substance of the matters in this legislation before the House. This is what the acting industry minister had to say:

The member for Corangamite understands the benefits of free trade. He also understands the impact of union thuggery on the automotive industry. That is because in his electorate, in Geelong, we have seen the impact of union thuggery at the Ford plant, on the components industries, on delivery drivers, on truckies and on all the small businesses that rely on the automotive industry …

The minister does not even know that the Ford plant is in the Corio electorate; it is not in the Corangamite electorate. What he failed to say, and what he seeks to deceive us about in this matter, is that the Ford plant in Geelong has had an excellent period of industrial relations peace and cooperation between management and unions that has put this enterprise in a position where it has now returned to profitability with the good market conditions currently existing for the industry. The minister has sought to denigrate the 2,000 Geelong workers in the car industry. I will not have any minister or any member of this House denigrate the workers in the Geelong plant. They have done their part to improve productivity, to create efficiencies, to innovate and to create the wealth that is now enjoyed by the company. (Time expired)

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (7.04 p.m.)—I do not propose to long detain the House on the Workplace Relations Amendment (Transmission of Business) Bill 2002. I think it has been given a pretty thorough discussion by speakers in the debate. I am not sure that all the speakers have stuck to the terms of the bill. Generally speaking, members opposite have vented their various bits of spleen about different aspects of the workplace which they find objectionable. I do not, for a second, deny the sincerity with which they hold these views, and I do not doubt the passion of their commitment to the welfare of the work force as they see it. Nevertheless, I do not think that the analysis is generally justified by the facts.

I make one general comment, perhaps prompted by the remarks of the member for Corio. We can always find a handful of cases which have not worked as perfectly as we might have liked. But, unfortunately, very often when we strive for perfection, we end up with something not just less than perfect but far less perfect than might be the case if we merely strove for something that is reasonable. The best—as has been said often enough—is all too often the enemy of the good. This government is trying to build a reasonable system which works well in all the circumstances, not necessarily to protect every single person from every single possible combination or permutation of circumstances to which they might be subject.

Obviously, this government believes fundamentally in the market. We do not think markets are perfect. We do not think that markets do not sometimes fail. But, in the
end, we think that the market is the best mechanism mankind has devised for the creation of wealth. You cannot control markets too much without destroying them, and the last thing that any sensible member of this House should want would be to destroy the operation of the market in labour as well as in all other commodities.

Markets are a good thing. Contracting out is a good thing. Because of the operation of markets, businesses which would otherwise have failed are still in operation. Because of contracting out, businesses that may very well have been uncompetitive are still competitive—and that is a reality that members opposite often find very difficult to accept. They accepted it while they were in government but now that they are in opposition they have gone back to their socialist roots. That is not to their intellectual credit and I think that it is not, in the long run, even to their political advantage.

Notwithstanding most of the contributions from members opposite, this bill is essentially a very simple bill. This bill is designed to deal with a situation where a business changes hands. In such a situation there are often multiple certified agreements. At the moment the commission has no way of dealing with this, and the bill is designed to give the commission the same power to deal with certified agreements in the event of the transfer of the business as it has in respect of awards in the event of a transfer of business. At present the act provides that, if there is a conflict between different certified agreements, the certified agreement that was made first prevails over later certified agreements. That is not rational. It is only that way in the act by oversight. We believe that, in a situation of multiple and conflicting certified agreements, the agreement which ought to prevail is the one which best suits the interests of the relevant business and its employees.

Under the bill, once the business has been transferred, all parties—including employees and their unions—have an equal right to approach the commission to ask it to resolve any anomalies arising from the application of multiple certified agreements. So there is no question of anyone losing rights—no question whatsoever. People will be able to approach the commission once an application for a commission ruling in this matter has been made. Where the commission orders the terms of a certified agreement to be varied or brought to an end, all existing rights of appeal under the act, in relation to commission decisions, will be available. So there is no question of limiting anyone’s rights.

I do not believe there is any question of the government’s proposal being unfair. The commission’s powers to make orders in relation to certified agreements and transmitted business, should this bill be passed, can only be exercised on a case by case basis and on the application of affected parties. I think this government has more faith in the commission, in this respect, than members opposite have. We do not believe that the commission would exercise its powers under the proposed provisions in a way which would be unfair to the employees of the transmitted business or to those of the incoming employer. We do not believe that the commission is in the business of oppressing or persecuting people. We believe that the commission is in the business of trying to come up with the most reasonable outcome in all the circumstances of a particular case. That is the power that this bill seeks to give the commission. If members opposite were as serious about respecting the commission and enhancing the commission’s role in practice as they are in theory, they would support this bill. I commend the bill to the House.

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

The House divided. [7.15 p.m.]

(The Deputy Speaker—Hon. I.R. Causley)

Ayes………… 79

Noes………… 63

Majority……… 16

AYES

Abbott, A.J. Anderson, J.D.
Andrews, K.J. Anthony, L.J.
Bailey, F.E. Baird, B.G.
Baldwin, R.C. Barresi, P.A.
Bartlett, K.J. Billson, B.F.
Bishop, B.K. Bishop, J.I.
Brough, M.T. Cadman, A.G.
Cameron, R.A. Charles, R.E.
Ciobo, S.M. Cobb, J.K.
Costello, P.H. Downer, A.J.G.
Draper, P. Dutton, P.C.
Elson, K.S. Entsch, W.G.
Farmer, P.F. Forrest, J.A. *
Gallus, C.A. Gambaro, T.
Gash, J. Georgiou, P.
Haase, B.W. Hardgrave, G.D.
Hartsuyker, L. Hawker, D.P.M.
Hockey, J.B. Hull, K.E.
Hunt, G.A. Johnson, M.A.
Jull, D.F. Katter, R.C.
Kelly, D.M. Kelly, I.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. Prosser, G.D.
Pyne, C. Randall, D.J.
Ruddock, P.M. Schultz, A.
Scott, B.C. Secker, P.D.
Slipper, P.N. Smith, A.D.H.
Somlyay, A.M. Southcott, A.J.
Stone, S.N. Thompson, C.P.
Ticehurst, K.V. Toller, D.W.
Truss, W.E. Tuckey, C.W.
Vaile, M.A.J. Vale, D.S.
Wakelin, B.H. Washer, M.J.
Williams, D.R. Windsor, A.H.C.
Worth, P.M.

NOES

Adams, D.G.H. Albanese, A.N.
Beazley, K.C. Bevis, A.R.
Breton, L.J. Burke, A.E.
Byrne, A.M. Corcoran, A.K.
Cox, D.A. Crean, S.F.
Cross, J.A. Danby, M. *
Edwards, G.J. Ellis, A.L.
Emerson, C.A. Evans, M.J.
Ferguson, L.D.T. Ferguson, M.J.
Fitzgibbon, J.A. George, J.
Gibbons, S.W. Gillard, J.E.
Grierson, S.J. Griffin, A.P.
Hall, J.G. Hatton, M.J.
Hoare, K.J. Irwin, J.
Jackson, S.M. Jenkins, H.A.
Kerr, D.J.C. King, C.F.
Latham, M.W. Lawrence, C.M.
Livermore, K.F. Macklin, J.L.
McClelland, R.B. McFarlane, J.S.
McLeay, L.B. McMullan, R.F.
Melham, D. Mossfield, F.W.
Murphy, J. P. O’Byrne, M.A.
O’Connor, B.P. O’Connor, G.M.
Organ, M. Pilbersek, T.
Price, L.R.S. Quick, H.V. *
Ripoll, B.F. Roxon, N.L.
Rudd, K.M. Sawford, R.W.
Sciacca, C.A. Sercombe, R.C.G.
Snowdon, W.E. Swan, W.M.
Tanner, L. Thomson, K.J.
Vavasour, M. Wilkie, K.
Zahra, C.J.

* denotes teller

Question agreed to.

Original question agreed to.

Consideration in Detail

Bill—by leave—taken as a whole.

Mr McCLELLAND (Barton) (7.22 p.m.)—by leave—I move opposition amendments Nos (1) to (6):

(1) Schedule 1, items 1 and 2, page 3 (lines 5 to 23), omit the items.

(2) Schedule 1, item 4, page 3 (lines 26 to 31), omit the item, substitute:

4 At the end of section 149
Add:

(1B) For the purpose of determining whether an employer is a successor, assignee or transmitee of the business or part of the business within the meaning of paragraph (1)(d), the following factors must be considered:

(a) whether the activities performed by the employees in the business or part of the business of the employer who was a party to the industrial dispute are substantially the same as the activities performed by the employees in the business or part of the business of the alleged successor, assignee or transmitee; and

(b) whether the relevant business activities of the employer who was a party to the industrial dispute are substantially the same as the relevant business activities of the alleged successor, assignee or transmitee.

The existence of either or both of these factors would tend to indicate that an employer is a successor, assignee or transmitee within the meaning of paragraph (1)(d).

(1C) For the purpose of determining whether to make an order that an award does not bind, or binds only to a limited extent, a successor, assignee or transmitee within the meaning of paragraph (1)(d), the Commission must consider:

(a) whether the successor, assignee or transmitee is already bound by another award; and

(b) whether the activities performed by the relevant employees in the business of the successor, assignee or transmitee can be separately identified in the business of the successor; and

(c) whether the relevant employees of the successor, assignee or transmitee would be disadvantaged if such an order were made; and

(d) the effect of such an order on the efficiency and productivity of the business.

(3) Schedule 1, page 3 (before line 32), before item 5, insert:

4A After section 149
Insert:

149A Persons bound by awards—ships
If:

(a) a ship is engaged in the coasting trade within the meaning of section 7 of the Navigation Act 1912; and

(b) the ship ceases to be engaged in the coasting trade; and

(c) at a later time, the ship operates under a continuing permit issued under section 286 of the Navigation Act 1912;

then, from the later time, an award which bound the employer of the seamen employed on the ship when the ship was engaged in the coasting trade binds, in relation to that ship, the employer of the seamen employed on the ship when it is operating under the continuing permit.

(4) Schedule 1, items 6 to 9, page 4 (lines 1 to 12), omit the items, substitute.

6 At the end of section 170MB
Add:

(4) For the purpose of determining whether a new employer is a successor, assignee or transmitee of the whole or part of a business within the meaning of paragraphs (1)(c) or (2)(c), the following factors must be considered:

(a) whether the activities performed by the employees in the business or part of the business of the previous employer are substantially the same as the activities performed by the employees in the business or part of the business of the new employer; and
(b) whether the relevant business activities of the previous employer are substantially the same as the relevant business activities of the new employer.

The existence of either or both of these factors would tend to indicate that the new employer is a successor, assignee or transmitee within the meaning of paragraphs (1)(c) or (2)(c).

(5) Schedule 1, item 10, page 4 (line 15) to page 8 (line 9), omit section 170MBA, substitute:

170MBA Successor employers bound—ships

(1) This section applies where:

(a) a ship is engaged in the coasting trade within the meaning of section 7 of the Navigation Act 1912;

(b) the ship ceases to be engaged in the coasting trade; and

(c) at a later time, the ship operates under a continuing permit issued under section 286 of the Navigation Act 1912;

(2) If:

(a) the employer of the seamen employed on the ship when the ship was engaged in the coasting trade was bound by a certified agreement when the ship was engaged in the coasting trade; and

(b) the application for certification of the agreement stated that it was made under Division 3;

then, from the later time:

(c) the certified agreement binds, in relation to that ship, the employer of the seamen employed on the ship when it is operating under the continuing permit, if that employer is a constitutional corporation or the Commonwealth; and

(d) a reference in this Part to the employer includes a reference to the employer referred to in paragraph (c) of this subsection.

(3) If:

(b) the employer of the seamen employed on the ship when the ship was engaged in the coasting trade was bound by a certified agreement when the ship was engaged in the coasting trade; and

(b) the application for certification of the agreement stated that it was made under Division 2;

then, from the later time:

(c) the certified agreement binds, in relation to that ship, the employer of the seamen employed on the ship when it is operating under the continuing permit, if that employer is a constitutional corporation or the Commonwealth; and

(d) a reference in this Part to the employer includes a reference to the employer referred to in paragraph (c) of this subsection.

(6) Schedule 1, item 11, page 8 (line 10) to page 9 (line 23), omit the item.

Briefly, these amendments are intended to further clarify and primarily protect the interests of employees in transmission of business situations. Amendments (2) and (4) were motivated by the decision of the High Court of Australia in the PP Consulting case—that is, by looking at the activities undertaken by an employee in the situation of a transmission of business and the activities of the new employer in that situation, we believe a fairer test is developed. In the PP Consulting case it was determined that, because an employee was engaged to undertake banking work in a pharmacy, they were not engaged in a transmission of business situation because the nature of the business—namely, a pharmacy—was different from that which previously existed, namely, the St George Bank as it operated in Byron Bay. That is the first point with respect to amendments (2) and (4).

The other amendments of significance are (3) and (5). They deal with the situation of a
ship engaged in coastal shipping. We have been motivated to move these amendments by the situation involving the ship the CSL Yarra. This ship was sold by an Australian company to a related foreign company, then crewed with foreign labour. The foreign crew worked under significantly inferior terms and conditions of employment. This is a trend, as the shadow minister for transport indicated today, with an increasing number of foreign ships being allowed to operate on Australian coastal routes. It has significant input for all Australians who are engaged in the transport industry. If foreign flagships with foreign crews are allowed to operate and replace Australian ships, that will undermine the terms and conditions of not only Australian seafarers but also Australian employees engaged in the transportation industry generally. Whether they are engaged in trucking or in rail transport, they will all suffer from the same cost pressures.

So we believe it is very important to hold the line at that point where it is so easy to introduce cheap foreign labour onto ships plying Australian coastal routes. For that reason, we have proposed that, if an Australian flag vessel is transferred to foreign ownership and crewed with foreign labour but is subsequently brought back in to undertake Australian shipping routes, the terms and conditions that apply on board that vessel should be those that previously applied when it was crewed by Australian labour. We believe this will provide a disincentive to replace Australian seafarers with cheap foreign labour and, hence, will protect the interests of all Australian workers who are engaged in the transport industry. These amendments will make the situation of transmission of business fairer and will protect the jobs of Australian workers.

Mr Abbott (Warringah)—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (7.26 p.m.)—As always, I respect what is said by the member for Barton, the shadow minister. I know that he is coming at this from a position of complete good faith, great knowledge and insight into the area. However, I simply say again what I tried to say in my closing remarks: that the Workplace Relations Amendment (Transmission of Business) Bill 2002 is designed to give additional power to the Australian Industrial Relations Commission. This bill is based on the government’s faith in the commission and confidence that the commission is able to make these decisions, should it need to. I believe that the amendments proposed by the member for Barton unnecessarily restrict the discretion of the commission, unnecessarily fetter the commission and unnecessarily guide the commission—which in this case is more than capable of making its own mind up.

I also add that, in the end, the best way to ensure that workers are not disadvantaged is to ensure that they have their jobs. The best way to ensure that workers are not disadvantaged is to ensure that they keep their jobs. That is the point. The trouble with the way the transmission of business rules have evolved is that they are more about protecting job-destroying rights than enhancing job-creating rights. That is the problem.

Ms O’Byrne interjecting—

The SPEAKER—The member for Bass.

Mr Abbott—Mr Speaker, would you please restrain this person.

The SPEAKER—The member for Bass is a persistent interjector.

Mr Abbott—Thank you, Mr Speaker. Members on this side were good enough to listen respectfully to members opposite.

The SPEAKER—I will manage the House.
Mr ABBOTT—I think members opposite should extend a similar courtesy. I do not want to say any more, except to say again something which is obviously not fully appreciated by all members opposite: the best protection you can give to a worker is to enable that worker to keep his or her job, because the greatest benefit that you can give to any worker is the job itself. Under this government there are one million more jobs and there is also, as we know, higher pay for people in jobs. So I oppose the amendments.

The SPEAKER—The question is that the amendments be agreed to.

Question negatived.

Bill agreed to.

Third Reading

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (7.30 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

ADJOURNMENT

The SPEAKER—Order! It being 7.30 p.m., I propose the question:

That the House do now adjourn.

Immigration: Visa Approvals

Mr LAURIE FERGUSON (Reid) (7.30 p.m.)—The adjournment debate represents my first opportunity to refute the continued comments by the Minister for Employment and Workplace Relations on the manipulations and fabrications of Karim Kisrwani. The minister has raised three matters. Despite my clear statement last night that I have never discussed these matters with Karim Kisrwani and have never met, spoken on the phone to, met in the street or visited the home of Mr El Dirani, he continues with these comments. I will make a few points again.

I understand that this person’s fees are paid from his credit card. To me, this represents a very significant refutation of two points made by the minister. Firstly, I supposedly promised his friend Mr Karim Kisrwani that I would pay this person’s membership fees. The reality is that this person had paid membership fees from his credit card for a number of years. This does not seem like the kind of person who I would have to pay fees for. Secondly, this also refutes the alleged statutory declaration which the minister read from today—based on hearsay, as you will know if you listened to it—from Mr Karim Kisrwani which said that he ‘never paid any membership fees’. This lacks credibility.

I turn to the reference of September 2002. The minister implied that this was a very personalised, intimate reference from me for Mr Karim Kisrwani. The reality is that it was for a community radio station of which he was one of the proponents. It included statements that I still stand by this evening about his ceaseless activity, his contacts, his experience and his analysis of the community. I stand by those comments about Mr Kisrwani. We are all asked on many occasions to defend groups that seek government assistance. This group wanted a radio station, Mr Kisrwani was one of the people who approached me about it, and I was not opposed to the committee of which he was a member. If some other people had walked into the office and asked me to support this concept, I would have done the same thing.

Mr Kisrwani certainly gave a donation of $300 to me in 2001 and I have discovered a similar donation in 1999. I will check my records further to see whether he gave me donations in previous years. When this issue was first raised I knew that he had given me
political donations in the past, but I am not going to be intimidated by the government raising that. ‘So what?’ I say. It is clear that I have given receipts and thankyou letters. This is in stark contrast to the activities of the member for Parramatta, who was dragged screaming into the public light to reveal a donation by Mr Kisrwnani of $10,130 many months after it should have been reported to the Australian Electoral Commissi

So what?

I say. It is clear that I have given receipts and thankyou letters. This is in stark contrast to the activities of the member for Parramatta, who was dragged screaming into the public light to reveal a donation by Mr Kisrwnani of $10,130 many months after it should have been reported to the Australian Electoral Commission. The donations to me of $300-odd on two occasions pale into insignificance beside the $10,130 concealed by the Liberal Party in the run-up to this issue and the $5,950 in 1998-99. They are the ones who have had to reveal a donation and, as we have seen, they were dragged screaming to reveal it only when the heat went on about the Romeo’s function at which both Mr Tan and Mr Kisrwnani were major players.

Any comments I might have made about Mr Kisrwnani predate the exposure of material to me in May this year. In May this year two of my constituents raised with me the question of the interaction between the Minister for Immigration and Multicultural and Indigenous Affairs and Mr Karim Kisrwnani in the matter of Mr Bedweny Hbeiche. I assure members that my attitude has changed very dramatically. My earlier attitude to Mr Kisrwnani predates my knowledge that he was in a business relationship with Filipino fugitive Dante Tan and that their operations were part of eventually persuading the immigration department to ignore the previous cancellation of Mr Tan’s visa and expedite the conferral of his citizenship. The Liberal Party can quote till the cows come home what I have said about Karim Kisrwnani in the past. The reality is that since May I have become aware of the racket that is operating in immigration—the way in which Mr Kisrwnani has arranged that the constituents of a wide variety of members of this parliament are approached by relations of claimants and phone calls are then made to the minister’s office to fix cases. That is the operation that has been going on. That is the racket that has been operating in regard to immigration in this country. You can start tracing through ancient history in 2001 and 1999—or 1742—but that is the situation.

(Time expired)

Palestine: Peace Process

Ms LEY (Farrer) (7.35 p.m.)—I wish to let the House know that I have this week taken on the task of chairing this parliament’s Friends of Palestine group. I pay tribute to the previous chair, the member for Parramatta, for his leadership of the group and the way he has consistently promoted friendship from us, as parliamentarians, towards the Palestinian people.

My involvement in this issue comes from my upbringing in the Middle East and the keen interest in its history and future I acquired then and still have today. As a child I lived in Qatar and the Emirates and grew up knowing the Arabs as open, friendly and generous. During a somewhat solitary childhood I developed a great and enduring attachment to the land and its people—to the white sand dunes; the dry water beds; the thorn bushes; the tracks across the desert as well as the long, fast roads; the oil flames burning; the palm shacks; the goats roaming throughout; and the persistent, unrelenting heat.

Australia supports the road map initiative of President Bush, a secure future for Israel and an independent Palestinian state. Our Prime Minister has said:

... we recognise the legitimate aspirations of the Palestinian people. They have a place in the sun in the Middle East ...

Only shaky progress has been made on the road map so far. I remain optimistic. I see the new Palestinian government led by Prime Minister Abbas, a person who has previously
spoken out against the militarisation of the intifada, as having a chance to bring the militants into line. I see President Sharon as having made positive statements about peace and having the credibility to be listened to seriously. Most importantly of all, the United States, after its success in Iraq, is in a position to exercise greater regional influence.

Palestinians in the occupied territories lead existences of daily suffering and deprivation. Israeli citizens are held back by the fear of terrorism. For the road map to succeed, both sides are going to have to make concessions; both sides are going to have to yield. In Sharm El Sheikh, President Bush urged Israel to give the Palestinians a state they can call home. He said:

I mean that the world needs to have a Palestinian state that is free, and at peace, and therefore my government will work with all parties concerned to achieve that vision ... we must not allow a few people, a few killers, a few terrorists, to destroy the dreams and hopes of the many.

The Palestinian Authority has had its police headquarters destroyed and police will need to regroup and retrain. However, it must hold to the agreement it made when it signed on to the peace process: to control and eventually dismantle the military cells of Hamas, an organisation that has rejected not only the road map but Israel’s very existence; although I understand they have hinted they might agree to it—after an Israeli withdrawal from occupied territory.

Extremists on both sides cling to the idea that repeated suicide bombings and assassinations will bring about different results and will somehow create an outcome: the end of occupation, the end of terror. But as we have seen year after year, this only leads to more of the same. For every Palestinian terrorist leader assassinated, one, two or many stand ready to replace them. With every group of innocent Israelis bombed on their way to work, the determination of those opposed to the road map grows stronger.

Since the beginning of the Intifada, both sides have fought a long, bloody and essentially wasted struggle. The risk is that, exhausted though they must surely be, they have become anaesthetised to the violence and are prepared to accept this as ‘situation normal’ and lock themselves in for another 20 years of conflict. In the same way that Israel demands security for its citizens before it will make peace, Palestinians require the same. Israel must recognise that some of its settlement activity has been provocative. President Bush stated recently, ‘Israel must deal with the settlements. Israel must make sure there is continuous territory that the Palestinians can call home.’ As Colin Powell said in July last year:

When you start knocking down buildings with bulldozers, don’t expect people not to respond to this kind of activity. When you start announcing more settlement activity, this does not create conditions that cause the other side to be less responsive or less violent.

Comparison with Northern Ireland’s troubles gives me hope that there can be peace. There was a feeling in Britain for many years that the terror campaign in Britain and Northern Ireland would never end. Northern Ireland suffered its worst atrocity ever in December 1998, when a car bomb exploded in the heart of Omagh. Twenty-nine people were killed and 220 were injured. I am sure many expected the delicate peace negotiations to run off the rails. On 21 December, thousands took part in a candlelight procession through the streets of Omagh, in memory of the victims. Among them was John Kelly, a Sinn Fein assemblyman, once a leading IRA figure. On this occasion he used a word that Irish republicans had refused to utter through years of conflict. That word was ‘condemn’. I look forward to the day when we arrive, unequivocally, to the point where this shift in
thinking is reached in the Israeli-Palestinian conflict.

There is great pain and great determination on both sides of this debate. It is not a matter of making a judgment about whose pain is greater or more legitimate. It is not a matter of finding a solution that is, in a purely objective sense, fair. There is no formula for absolute justice. The US President is to be commended for his commitment, and we urge him to stay determined and resolute. We see and hear so much about the battle. The average Palestinian does not hate the Jews; they just want a normal existence. I see this friendship group offering support in this quest for an ordinary life. We look forward to working constructively with the Israeli Friendship Group. (Time expired)

Workplace Relations: FMP Group

Ms KING (Ballarat) (7.40 p.m.)—Tonight in my electorate, 600 workers remain locked out of their place of employment. On Monday night, the FMP Group, formerly known as Bendix Mintex, locked its workforce out for a month over stalled enterprise bargaining negotiations. For the workers and their families, the uncertainty caused by the lockout and the subsequent threat by FMP to close the Ballarat plant if work bans are not lifted and negotiations recommenced has been devastating. The economic loss that is being experienced by the company, and subsequently to the local economy, is also devastating for our local community. The families in my electorate cannot afford for this dispute to be prolonged. They cannot afford to go without wages as the school holidays start, rent and mortgage payments fall due, loan repayments fall short, or they get sick and need to access a doctor. I have to ask myself how things could have come to this: 600 workers locked out of their place of employment days before the school holidays.

The Minister for Employment and Workplace Relations likes to come into this place and rail against union strikes, but he has been remarkably silent on the issue of lockouts. It would be good to see some consistency, finally, from the minister on this issue. The action by the company is regrettable. Disputes get solved only through negotiation, not conflict. I do not know of many disputes that have been resolved by a company locking out its workforce. The only way to resolve this dispute is for both parties to get back to the negotiating table as a matter of urgency. This seems to be the new world of industrial relations under the minister's Workplace Relations Act. The legislation is unworkable and has set up an adversarial system at the same time as it has removed the powers of the industrial relations umpire to intervene.

Two weeks ago, the Labor Party introduced legislation to restore the powers of Australia’s industrial umpire—the Australian Industrial Relations Commission—to require parties to bargain in good faith in the workplace. These powers would require employers and employees to adopt basic ground rules for bargaining, such as face-to-face meetings; agreed negotiating procedures, subject to appropriate undertakings as to confidentiality; the disclosure of relevant information, such as executive pay rises; considering and responding to proposals; and adhering to commitments given in negotiations.

The commission’s good faith bargaining powers were stripped away by the Howard government in 1996, leading to divisive and prolonged disputes like the one that is unfolding in my electorate. At the heart of the dispute is the issue of the protection of entitlements. We have already seen in my electorate what can happen when a company shuts up shop and the entitlements of its workforce are not protected. The John Valves
workers were left without their full entitlements and have had to rely on the limited GEERS scheme to get a fraction of what they were owed. The government has steadfastly refused to introduce Labor’s proposal to protect employee entitlements. It has stalled on doing what it said it was going to do prior to the last election—legislate to put employee entitlements before other creditors. I do not blame the unions for wanting to try and protect employee entitlements. We have seen in my electorate what happens when they are not protected. Labor’s scheme does exactly this, but the government refuses to even debate it in this place.

Unlike the Howard government, Labor is committed to helping resolve workplace disputes by restoring the powers of Australia’s independent industrial umpire, the Industrial Relations Commission. The minister must finally acknowledge that the government was wrong to reduce the powers of the independent umpire to resolve industrial disputes—abandoning parties to the destructive weapons of the strike and the lockout.

Bendix Mintex—now FMP Group—has a proud history in our town. It has a proud history of contributing in our town in a way only a company that employs 600 workers in a small community can. It is imperative that FMP Group and the Australian Manufacturing Workers Union get back to the negotiating table. It is urgent that the company opens the gates and allows the workers back to work whilst the negotiations continue. It is essential that they sit down not in four weeks time, as the company has said it will do only if bans are lifted, but in the coming days to work out the disagreements they have so that 600 workers can get back to work.

It is incredibly important to the workers of FMP that this dispute gets resolved quickly. They represent a large proportion of the manufacturing sector in my electorate, and I encourage all parties to the dispute to keep cool heads at a time when hard heads could prevail. I certainly hope that the FMP Group and the AMWU can get back to negotiations quickly. Lockouts do not resolve anything. Negotiation is what is going to resolve this dispute, not locking 600 workers out just days before the school holidays.

Korean War

Moncrieff Electorate: Drug Education

Mr CIOBO (Moncrieff) (7.45 p.m.)—Australia has a proud record of being a fearless contributor in times of war. I rise this evening to talk about two issues. The first is a time in our nation’s proud history that is often referred to as ‘the forgotten war’. Today marks the 53rd anniversary of the outbreak of the Korean War. I am very pleased to rise in this chamber in memory of the sacrifices and great efforts that were made by so many veterans on behalf of our nation in Korea. Australia was one of the first nations to commit units from all of the three services to fighting in Korea in the 1950s, and our units had a small but very significant role to play under United Nations command in Korea in what is now referred to as ‘the forgotten war’.

In standing here tonight, I pay homage to those veterans who reside in Gold Coast City who fought in the Korean War. In particular, I acknowledge Han Chang Sik, who is President of the Gold Coast Korean Society, and also Kevin Wills, a very active member of the Gold Coast veterans’ community. It was recently my privilege to present Kevin Wills with a Moncrieff community award. I read for the benefit of the House a small piece that was in the awards booklet that describes what Kevin gets up to in his work for the veteran community. He was recognised for:

... his individual and unselfish efforts in identifying and pursuing social and economic justice for his fellow veterans and their families. He has
campaigned for over twenty years to ensure proper maintenance of the graves of Australian Servicemen located in Malaysia. Kevin is persistent, determined and totally dedicated in pursuit of his voluntary commitment to fellow veterans.

The second and quite separate issue I wish to raise was raised in an article in today’s Gold Coast Sun. A very concerning situation is taking place in Queensland with the Beattie Labor government’s refusal to continue funding Life Education. Up until 2000, the Beattie Labor government funded the Gold Coast branch of Life Education $500,000 a year. But, unfortunately, since 2000 the Queensland state Labor government has decided it is unnecessary to educate children about the dangers of taking drugs. I was pleased to read today that a Sorrento mother of seven, Robyn Hoare, has joined forces with a father of two, Terry Hannagan, in lobbying the Queensland state government to reinstate the $500,000 funding it used to give to this important, invaluable and life-saving program. The fact is this is an important program that goes to ensuring we help as much as possible to drug-proof our children for their future.

In this day and age, it would seem only the Howard federal government is serious about tackling the absolute scourge that is drugs in modern day society. We have our Tough on Drugs strategy, an important part of which is our National Illicit Drug Strategy. This program is about doing several things. It is about preventing the flow of drugs onto our streets, rehabilitating those who have been unfortunate enough to be caught in the snare of taking drugs and making sure our armed force—that is, the police—who are combating and fighting the war on drugs on a regular basis have at their disposal the tools necessary to, we hope, in the long term win this war.

It is a great shame, though, that, despite these great steps forward the Howard government is making, the Queensland state government has a very different attitude. I am disappointed to advise the House that education of youngsters in Queensland primary schools about drugs has dropped from 180,000 children in 2000, when the funding was in existence, to now fewer than 137,000 children, because the Queensland Beattie Labor government refuses to continue funding the program. In fact, only 40 out of the 68 primary schools on the Gold Coast now have Life Education available to make their children aware of the dangers of drugs. The Beattie Labor government should join with the Commonwealth government in making sure we stand in a strong line against drugs and educate our children about the perils of taking drugs. I urge the Labor government to put some money back into this invaluable program to drug-proof our children for the future.

Calwell Electorate: Basketball

Ms VAMVAKINOU (Calwell) (7.50 p.m.)—As parliamentarians, we are often fortunate enough to experience the success stories of our communities. Last Saturday night I attended a very special event which celebrated 25 successful years of the Broadmeadows Basketball Association—or the Broncos, as they are now known in basketball circles around the country. For a great part of my electorate, the sport of basketball has provided a community and team spirit without peer. On its inception in 1978, the Broadmeadows Basketball Association, originating at the Devon Road, Oak Park scout hall, was initially created merely as an outlet for the youth of the areas and surrounding suburbs, providing an insight into a sport that was still in the infant stages of popularity. The driving force behind the establishment of the club was Mal MacKay, a tireless activist who dedicated his life and time to the Broncos. There were others also,
including people like Mary Porter and her family.

From the early 1980s the Broadmeadows Basketball Association made the most of the boom in basketball popularity and quickly positioned itself as one of the leading providers of basketball activities in the north-western suburbs of Melbourne. In the mid-1980s, things really began to happen for the Broncos. In 1984 the team in fact became the Broncos, and in their first year they finished sixth out of the 15 teams in the South East Australian Basketball League, while their division 3 team won the championship. In 1986, the Broncos got a new home, relocating to the new Dimboola Road stadium and making the ‘The Corral’ their home court. Conveniently located in the heart of Broadmeadows, near schools and public transport, the stadium has allowed for the further incorporation of teams from outer suburbs.

Today, the Broncos have some 200 teams, both men’s and women’s, at junior and senior levels. In fact, there are 25 junior teams with some 100 local kids participating. There are four senior teams in the National Basketball League and teams in the South East Australian Basketball League. The Broncos have developed a fine tradition of encouraging young women to play basketball and the quality of the coaching and the support offered means that many young girls are able to develop to their full potential. In fact, some of the Lady Broncos, as they are known, have gone on to train at the national Institute of Sport here in Canberra.

But it is their junior development project that should be singled out for special praise. A year ago, they employed Mike Speers, an affable Californian, to be their junior development coordinator. Mike works with local schools and associations, promoting basketball and other activities for kids. Part of this includes an after school program run twice a week, which 50 kids attend, and also a school holiday program, which runs from 9.30 a.m. to 3.30 p.m. with 100 kids per week in attendance over the two-week period. This is a great effort for a great local club that looks out for the welfare of its young kids, especially given the shortage of school holiday programs and places available to kids with working parents during the school holiday period.

As I indicated earlier, the highlight of the 25th anniversary dinner last Saturday was the announcement of the club’s team of the century. For a crowd of over 200 people the event was an opportunity for team-mates of the past as well as current team members to get together and to reminisce about the good days of old and anticipate the good days of the future. The camaraderie and the community spirit that resonated all night is something that all of those associated with the Broncos should be very proud of.

I would like to take this opportunity to extend my thanks to Terri Sutton, the president of the Broadmeadows Basketball Association, and to the very affable Michael Collins, the treasurer, along with many other committee members who are a great example of the hard work and endeavour that typifies the Broncos. Congratulations should also go to those responsible for organising Saturday night, Mr Jim Milligan and Glen Milner, who put in a lot of effort to make sure that the function last Saturday night was a great success.

It has often been said that there is no ‘I’ in the word ‘team’ and that is very true in the case of the Broncos. In fact, the Broncos have typified this particular saying and illustrated a community spirit and ethos that makes me, and no doubt the rest of the community that I represent, very proud.
Collaborative Leadership

Mr BILLSON (Dunkley) (7.54 p.m.)—I rise this evening to talk about changes going on in leadership within our community and a leadership concept and philosophy embraced by the Howard government. We know that centralised decreeing of solutions, either out of Spring Street in Melbourne for the Victorian community or out of Canberra, rarely provides the kinds of sustainable solutions communities are looking for. We need to move to a different posture that recognises that people active within communities, who are part of communities and working with communities are often best placed to identify the things that are important to those communities and make the best responses to the social, family and community pressures that are being experienced.

Through my studies—which were a character-building exercise—I did some work on collaborative leadership which suggested that the time has passed when there was a single font of all wisdom and that we need to adopt that different posture I mentioned. I will quickly outline why I think the collaborative approach that the government has embraced, through its Stronger Families and Communities program and its partnerships program in the area of drugs and drug support and rehabilitation services, is the only way forward. I will use two examples from my community to illustrate the point.

I thank the University of Richmond for their work on collaborative leadership, which suggested that the time has passed when there was a single font of all wisdom and that we need to adopt that different posture I mentioned. I will quickly outline why I think the collaborative approach that the government has embraced, through its Stronger Families and Communities program and its partnerships program in the area of drugs and drug support and rehabilitation services, is the only way forward. I will use two examples from my community to illustrate the point.

I thank the University of Richmond for their work on collaborative leadership, in which they talk about collaborative leaders being able to inspire commitment and action by catalysing, convening, energising and facilitating others to create a vision and to solve problems. It is about getting the best out of everybody. My view is that our community is best when we are getting the best out of everybody.

Collaborative leaders are peer problem solvers. They help groups to create visions and solve problems, not by making the decision for the group or doing the work for the group but by actually working with and among the group. Collaborative leaders take responsibility for building broad based involvement, getting people involved, engaging other people and embracing alternative and appropriate community interests.

But collaborative leaders also carry the torch of hope. Collaborative leaders sustain hope and participation by valuing everybody’s contribution and by valuing participation and the input that parties bring to a particular challenge. They help to set a series of incremental and obtainable goals and then celebrate success. You cannot solve a huge problem overnight but what you can do, working with others, is incrementally make gains on the challenge that you are addressing and make sure that those gains are celebrated.

When we were launching the Pines community project—a project funded by the Howard government through the Stronger Families and Communities strategy and launched by the Treasurer in Frankston North—I talked about what that means in a civic context and how, rather than use Stronger Families and Communities as a solution, we should use it as a plaza.

I drew that from some of the work that I had covered in my course readings, which talked about leadership providing a plaza—a place for people to come together; a place where a government such as ours can provide resources to help the community evolve and respond to the challenges that are there by bringing stakeholders together and by recognising that within all communities there is capacity within organisations, within individuals and within community leaders. A plaza is a metaphor for providing a space
where everybody can contribute what they are able to offer. It is not a pyramid; it is not a top-down decree but a place where people can come together and, through their joint efforts, tackle things that matter to the community.

*Civic Partners*, a 1997 publication by John Gardner, talks about the symbiotic relationship between a community and its leadership. We are only as good as the other allows us to be. If our community is supportive of things that civic leaders are doing we can go forward; if civic leaders are supportive of what the community is doing we can go forward together. Gardner recognised that point and talked about how all citizens should have the opportunity to be active, to be involved and to be able to respond to the challenges that are there. We all carry a burden for our free society. We all have a responsibility to tackle those challenges and make sure that we turn up and make our contribution and help shape the responses in our community.

There are two real life examples of this going on in my electorate: the Pines project that I spoke of and also the Youth Futures project, Living in Full Effect—which has the acronym LIFE. That project is one which works with people with occasional drug use problems and encourages them find more productive and more meaningful pathways and to develop their own capacities and skills to help them solve problems that they turn to drugs to ease the pain of. They are brilliant examples that I commend to the House.

**House adjourned at 8.00 p.m.**

**NOTICES**

*Mr Abbott* to present a bill for an act to amend laws relating to workplace relations, and for related purposes.

*Mr Ruddock* to present a bill for an act to amend the Migration Act 1958, and for related purposes.

*Mr Williams* to present a bill for an act relating to discrimination on the ground of age.

*Mr Williams* to present a bill for an act to amend certain acts as a consequence of the enactment of the Age Discrimination Act 2003, and for related purposes.

*Mr Williams* to present a bill for an act relating to the making, registration, parliamentary scrutiny and periodic repeal of legislative instruments, and for related purposes.

*Mr Williams* to present a bill for an act to deal with transitional and consequential matters arising from the enactment of the Legislative Instruments Act 2003, and for other purposes.

*Dr Nelson* to present a bill for an act to amend legislation relating to higher education and the Australian Research Council, and for related purposes.

*Dr Nelson* to present a bill for an act to amend the Vocational Education and Training Funding Act 1992, and for related purposes.

*Dr Nelson* to present a bill for an act to amend the States Grants (Primary and Secondary Education Assistance) Act 2000, and for related purposes.

*Dr Nelson* to present a bill for an act to amend the Telstra Corporation Act 1991, and for other purposes.

*Dr Nelson* to present a bill for an act to amend legislation related to communications, and for related purposes.

*Dr Kemp* to present a bill for an act to amend the Fuel Quality Standards Act 2000, and for related purposes.

*Mr Anthony* to present a bill for an act to close the Student Financial Supplement Scheme to applications from 1 January 2004.

*Mr Anthony* to present a bill for an act to close the Student Financial Supplement
Scheme to applications from 1 January 2004, and for other purposes.

Mr Slipper to present a bill for an act to amend the law relating to statistics, and for related purposes.

Mr Slipper to present a bill for an act to amend the law relating to financial services and markets, and for other purposes.

Mr Downer to present a bill for an act to amend laws about non-proliferation of nuclear and chemical weapons, and for related purposes.

Mr Abbott to move:

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

Mr Tuckey to move:

That, in accordance with section 5 of the Parliament Act 1974, the House approves the following proposal for works in the Parliamentary Zone which was presented to the House on 25 June 2003, namely: Old Parliament House gardens reconstruction additional works.

Mrs Draper to present a bill for an act to amend the Flags Act 1953.
Wednesday, 25 June 2003

STATEMENTS BY MEMBERS

Human Rights: National Action Plan

Mr McCLELLAND (Barton) (9.40 a.m.)—In 1994 the federal government tabled Australia’s national action plan on human rights at the United Nations Commission on Human Rights in Geneva. National action plans were a recommendation of the 1993 Vienna World Conference on Human Rights, having been suggested by the Australian government as a means by which countries could in a practical way improve their observance of human rights standards. Australia’s plan was a clear statement of the steps being taken to promote and protect the human rights of Australian citizens. It was intended that the plan be comprehensively revised every five years.

Over time, Australia has encouraged other countries to develop plans, particularly in our neighbourhood of the Asia-Pacific region. In 1998, Indonesia published its plan, which was a welcome achievement. Also in 1998, the Minister for Foreign Affairs and the Attorney-General both announced that Australia would comprehensively revise our own plan. A working group was established and an extensive process of consultation was promised. That was almost five years ago. Since then, Australians have seen and heard absolutely nothing. As of last month, the working group had not met for almost a year, and the revised document had not even been considered by the Attorney-General, let alone forwarded to the stakeholders for consultation. Quite clearly, the national action plan has become a national inaction plan. We have heard no explanation from the Attorney-General or the foreign minister for their extraordinary delay.

Anyone familiar with the Howard government’s human rights record would understand that they are having some difficulty scraping together their human rights achievements. Perhaps it would assist if I recalled a few. In the last few years, for example, the Howard government has voted against the UN protocol against torture; continued to deny Australian women the benefit of the UN protocol for the elimination of discrimination against women; and introduced legislation to weaken Australia’s national human rights body, the Human Rights and Equal Opportunity Commission, and to sack its specialist commissioners. I suspect that if the government is honest the national action plan, when it finally appears, will read something like a confession.

Naturally the government’s failure to produce a revised plan weakens Australia’s argument that other countries should develop their own. More importantly, it means there is no clear and contemporary statement of human rights standards that Australians can expect their own government to uphold. Australians are strong supporters of human rights, stemming from our nation’s commitment to a fair go. After five years of inaction, it is time for the Attorney-General to tell the Australian people what on earth is going on about their fundamental human rights.

Environment: Great Barrier Reef Marine Park Authority

Mr LINDSAY (Herbert) (9.43 a.m.)—The Great Barrier Reef Marine Park Authority is currently embarked on a very significant rezoning of Australia’s marine park. The Great Barrier Reef is an icon of the world, and it is important that that icon be protected from all of the
pressures that it suffers from modern living. A draft plan has been released by the Great Barrier Reef Marine Park Authority for comment by users of the reef system. Submissions will be required to be received by the authority by the end of the first weekend in August. I am encouraging every user to have a look at the draft plan and, if they would like to make some alternative recommendations, to suggest them to the marine park authority.

Last night in Townsville there was a public meeting of recreational fishermen. About 800 attended the entertainment centre. I am sorry that I was unable to be there because parliament was sitting and my duty is of course to be in Canberra when parliament is sitting. However, I encourage the fishermen to put in a submission. If they feel that a little fishing area where they like to fish has been excluded from the current draft plan, if they can give a good reason why fishing there should be allowed, they should make that point to the marine park authority.

The Great Barrier Reef Marine Park Authority has said all along that it will try to balance the needs of all of the users, consistent with the protection of the barrier reef for the next several centuries. To that end, the marine park authority listened to fishermen and included in the draft plan a significant number of yellow zones. That allows recreational fishermen to fish, but not commercial fishermen. That is a sign of the authority’s good faith. The authority will continue to operate in good faith, and there is every reason for fishermen to have confidence when putting a logical argument to the authority and expecting it to be included in the final plan.

I am disappointed that the state government of Queensland is yet to make clear either its position on the draft plan or what it might do with the waters that it, not the federal government, controls. The state government must make its position clear, and it must do so quickly, because that might influence the suggestions that respondents might want to put to the authority about how the final plan might be composed. The way ahead is for me to encourage all the users of the Great Barrier Reef Marine Park to make their views known to the Great Barrier Reef Marine Park Authority.

Telstra: Privatisation

Mr ZAHRA (McMillan) (9.46 a.m.)—I read with some alarm in the newspapers this morning about the capitulation of the once great National Party on the issue of Telstra privatisation. As someone who grew up in a country district and was used to hearing plenty of things about how the National Party—and, before it, the Country Party—was the only defender of country people in parliament at a state or federal level, I have to tell you that this will come as something of a disappointment to many people in rural and regional Australia. It is not a disappointment to me, because I always viewed the role of the Country Party, and following it the National Party, with a great deal of cynicism—and I think I was always right to have had that view about that political party.

Wouldn’t it be great if we had a strong leader in the National Party who could stand up for the interests of country people? Wouldn’t it be great if we had someone in there who had some courage, some conviction and some belief and who could stand up for the interests of people living in rural and regional Australia? I look at the new generation of National Party slick politicians—people like the member for Gippsland, Peter McGauran, and the National Party leader, John Anderson—who all went to elite category 1 schools in big cities, and I look at the background of people like the Minister for Children and Youth Affairs, Larry Anthony, whose great claim to fame in National Party involvement was being the president of the Syd-
ney metropolitan branch of the National Party, and I realise why it is that we have a National Party in this country that capitulates whenever it enters into any sort of discussion or debate with its coalition partner, the Liberal Party. It would be great if we had someone in a leadership position within the National Party who could stand up for the interests of country Australia.

Mr Deputy Speaker Causley, I know that you and many other people share my views about the weakness of the leadership in the National Party. I urge you and other people on the National Party back bench to try to stiffen up the leadership of the National Party so that we might be able to get decent services for rural people living in country Australia. I note that the price that the National Party has extracted from the Howard government for the full sale of Telstra is around $100 million for additional services for country Australia, which means that their share of the total proceeds of the sale of Telstra will be around one-thirtieth. As a country member, Mr Deputy Speaker, I know that you know that country people make up more than one-thirtieth of the population of this country. The National Party is a disgrace, and the leaders are an absolute pack of wimps. (Time expired)

Macarthur Electorate: Macarthur Relay for Life

Mr FARMER (Macarthur) (9.49 a.m.)—Last Wednesday, 11 June, I had the pleasure of attending the Macarthur Relay for Life cheque presentation at Campbelltown Hospital. The Macarthur Relay for Life was the first event to involve sponsored individuals walking, running or in some cases dragging themselves around an athletic oval to raise much needed funds for cancer research. In Macarthur last year we raised over $100,000. Every dollar raised goes towards cancer research which not only improves the quality of life of cancer sufferers but also helps to save lives. On Wednesday, the Cancer Council presented a cheque totalling $40,000 to the Macarthur Relay for Life committee. The money will be held in trust at Campbelltown Hospital to assist in the improvement of cancer services for the people of Macarthur. The Campbelltown Cancer Therapy Centre opened just 3½ months ago and since then has treated over 770 people.

Relay for Life is an overnight team event. Last year Macarthur had 39 teams registered, which amounted to 625 participants. The team members took turns at running and walking for a period of 24 hours. We had teams from all parts of the community participating, including Macarthur Ulysses, Campbelltown Line Dancers, the Nasho’s, Plumbers of Macarthur, St Helens Park School and the All-nighters just to name a few. Relay for Life is an opportunity for all of us to celebrate and remember those who have been affected by cancer and also celebrate cancer survivors. Survivors are honoured at the beginning of the Relay for Life by participating in a ceremonial first lap of honour where other participants cheer them and their carers during the survivors walk. This year Macarthur had 31 survivors walk, along with 27 carers.

Later in the evening, on dusk, a candlelight ceremony was held where messages were written to loved ones on paper bags. These bags then had a candle placed in them. I cannot properly describe the flood of emotions from all the participants at dusk when the bags, glowing from the candles inside them, combined with a minute’s silence, were then followed by some beautiful music. All of us know someone who has been affected by cancer.

Relay for Life started in 1985 when one man, Dr Gordy Klat, put on his jogging gear and went to his local oval after hearing news that a good friend had succumbed to cancer. As a
result of walking and running for 24 hours nonstop he managed to raise $US27,000 for the American Cancer Society. In 2002 it was estimated that 45,000 people would participate nationwide.

This year’s Macarthur Relay for Life will be held on 18 and 19 October at Campbelltown Sports Stadium. The Macarthur Relay for Life committee has already been working hard to ensure this year is an even greater event with even greater success. Chili’s restaurants are committed to being the major sponsors. It is important that events such as these are given as much support as is possible.

Tourism: Tasmania

Mr ADAMS (Lyons) (9.52 a.m.)—I would like to take this opportunity to inform the House of the positive movement in tourism related activities in my home state of Tasmania. Bass Strait ferries Spirit of Tasmania I and II were purchased and put into service last year, carrying up to 1,400 passengers and 100 cars between Melbourne and Devonport. The tourist industry in Tasmania, which includes many operations in my electorate of Lyons, is, I am happy to say, going from strength to strength. Only this week our state Premier, Jim Bacon, announced that a third ferry is to begin operations between Sydney and Devonport, giving fast and comfortable sea access to Tasmania from even further afield.

In addition to this, a direct air link between Tasmania and Antarctica is now on the cards, with the recent announcement by the Australian Antarctic Division of the contracting of two planes for Antarctic service. Not only will this increase the help and support that Tasmania already gives to the southern polar operations; it will also increase Hobart’s attractiveness as the premier Antarctic information and resource centre outside Antarctica itself. This will obviously further increase the number of visitors to Tasmania—in fact, a healthy $170 million has come into the state’s economy this financial year and the new initiatives promise to generate even more next year.

With tourism numbers up over 15 per cent and the TT-Line having taken over half a million bookings this financial year, many tourist operators are recognising the potential of the island state as a premium tourist destination. At Coles Bay, on the east coast of Tasmania and in my electorate, Federal Hotels and Resorts are planning a new multimillion dollar tourist complex. This is a clear economic boost to both the east coast and the Tasmanian economy. It is up to us to put together the infrastructure needed in these areas that are starting to become the tourist areas of Tasmania. There is a lot of work to be done, but with good sense and a Labor government, such as the good one led by Jim Bacon, I believe that can be achieved.

I commend the Tasmanian government and the industrious people of Tasmania for making the most of our beautiful island. However, I was concerned to hear this morning that the National Party has agreed with the Liberals to sell the rest of Telstra. I have been involved for many years in trying to protect rural Australia. I know that you, as a National Party member, Mr Deputy Speaker Causley, and people as far back as Black Jack McEwen have been trying to protect regional Australia and have had a lot of difficulties in doing so. I wish you the best of luck in trying to reverse this decision. (Time expired)

Forde Electorate: Community Achievements

Mrs ELSON (Forde) (9.55 a.m.)—Today I would like to acknowledge the outstanding achievements of four young men who competed in the Pacific Age Rowing Championships
held at the Olympic course in Penrith. Warwick Powell and Chris Byran won a gold medal in the doubles event and Warwick, Chris and Jay Lind from Coomera Anglican College in my electorate, as well as Oliver Blenkin from the Marymount College, won a gold medal in the fours event. They have been compared with the Oarsome Foursome. I congratulate all these young boys. It is certainly a great achievement and something of which they should be extremely proud. I know that the schools which they represent are extremely proud of their efforts and I am sure that their families and friends are also extremely proud of them.

I also take this opportunity to congratulate Steven Walmsley, a bright young student from the Logan Village State School in my electorate, who recently won the Spirit of Australia competition. The competition involved preparing a project based on capturing the spirit of Anzac soldiers. Steven’s project was based on his grandfather, John McCarron, whom I had the pleasure of meeting. John fought in World War II. The project provided a great opportunity for Steven to gain an understanding of what his grandfather went through during the war. Once again, I congratulate Steven, and I also congratulate the secondary school winner Matthew Allen, the primary school winner Jessica O’Brien and the special school winner Kristy Highly. I also congratulate the Beaudesert RSL for hosting such a successful event and one which ensures that the Anzac spirit remains alive in our younger generations.

I was honoured recently to have the Minister for Children and Youth Affairs, Larry Anthony, visit my electorate to officially launch the Beaudesert Shire Lead On Youth program. This program—developed by Boystown Family Care, Lead On Australia and the Beaudesert Shire Council—is targeted at young people aged between 13 and 25 years. It aims to form stronger links between youth, council, business, community, government agencies and educational institutions in the area. This program provides a great opportunity for young people in the Beaudesert area. It was great to see so many people at the launch—and, in particular, Matt Tomlinson from Beaudesert State High. Matt is the school captain and a member of the steering committee and youth advisory board, and he spoke about projects that were already under way. I also thank the Beaudesert High School band, which provided the entertainment, and the school’s catering department, which prepared and served an extraordinary morning tea. These young people are our future. This program will give them the opportunity to realise their potential and the enormous potential of the Beaudesert shire, and it will also encourage young people to stay in the shire.

Whilst in the electorate, Minister Anthony also launched the latest Green Corps project in Jimboomba. I am sure that every member in this House appreciates the work that young people in Australia are doing through this program. This program allows young people the opportunity to receive quality training while participating in projects and addressing significant environmental issues. It was great to meet the latest group of young adults to participate in this project. It is always great to go to their graduations and see the work they have done for our local environment, and also to see how much they have developed within themselves. I wish the participants all the best with their project and I look forward to catching up with them at their graduation later this year.

The DEPUTY SPEAKER (Hon. I.R. Causley)—Order! In accordance with standing order 275A, the time for members’ statements has concluded.
Second Reading

Debate resumed from 6 March, on motion by Mr Abbott:

That this bill be now read a second time.

Mr BEVIS (Brisbane) (9.59 a.m.)—The Workplace Relations Amendment (Protection for Emergency Management Volunteers) Bill 2003 is both welcome and overdue. It is another example of the government playing catch-up. It is another example of Labor leading and the Liberals following. It is another example of Liberal tardiness. Thousands of workers in Australia are left exposed because of this government’s ideological obsession in pursuit of stripping from workers their previous entitlements and rights and ensuring that the Industrial Relations Commission was stripped of its powers to rectify those anomalies.

This bill very much follows the position set out in Labor’s private member’s bill of October last year. Had the government accepted Labor’s bill last year, the firefighters involved in last summer’s terrible fires throughout Australia, particularly the disastrous fires here in the ACT, would have known that they had federal legislation to protect their employment. The government refused to act last year when Labor put this bill, as a private member’s bill, before the parliament. We find now, the best part of a year later, the government picking up Labor’s proposal and belatedly but thankfully understanding the importance of protecting the employment status of our volunteer firefighters.

Last year when Labor introduced its private member’s bill, the Leader of the Opposition, Simon Crean, said:

With the summer bushfire season approaching, we know that we will be facing possibly one of our most difficult fire seasons ever. With the dry and dusty conditions across much of the east coast, our emergency volunteers are waiting, ready for the worst that nature can do. Our brave volunteer firefighters will once again be out in force saving lives and properties. They of course deserve our admiration but, just as importantly, they deserve our support.

He was right to say those things last year. He was also quite prophetic in his assessment of the bushfire season that was about to commence over the summer we have just had. Yet this government sat on its hands because of its usual political objections to improving the entitlements of ordinary Australian workers, and it sat on its hands because of its usual approach to things from this side of the parliament, irrespective of their merit. At least the minister was good enough in his second reading speech to, in political speak, acknowledge as much. He said:

... this bill deserves to be marked because it is one of those bills that has come forward into the parliament as a result of some initiatives and statements from members opposite, as well as from some of the instincts and impulses of members on this side of the House.

He did not have to worry about the impulses and instincts—whatever they are—of Liberal Party and National Party members. There was a bill in the parliament last October that Labor sponsored to provide this protection. John Howard, Tony Abbott and the government refused to allow its passage through the parliament, leaving firefighters exposed during a fire season in which they should not have been exposed.

This is not the first occasion on which a problem of this sort has arisen. We are here today supporting this bill because of the way in which this government, since it came to office, has
stripped from the Industrial Relations Commission its powers to deal with these issues. This bill is here because this government prevents our industrial relations umpire from making these decisions. This bill is here because this government deliberately decided to remove from awards provisions precisely like this. In its legislation under Minister Reith, this government reduced the matters that an industrial award could cover. Prior to that, awards did in fact cover matters of this sort. I cite one example: the Rural Water Industry Award 1994. It had a provision that said under the heading ‘Emergency services leave’:

(a) Employees who are registered members of a volunteer organisation who wish to respond to a declared emergency situation may be released from their normal duties without loss of salary to participate in firefighting, flood relief or other emergency activity. Provided that:

(1) release for volunteer activity is subject to no undue inconvenience being caused to the administrative unit;

(2) satisfactory evidence is provided of an employee’s bona fide involvement in the emergency activity.

(b) Leave granted under this clause shall be included as service for the purpose of recreation, sick leave and long service leave.

That is a sensible provision adopted by employers and employees in many cases and approved by the industrial umpire. This government not only forced through the parliament a law that prevented the industrial umpire from inserting those provisions in future awards; it passed a law that required all such provisions to be struck from every federal award on the books. This government left naked those volunteer workers around Australia who give their time to protect the community. It did it deliberately and it did it against the fierce opposition of the Labor Party at the time. Liberal Party and National Party members who voted for that knew exactly what they were doing, and they went ahead and took away those sorts of protections to which I have just referred.

We will be visiting this matter again because, whilst this bill deals with problems associated with some emergency management, I suspect there will be other classes of people involved whom we will have to revisit—as we did some time ago in relation to Defence Force personnel, a matter that I will touch on shortly. Why, as a parliament, do we have to do that? Because in their 1996 Workplace Relations Act the government inserted a new provision on allowable matters. They restricted allowable matters to these provisions: annual leave and leave loadings; long service leave; and personal and carers leave, including sick leave, family leave, bereavement leave, compassionate leave, cultural leave and other like forms of leave. They stripped away the entitlements that workers had to protection.

It should be noted in this debate that the government—Liberal Party and National Party members—are not content with having taken those rights away; they have in the past introduced bills into this parliament to further restrict what can be an allowable matter in an award. They have not yet learnt their lesson from the mistakes of the 1996 act. The government actually want to go further and take out of awards more items that have previously been inserted, thus further reducing the number of allowable matters. Thankfully, this parliament—Labor, Democrat and Independent senators—have previously blocked those bills. But be under no illusions: Liberal Party and National Party members—this government, this minister and his predecessors—are committed to further reductions in those items that can be covered as allowable matters in industrial awards and in those matters upon which the Australian Industrial Relations Commission can make decisions.
It is because of those actions of Liberal politicians that we are now required to pass laws to
give back to workers protections they previously had, and these people certainly deserve that
protection. We are talking here, particularly with regard to the fire disasters, about people who
put their lives in harm’s way to protect other people and other people’s property, often in very
difficult and stressful circumstances, and do it exceedingly well. For that, as Simon Crean
said, they deserve our thanks and support. It is a pity that it has taken this government the best
part of a year to catch up with Labor’s proposal to provide that support.

I mentioned that this is not the first occasion that we have had to play this catch-up game
where the Liberal Party seek to put right something that they got wrong years after Labor
sought to correct the problem. The other example I referred to was the provision with respect
to armed services personnel. It is worth touching on, because it too is a volunteer service criti-
cally important to our national wellbeing that has fallen foul of the same process. In 1998 I
raised this matter in the parliament and I moved amendments to government legislation that
would have protected workers in their employment when they undertake service as reservists
in our Army, Air Force and Navy reserves. This government rejected those proposals. It took
three years for the government to bring in their own legislation, in 2001, to provide that pro-
tection which I, as shadow minister at the time in 1998, sought to provide to all of those
workers. Indeed, when the 1996 bill was being dealt with, this issue was drawn to the atten-
tion of the parliament, and Liberal Party and National Party members consciously removed
the right of workers to have a clause in awards that protected them when they were on service
as reserve soldiers or reserve personnel in the Army, Air Force or Navy. It is a hard proposi-
tion for anyone in the community to understand and, in the light of current security issues,
quite frightening, yet this government took three years to catch up with Labor’s proposals in
that area. If there is some small mercy in the events before us today, it is that the government
have managed to catch up with us one year after they should have done it rather than three
years after they should have done it. That is cold comfort but will hopefully provide some
support to workers in the bushfire season that we expect at the end of this year.

I am concerned with one aspect of the bill as I read it. The bill refers to protection of a per-
son’s employment: that is, it makes it unlawful for someone to be dismissed. The explanatory
memorandum to the bill points out that the bill amends the act to protect emergency manage-
ment volunteers from unlawful dismissal in certain circumstances. It says that the reasons, set
out in the relevant subsection at the moment, include temporary absences from work due to
illness or injury, race, colour, sexual preference et cetera—which members would be familiar
with. The bill proposes to include a new ground to make it unlawful to dismiss an emergency
management volunteer who is temporarily absent from the workplace on voluntary emergency
management duty. To attract this protection, the absence must be reasonable in all the circum-
stances. No-one would have any argument with that in this debate, I am sure. Where it falls
short is that it does not preclude other discrimination against that worker. It does not, for ex-
ample—like the award clause I read before—provide that the service of that employee on
emergency volunteer service work be included as service for the purpose of recreation leave,
sick leave and long service leave, nor does it prevent a person being discriminated against in
their career and in future career paths.

I raise this as a very live prospect. I dealt with this matter in respect of armed service per-
sonnel. I am aware of people who as reservists have confronted major problems in their civil-
ian employment, where they have quite openly and plainly been told by their superiors that they will not be promoted in their civilian employment unless they reorder their priorities and stop spending time with the Army Reserve. It is not hard to imagine a similar conversation being had with a member of a rural fire board who is required to undertake regular monthly training so that they can do their task safely, both for themselves and for the community they serve. There is nothing I see in this bill to protect workers from having their promotion threatened as a result of volunteer activity. If I am wrong on that, I would encourage the minister in his reply to these matters to set out clearly where that protection exists in this bill. Equally, I can see nothing in this bill that would ensure that a person undertaking work as a community volunteer would have that service recognised for the purposes of their recreation leave, sick leave, long service leave or other usual entitlements. That is, to all intents and purposes, it is treated as if it were service in the employ of the company—although, of course, it would be without pay.

I would ask government members and the minister’s advisers to look at that issue and I would ask the minister in his reply to explain to the parliament where those protections lie in this bill. If, as I suspect, they do not exist in this bill I encourage the minister to once again play catch-up, to once again take Labor’s suggestion, which I am now offering, and introduce legislation to fix that problem. People who undertake this voluntary service deserve to know not just that they cannot be sacked but that their career prospects are not going to be disadvantaged. It seems to me not unreasonable that if they are undertaking work in a serious emergency where they may be engaged for a few weeks in the year—it is not going to be a common experience, but we know it happens—then they should not find, when their annual leave comes around, that they have been docked time. They should not find, when they subsequently become sick, that their sick leave account has been reduced because they were out trying to protect the community—to protect all of us.

I have a close friend who is involved in a rural fire service just outside Brisbane. He is regularly involved in training and in maintenance of equipment. He is very proud of the work he and his colleagues do, and rightly so. He raised with me last year this issue—that they have no protection in their employment and there is no recompense. That is a genuine concern people on the ground have. That point was raised with me in advance of Labor’s private member’s bill in October last year. This is not the parliament acting ahead of the game; this is us responding to a genuine concern that ordinary workers in the community have.

I raise a further point, which I appreciate is a much more complex issue: the situation of volunteers who are self-employed people. We recognise the problem of self-employed folk who enlist as reservists in the armed forces, and there is a scheme to provide them with some financial support. I think we as a parliament need to look at providing some recognition of those self-employed people—whether they be farmers, electricians or plumbers—who stop their work for a week to go and fight fires or to help those in flood-ravaged areas of our country. They also deserve some recognition in this. This is, I think, a much more complex issue, and it probably involves some financial commitment that would have to be factored into a global budget position. But I encourage both sides of the parliament to look at that problem, because we in this country undervalue the work of our volunteers. We praise them and laud them after an emergency in which they have performed their work but, I have to say, in between those emergencies they tend to go unnoticed, unrecognised and, sadly, under-resourced.
In passing this bill, we do not just have an obligation to provide protection for volunteers’ employment; I think this parliament is also being provided with an opportunity to give some serious consideration more broadly to the important role our volunteers play in emergency services. If they were not undertaking those duties as volunteers, the community would have to pay an enormous cost to provide the same level of skill, or it would face disasters of substantially greater proportions that would of themselves bring very high costs. These people provide a valuable service to our community, from one corner of Australia to the other. This bill is right to provide employees in that situation with protection from losing their jobs. On my reading of it, it fails dismally in providing the further protections I think it needs to provide to ensure that their other conditions of employment are not also jeopardised. I await the minister’s response in reply to that, and I look forward to an opportunity to debate further the question of assisting self-employed workers, who I think deserve our recognition.

I welcome the government’s belated acceptance of Labor’s private member’s bill of October last year. I am impressed that this time—unlike with the Defence reserves—it has not taken them three years; they have managed to come around and understand the importance of this within 12 months. But I would urge the government to revisit the fundamental cause of this—the reason we have this bill at all—which is that the government have stripped from the industrial umpire the power to make these decisions and have taken away from workers the sorts of entitlements they previously had in industrial awards. That is where the remedy should be. This parliament should be changing the industrial relations legislation in this country to put that fairness back into the system. Only when that is done will we have properly resolved this issue and allowed the people at the workface—the employers and the employees in individual enterprises, with the approval of the industrial umpire—to put in appropriate provisions, rather than going through this circus of legislation after legislation, delayed as it is, to try and fix these on a one-off basis.

Mr SECKER (Barker) (10.19 a.m.)—I rise to give my support to emergency management volunteers by speaking for the Workplace Relations Amendment (Protection for Emergency Management Volunteers) Bill 2003. In seeking to amend the Workplace Relations Act the government is recognising the invaluable contribution made to our community by emergency service volunteers. The sheer amount of time and effort contributed by these people could not possibly be made up by regular emergency service organisation employees alone. To put it simply, we could not do without volunteers. It is therefore highly important that some measures be taken in order to protect our emergency service volunteers from dismissal as a result of absence from work while serving our community.

In order to better illustrate the impact volunteers in general have on our community, I would like to relate to the House the contributions and achievements of some of my own constituents in the seat of Barker. Several of them have made great contributions to various emergency services in South Australia, but the worth of volunteers in general to our society is what I would like to emphasise the most. I recently held the Barker community awards in my electorate to provide some small recognition to volunteers who make our community what it is. There were four outstanding volunteers to whom I had the pleasure and honour of presenting community award certificates; they are just the kinds of volunteers that this legislation intends to assist.
Mr Craig Harris, for example, has spent the last 34 years as a Country Fire Service volunteer, firstly with the Willunga brigade, then with the Morphett Vale brigade and now with the Yankalilla brigade. During that time he was one of a select few volunteers to be trained as a fire investigator. He is also a former captain of Yankalilla brigade, a particularly important role given that it is a joint Country Fire Service and State Emergency Service brigade, as many are in South Australia’s rural areas. He currently serves on the regional AIMS team and is one of only a small number of volunteer breathing apparatus instructors. A colleague of Mr Harris told me that he has completed every course the CFS has to offer and has trained and guided many younger members in his many roles. I was also told that Mr Harris has ‘given unselfishly to the community and has risked his life for the ideal that the CFS stands for—protecting and serving the community’. Mr Harris’s contribution is typical of that made by the people this bill seeks to protect. We are fortunate to have such a dedicated emergency management volunteer in our community.

Similarly, Mr Graham Lander has been a tireless worker for the Normanville Surf Life Saving Club. During the first two years of the club’s existence, 1998-99—which coincided with my entry into this parliament—Mr Lander, as building manager, negotiated with the Yankalilla Council for a clubroom site and liaised with a number of environmental groups, Surf Lifesaving South Australia, designers, engineers, planners and so on. Furthermore he led a fundraising effort at a local level, also gaining the support of the council and the Emergency Services Fund. He continued in this role for the next two years and also assumed the mantle of club president.

During the actual construction of the clubrooms in 2001 it became apparent to the club’s management committee that, for various reasons, neither cost nor completion targets would be met. To make matters worse, the possibility of contractual and legal disputes threatened the very existence of the club. It was at this point that Mr Lander took on yet another role—that of builder. Holding a licence himself, he was able to take the contract. He began to work three to five days a week on site, plus he spent many evenings costing and ordering materials and organising subcontractors. This vital work continued for a whole year, during which time Mr Lander continued to run a mixed farm and also established an olive grove and a vineyard. One of his colleagues said that the excellent end result—a fully functioning, licensed and equipped clubroom—would have been extraordinarily difficult to achieve without the foresight, leadership, push and building skills of Graham Lander. Again, we are talking about a person whom this bill seeks to protect during his service to our community. The commitment made to our community by volunteers such as Mr Lander is something that needs to be supported by measures such as those proposed in this bill.

Mr Lindsay Honeyman is, simply put, a bit of an all-rounder when it comes to volunteering. He started out quite young, giving up his school holidays to help his father and uncle on the old horse tram at Victor Harbor. Later, when his wife was seriously ill, he gave up work for eight or nine years to care for her and his mother. During this time, both he and his wife worked tirelessly for the local primary and high schools and the football, netball, tennis and cricket clubs. Mr Honeyman was a founding member of the local youth club and still works for it in many ways, including serving as its representative on the Recreation Centre Management Committee and carrying out maintenance work. Another project Mr Honeyman was involved in was the formation of a committee to reinstate the old steam train in Fisher Play-
ground at Victor Harbor. Not only did he go out seeking donations for this purpose; he also
did much of the actual work on the train himself.

Among countless other clubs and organisations, Mr Honeyman continues to support the
community with his active involvement in the Ratepayers Association, on behalf of which he
liaises with the council; the Women’s and Children’s Hospital and the Red Cross, both of
which he regularly sells badges for; the local Zonta Club; Rivercatchment Plants Trees for
Life; and the Victor Harbor 2002 celebrations. An acquaintance of Mr Honeyman remarked
that he has ‘packed his life with an interest in the wellbeing of others’. This is indeed the true
spirit of volunteers and is what we seek to support and encourage today.

I will mention one more outstanding person—Mrs Helen Midgley, who has provided many
years of service to the community, particularly through St John Ambulance. A volunteer am-
bulance officer with about 28 years service, Mrs Midgley was only the fourth female officer
in South Australian ambulances. She was also a training officer with the Brigade Advanced
Training Corps for 11 years and was in Operation 4 Minutes Team for three years. In 1988 she
qualified as a fully trained air attendant for St John Ambulance Air Wing and the Royal Flying
Doctor Service based at Adelaide airport, and she still works for the flying doctors and gives
them her unswerving support.

After the devoluntarisation of the St John Ambulance service, she was a founding member
of the Volunteer Emergency Medical Technician Service, assisting the underprivileged in and
around Adelaide city. This service operates seven nights a week and is staffed completely by
trained volunteer ambulance drivers. Mrs Midgley’s ongoing efforts were acknowledged in
1999 when, in recognition of 25 years as a fully qualified ambulance officer, she was admitted
to the Sovereign Order of St John of Jerusalem, Knights Hospitaller, as a Serving Sister.

Mrs Midgley is also the founder and president of the Spider Bite Recovery Support Group,
which she established after suffering from a particularly poisonous spider bite in 1999. To
date, the group has held two state conferences, has offshoots established in Queensland, Vic-
toria, Western Australia and New Zealand, has 520 bite victims registered worldwide and is
growing at the rate of four every week. She has written one book, is currently writing a sec-
ond and has put five years of research into an information pack to assist new victims in the
recovery process. She also continues to lobby for funding to continue research in the field of
necrotic disease, a particularly shocking condition. As a colleague said of Mrs Midgley, ‘she
has given so much to South Australia as a volunteer’, and that is what this legislation is all
about—protecting those volunteers.

With the efforts of such people as these in mind, it becomes very clear why we need to
safeguard the employment of these contributors so as not to discourage them and others like
them from volunteering in our society. Volunteers, those who selflessly give their time and
effort for the wellbeing of others, are those that this bill seeks to protect. We rely on them re-
lessly, often without even knowing it. For example, in the horror fires earlier this year, we
depended on so many volunteer CFS crews to fight the fires and to restore order to these dev-
astated areas. We have relied on SES crews to secure our properties after the great storms that
have hit various parts of the country, and we have relied on various volunteer medical teams
to provide medical assistance in times of need also.

We dial 000 knowing that within minutes someone will respond to our call but never spar-
ing a thought for what this means to them. Naturally, when a 000 call is made, the circum-

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stances do not lend themselves to thinking about what the volunteer must do to respond to our call, but in times of calm it pays to reflect upon what it means to drop everything and go to the aid of others. For example, what does it mean to inform your boss that you have to leave work because there is a fire? What does it mean to not be able to advise your boss when you will return? What does it mean to put all your faith in the relationship you have with your employer to maintain your job for you, knowing that at any point you may get a call that means you must leave work regardless of what deadlines need to be met?

While most employers fully understand the need to have people who are willing to drop everything to help others, there are some who only see their bottom line, and it is for this reason that the federal government has taken this step to safeguard the employment of these men and women who selflessly make the effort, give up their time and often put themselves in danger to assist others. Section 170CK of the Workplace Relations Act provides certain specified reasons for which an employee’s employment may not be terminated. These include temporary absence from work due to illness or injury, as well as race, colour, sex, marital status, religion, political opinion and so on.

This bill will include another reason preventing termination of employment—that is, if the employee is an emergency management volunteer who is temporarily absent from the workplace on voluntary emergency management duty. Reasons for the introduction of this particular bill are several. Firstly, while there is some legislative protection in some states and territories, it is not universal and the scope and limits often differ. Secondly, it will be inserted into the act by way of a statement. This bill will assist in giving effect to the International Labour Organisation’s recommendation No. 166, which states, among other things, that temporary absence from work due to civic obligation should not be a valid reason for dismissal. Lastly, this bill will be, in both a symbolic and practical manner, a statement recognising the much valued efforts and ongoing commitment of emergency management volunteers in Australian society.

In short, this bill seeks to formalise across the nation the rules and regulations as to how employers must handle the employment of emergency management volunteers and provides regulations as to how emergency management volunteers must handle their employment commitments in conjunction with their volunteer commitments. The bill will go a long way to providing some protection to employers of emergency management volunteers. Obviously, an emergency volunteer will not automatically gain the protection that this bill will provide unless they are a member of, or have a member-like association with, a recognised emergency management body.

Furthermore, an employee’s absence from their workplace must be reasonable given the situation. In order to ensure that volunteers who just turn up to emergency activities do not attract this protection, the bill will limit its provision to the situation where: (a) an employee is requested by, or on behalf of, a recognised emergency management body to carry out an activity; or (b) if no such request was made, it would have been reasonable to expect that such a request would have been made. Simply put, a recognised emergency management service must request the volunteer’s assistance or, if a volunteer reasonably expects that such a request would have been made of them, they may attend on their own initiative and still be protected. Volunteers need that protection because, in many cases, the call will not get to them and they will realise there is an emergency situation and they need to go.
With regard to the organisations themselves, there are rather a large number that could be classed as emergency management bodies. The scope of the bill includes them all by classing them as one of the following: firstly, bodies that have a role or function under a Commonwealth, state or territory designed disaster plan; secondly, firefighting, civil defence or rescue bodies; and, thirdly, any other body of which a substantial purpose involves securing the safety of persons or animals, protecting property or otherwise responding to an emergency or a natural disaster.

The limiting of protection will serve to minimise disruption to employers' businesses. Indeed, many employers are quite accommodating of volunteers among their employees. Many employers are volunteers themselves. The government is aware that many businesses already have programs in place to provide leave for their volunteers on emergency duty. They are to be commended for this policy. Similarly, this bill will provide a legislative assurance to all volunteers that their jobs will not be jeopardised as a result of their absence from work. Nevertheless, an employee should make every effort to obtain employer permission for their absence where possible and should restrict the duration of their absence to a minimum given the circumstances. It would certainly not be reasonable for an employee to leave their workplace, particularly a small business, for longer than their employer could manage.

Our community in this country thrives because so many of our residents give selflessly to others. We thrive because we know that when disaster strikes there will be a vast support network there for us, and we thrive because there is a support network provided to those who support us. The government have decided that it is time to formalise the support for those who support us and to formalise regulations which protect emergency management volunteers. We plan to safeguard their employment so that once they have finished helping others there will still be a job to go back to. We can finally provide them with some kind of relief. They will know that their interests and stability are being looked after, even though they are too busy looking out for others to worry too much about themselves. We can also provide employers with some kind of stability so that they know that, even though their employee is not at work, that employee will not be able to be absent indefinitely or to fraudulently take time off work and claim the protection.

This bill seeks to offer dual protection to all of those affected by the need for our volunteers to answer the call to duty when it arises. It is a responsible bill which provides much needed assurances to many sections of our community. Just by having these formalised assurances, many employers of emergency management volunteers and many more emergency management volunteers will feel a sense of security and certainty in going about their duties. The work of our emergency management volunteers and the impact they have on our community are so important. Considering that these people receive no payment for their services and are often out of pocket for associated expenses themselves, considering that they often forgo paid leave to answer requests for assistance and may sometimes even risk their own lives, it seems only fitting that they at least have the assurance of a job when they return to work, and the least we can do is say, ‘Thank you for your efforts.’

In the short remaining time that I have to speak, I note that the previous speaker, the member for Brisbane, put great emphasis on the Industrial Relations Commission as an industrial umpire. Certainly we could take him more seriously if his union mates accepted the umpire’s decision on all occasions. We could take him more seriously if he accepted the umpire’s deci-
sion himself instead of supporting his union mates when they flout and ignore the umpire’s decision. We could take him more seriously if he supported our legislation to strengthen the industrial umpire. But he does not, his union mates do not and the Labor Party do not, so we do not take him seriously, we do not take his union mates seriously and we do not take the Labor Party seriously. They have no policies, no leadership and no unity, and that is the Labor Party for you. I consider this a very useful bill, and I commend it to the House.

Ms JACKSON (Hasluck) (10.38 a.m.)—It is a pleasure to rise and speak on the Workplace Relations Amendment (Protection for Emergency Management Volunteers) Bill 2003 and in support of the amendment to be moved by the member for Barton. I believe that this government bill was prompted by Labor’s initiative: the private member’s bill known as the Workplace Relations Amendment (Emergency Services) Bill 2002, which was introduced into the House by the Leader of the Opposition on 21 October 2002. Indeed, when he introduced the bill, the Minister for Employment and Workplace Relations acknowledged the fact that the impetus for this legislation had come as a result of calls for changes in this area by the Labor opposition, prompted by similar calls from his own backbench, so I am pleased to see the bill here.

A division having been called in the House of Representatives—

Sitting suspended from 10.40 a.m. to 10.59 a.m.

Ms JACKSON—Just before we adjourned for the division, I was talking about the Labor opposition’s private member’s bill that dealt with similar issues. I very much supported that bill and its intention, which was to give across-the-board employment protection to emergency service volunteers. One of my concerns about this legislation, and I will come back to it, is that I do not believe it is as broad in its scope or as comprehensive in the protection that it offers to emergency services volunteers. The Labor private member’s bill received wide community support and I have to say that even this legislation, in its watered-down form, has similarly received widespread community support.

This is particularly so in my outer metropolitan electorate of Hasluck. A substantial part of the electorate is dependent upon the volunteer bushfire brigade for fire control, unlike the rest of the metropolitan area, which is catered for by the Fire and Emergency Services—which is, of course, a professional full-time firefighting service. So we are very dependent on the volunteer bushfire brigade—the Kalamunda Volunteer Bushfire Brigade in particular. That brigade has a very proud history of service to the local hills community in my electorate, and it has been a great pleasure for me to have had dealings with that organisation and to have been able to represent its interests on many occasions. It is completely dependent on its very dedicated volunteers, who give many hours of their time for its operation. The hills area in Perth is considered to be one of the greatest areas of fire risk. The Kalamunda Volunteer Bushfire Brigade spends many hours trying to provide protection to that hills community.

The brigade is also something of a family affair—many people involved can say that their parents and their grandparents also served in the local bushfire brigade. It receives financial support from the Kalamunda Shire, and I think it is appropriate on this occasion to acknowledge the shire for that contribution and support. The brigade also relies on donations from business and fundraising for all its equipment and gear. As I said, organisations like the Kalamunda Volunteer Bushfire Brigade rely on their volunteers and certainly welcome any meas-
I had a lengthy discussion with Mr Sean Winter, who is the Captain of the Kalamunda Volunteer Bushfire Brigade, regarding the Labor opposition’s private member’s bill in this area—and also the government’s legislation. He explained to me that they were having an increasing struggle to get volunteers who could be available for the bushfire service from nine to five, Monday to Friday, and that was entirely because of the work commitments of many people in the area. Unfortunately, of course, we cannot dictate precisely when fires will be nor tell them not to burn between nine and five, Monday to Friday. The volunteer bushfire brigade has very good practices in place to alert employers when volunteers are needed to attend fires, and after such fire-fighting services, of course, it always provides a letter to the employer confirming that there has been a fire and that that was the reason for volunteers having absented themselves from work. I think that also has the benefit of ensuring that the service itself cannot be exploited by people who might like to leave their employment without proper cause.

Sean Winter explained to me that he joined the fire service some 13 years ago and used to fight fires with the blessing of his employer, as did many other volunteers. He explained to me that they have noted in recent years that that kind of community spirit approach to volunteers leaving the workplace is sadly declining. That may be because, in days gone by, more volunteers were employed closer to home and, since the fire is usually in the local community, the employer, as part of that community, was happy to see the volunteer attend the fire. In my outer metropolitan seat of Hasluck, that is increasingly less often the case. We are, for the first time, experiencing difficulties in attracting volunteers and in their being able to access time off from work. I suspect this is being felt more in my outer metropolitan electorate than in some country areas where the majority of employment is still local. So I am very pleased to see this legislation introduced to at least provide some protection to volunteers.

Not only are we blessed with the Kalamunda Volunteer Bushfire Brigade; I also have a very active state emergency service unit in my electorate, and I want to take this opportunity to commend, in particular, the SES Gosnells unit. The SES Gosnells unit is a delightful organisation. It has provided many years of service to the community. It not only plays a role in the education of the community in local emergency preparedness; it is also part and parcel of any search and rescue operations, both for missing persons and for forensic evidence, and of course it assists members of the community in mitigating the effects of storms. Again, in the outer metropolitan area in the hills of Perth, where we are surrounded by lovely trees and forests, sometimes the effects of storms can have quite devastating consequences, so the Gosnells unit has played a very valuable role in that regard. The unit also supports all other emergency services and agencies in the area. The SES Gosnells unit put in thousands of hours of community service each year, and it is through that constant commitment and the support of the volunteers that the unit is able to continue to provide such a valuable service to the community. Members of the unit make similar comments to that of Sean Winter concerning their ability to continue to attract volunteers, and when I spoke to them of this legislation they also welcomed its introduction.

However, as I said at the outset of my comments, the bill fails to provide for what I think is a very important aspect; that is, it does not provide for the reinstatement of leave for volunteers to be an allowable award matter. In other words, the government is continuing to deny...
the Australian Industrial Relations Commission—the umpire—the power to create an entitlement to leave, either paid or unpaid, for volunteers who work in emergency services organisations. It does not provide for that to become an award right. That is a great irony to me because, in the state industrial relations system, such powers exist for the commission and, indeed, in Western Australia we have a number of public sector awards and agreements which, by that award regulation, provide a certain number of days each year for volunteers for emergency services. I think that the ability to have similar provision in the private sector, either by award or agreement, would be warmly welcomed.

I say that particularly in light of the concerns that have been expressed to me and by me about the difficulty we are now experiencing in attracting and retaining volunteers. In that regard, the government has taken only a small step to protect emergency services volunteers. I urge the minister, in considering his response to the speeches that have been made in respect of this piece of legislation, to give further consideration to reinstating the power for leave, be it paid or unpaid, for volunteers for emergency services organisations to be reinstated as an allowable award matter in the federal jurisdiction. That would provide the opportunity for the commission to act in that regard. I urge support for the amendment to be put forward by the member for Barton to strengthen the protection and allow the Industrial Relations Commission the right to create award rights for volunteers. That is the greatest deficiency in the legislation that is currently before the parliament. All the bill does is provide some protection against a person being dismissed for attending an emergency. What it does not do is create additional rights, or an opportunity, for people to claim leave, be it paid or unpaid, in order to be a participant in an emergency services organisation.

As I have said, this is a critical issue in my electorate. I adopt and support the comments made by the member for Brisbane in his contribution to the debate that this is an area that ought to be considered and that needs to be given some urgent attention by the government. Indeed, if we do not start to take steps in this regard, I think we will be faced in my local hills community with fewer people volunteering to make themselves available to valuable services such as the Kalamunda Volunteer Bushfire Brigade and the Gosnells State Emergency Service organisation.

Finally, there are lots of organisations that I did not specifically refer to in my comments that provide a magnificent service to the community. The St John Ambulance Association is one. I take this opportunity to commend all of those who volunteer and to thank them for their contribution. They are valued by many of us. Again, I reiterate my comments in support of the bill and, in particular, the second reading amendment to be moved by the member for Barton.

Mr HUNT (Flinders) (11.11 a.m.)—The Workplace Relations Amendment (Protection for Emergency Management Volunteers) Bill 2003 is about recognising and protecting people such as Nevyn, Bette and William Jones of the Moorooduc CFA. This family of three all received Centenary medals. I believe, although I cannot confirm, that they may be the only family in Australia of which three family members have received the Centenary Medal. The reason that they and people like them from towns such as Kernot, Baxter, Tooradin, Hastings, Somerville and Tyabb have been recognised and focused on in this bill is that these are ordinary Australians from ordinary towns who give of their time, who place their lives at risk, who make a contribution to the community on an ongoing basis and who have until now been inadequately protected in their place of work from some form of retribution by an employer.
who does not value their service in the same way. The Workplace Relations Amendment (Protection for Emergency Management Volunteers) Bill 2003 is ultimately and simply about protecting all of those workers who are absent from their work on legitimate volunteer emergency management duties, whether it is with the CFA, the SES or any other genuine emergency management organisation, and who make an enormous contribution to the fibre of towns like Somerville and Rosebud, Cowes and Kernot.

I want to address the Workplace Relations Amendment (Protection for Emergency Management Volunteers) Bill 2003 in quick stages: firstly, the background to the bill; secondly, the importance of the bill; and, thirdly, some of the specific provisions which set out to protect emergency management volunteers. The background is simple. As we noticed during the recent bushfires within both New South Wales and Victoria, volunteer firefighters and emergency management personnel make an exceptional contribution to the protection of lives and property throughout Australia. However, there is no legislation protecting these volunteers who are temporarily absent from their work when they are undertaking such emergency management duties, so they are vulnerable to their emergency management service being used as a pretext for dismissal on some other basis. In fact, many emergency management organisations have a rule that the volunteer’s first duty is to their employer, which in turn requires them to obtain permission from the employer before leaving the workplace to attend an emergency, permission which may not always be given and which may not always be obtainable under the circumstances of an emergency.

Against that background, what is the importance of this bill? What it does is simple: it will cover not only the firefighters on the front line but also the volunteers who contribute to the management of emergencies and natural disasters. These volunteers, by the very definition of the word ‘volunteer’, receive no financial reward for their efforts. They forgo paid leave in many cases to undertake these activities, and above all else they put their lives at risk. In that situation, it is critical that we emphasise the important role that employers have to play in supporting volunteer efforts in the country.

What this bill will do in particular is ensure that employees do not lose their jobs for being away from work to protect the community—whether due to accident, emergency or fire. It minimises the disruption, as well, to an employer’s business. So, in essence, what the bill will do is apply when a recognised emergency management organisation requests the volunteer to carry out an activity or if, having regard to all of the circumstances, there is a reasonable expectation that the volunteer will or should carry out the activity in his or her capacity as a member of that organisation. Very simply, if there is a crisis and it is an ordinary, reasonable and usual activity of a volunteer to respond—even if they are not called but it is part of their drill and part of their process—then the volunteer will be covered, as they should be covered. In addition, the bill will cover all situations where volunteers are not individually requested to attend an emergency but may hear of an emergency and attend on their own initiative. So it protects volunteers.

In addressing the provisions, I want to focus on one key element: subsection 170CK(2)(i), which makes it unlawful for an employer to terminate employment where the employee is temporarily absent from the workplace because they are carrying out a voluntary emergency management activity. In order to obtain this protection, a volunteer must show that the absence is reasonable in all of the circumstances.
I do not wish to speak at length on this bill. It presents a simple proposition—one that I think all people within this House can agree on—and that is that those who give of their time, who give of their resources and who ultimately place their own health and safety at risk for the good of the community should in no way be subject to any risk that they will be penalised for that activity. They should not just be given freedom from risk; they should be given reward and recognition within our community. That is why I return to people such as Nevyn, Bette and Bill Jones of the Moorooduc CFA. They are the types of people whom this bill sets out to protect, Australians who act voluntarily in communities all around Australia. Whether they are in Lang Lang, Kooweerup, Cowes, San Remo, Somerville, Red Hill or any of the areas which have volunteer CFA organisations, these are the people whom we should be respecting and whom this bill sets out to rightfully and appropriately protect. I am delighted to commend this bill and to give it my full support.

Mr ZAHRA (McMillan) (11.17 a.m.)—The Workplace Relations Amendment (Protection for Emergency Management Volunteers) Bill 2003 deals with important business. Those of us who represent country districts know how much of a risk fire is, and we know what an enormous community effort is required in order to deal with that risk. It is worth noting—and I want to say this up front—that the government are essentially responding here to a private member’s bill introduced by the Leader of the Opposition on 21 October last year. It was a bill which contained a lot of the same provisions that we now see in the government’s legislation. It is worth making the point here in this place that the government probably should not have been so bloody-minded about it and probably at that time should have just adopted the bill and the suggestion which the opposition made. It would have been a good thing, but that is not what they did. However, we have the legislation from the government before us today, which deals in large part with those issues that were raised in that original private member’s bill moved by the Leader of the Opposition.

I was just talking with my colleague and friend the member for Hasluck about the shared community responsibility for emergency management. She made the good point that in a number of the areas in her constituency, people do not work in the town in which they live. This issue that we are talking about today—people being protected from unfair dismissal from their workplaces as a result of being called to help fight a fire in the community in which they live—is particularly important when you have situations like that. It is not something which tends to exist so much in country districts, as you would be aware, Mr Acting Deputy Speaker Hawker. In country regions we tend to have more people who live in the area in which they work, so that when there is a fire it is a case of all hands on deck and it is hard for an employer not to see how their own interests are served by having a fire put out—because it is likely that their own family’s wellbeing is at risk, as well as the wellbeing of their employees. So it is a slightly different circumstance, and it is important that we recognise that this exists in a growing number of communities as people increasingly find places to work that are away from the places where they live.

An enormous amount of work gets done through emergency management volunteering. I am lucky in the electorate I represent to have a number of outstanding people who contribute to making our community safe through their participation in the CFA, the SES and numerous other volunteer agencies that are responsive to emergency situations. I have been—as I am sure you have, Mr Deputy Speaker—to many occasions such as annual presentation nights or
fundraising efforts in the course of the year, and they continue to impress me as a group of people who have a great notion of serving their community first. These people are as good a reflection as you are ever likely to find of the people who live in their various towns and districts. In my electorate, you get farmers participating, you get people who work in the power stations, you get people who work at Rocklea Spinning Mills, you get people who work in retail at the big supermarkets and you get people who are in other circumstances unemployed; you get a great mix of people involved in these agencies. They reflect our community well, and they serve our community well. What we are doing here is ensuring that those people who are in the paid work force are not disadvantaged by participating in the emergency management task that is so vital to our community.

The recent bushfires that we have had have been a very powerful reminder to us all of just how significant the threat from bushfires is in our country. I know you, Mr Deputy Speaker, would be aware, as a Victorian—as would other members, because they would have read about them in the newspapers—of just how significant the bushfires in the Gippsland region were. I was fortunate that in my electorate, in my part of the Gippsland region, we had hardly any bushfires at all. We had a few little outbreaks, but they were very quickly contained by the professional volunteers we have and by the full-time staff of the emergency services. But further east in the federal electorate of Gippsland I know people paid a very high price indeed for the bushfires, which ravaged far east Gippsland in particular, during that time. And what we saw was an incredible community effort. We saw an effort which joined employers and employees; we saw an effort which joined volunteers from right across the Gippsland region and the rest of Victoria. They came to where those bushfires were burning in far east Gippsland and they lent a hand.

And I have to say this: as far as I am aware, we had no instances where an employer did the wrong thing by their work force. No-one in the community who was a volunteer and an employee was then penalised for going to fight a bushfire. We did not have a single person, to my knowledge, in that circumstance. I think that says something very good about our region and about our community, but it also underscores the point I made a little bit earlier that, when you live in country districts, you can see much more clearly the shared responsibility and the shared obligation you have in emergency situations. The truth is that, when you work and live in different areas, that clear link is not so clear.

There was a great community effort. A large number of people made a big effort to contain those fires and to protect people’s property and families. During that time, we saw a great example of ‘all hands on deck’. People from right across our region—people who were giving up, in some cases, their own time and using their own petrol and resources—were going down and lending a hand further east because they knew that, if they were ever faced with the same circumstances, the same would be done for them. That represents a great spirit of mateship.

While a lot of attention tends to be given to those people who actually go and fight the fires in these crisis situations, we also have to make sure that we do not forget about the people who stay behind. I know the work that people do in fighting bushfires is very attractive, and it is something that people want to be associated with. There is great footage on the television, and great stories emerge from the situations where people are fighting bushfires and putting their lives on the line. However, equally brave are the firefighters who stay behind to protect the communities in which they live. These are the unsung heroes, I think, of firefighting, be-
cause it is pretty hard to stay in your community when there is a fire raging some hundred kilometres away which requires a large number of people to go and deal with it. People know that you are in the CFA or the urban fire brigade or what have you, and they say to you, ‘Did you go down to Omeo to help out with the fire?’ and you say, ‘No.’ I guess that that is not an easy conversation for people to have, because they feel the weight of expectation upon them; they feel that people expect them to have gone and fought those fires. What I want to say in this place about those people is that they do their communities an incredibly important service by staying behind and being on stand-by to respond to a fire should one take place in the community in which they live.

In the Gippsland region, we were feeling very much on edge, very much at risk and very vulnerable at the height of the bushfire situation in our region. We had outbreaks between Morwell and Traralgon, and we had outbreaks in a section of pine plantation to the south of the Latrobe Regional Hospital, and they threatened a large number of properties. If it had not been for those people in our region who had stayed behind and were able to respond to that circumstance, we might well have had another disaster and we might have been fighting bushfires on a number of fronts, instead of being able to fight the large bushfire in the east whilst containing outbreaks in central and west Gippsland. So I want to place on record the importance of the work that those people do.

We really have in Victoria, I think, an outstanding emergency management volunteer system. We have professional full-time staff who are employed by various emergency management agencies and by the state government and a professional emergency management volunteer structure which involves a number of different agencies, with direct responsibility given to those agencies by local towns and districts right across the state of Victoria. I think it is an excellent model. It has gone through some strains and changes over the course of the last six or seven years when we have seen a large amount of pressure applied to those agencies to respond to threats in a different way and to be involved in giving their volunteers a new range of skills and knowledge to deal with fire situations. I say to those people who have been involved in that task: thank you for keeping the faith; thank you for participating in that process and thank you for continuing to be a part of the CFA and the other emergency management volunteer agencies that have been part of emergency management in Victoria for so long.

Those of us on this side of the House who represent country districts understand just how important volunteers are to the emergency management task. We have many of those people in our local ALP branches and in our communities. We know them—they are our friends, they are our neighbours—and we are full of admiration for the work they do. The quality of the people we have in those emergency management volunteer organisations is a powerful expression of just how cohesive a community we live in. We have in our community decent, community minded people who are prepared to put their shoulder to the wheel to protect the lives and resources and assets of people who live not only in their own areas but in other towns and districts.

Let me conclude by saying how much we appreciate the work of emergency management volunteers and how serious we are in the Labor Party about protecting the volunteer effort people are making in emergency management. Whilst we think that the government should have acted sooner to provide protection for emergency management volunteers, we nonetheless will be supporting this legislation for the protection that it gives to people who could be
vulnerable to situations where their employer might take sanctions against them simply for carrying out the task of protecting the community in which they live.

Mr BALDWIN (Paterson) (11.32 a.m.)—It is a great pleasure to be speaking on the Workplace Relations Amendment (Protection for Emergency Management Volunteers) Bill 2003, as it will provide direct benefits to those in my electorate who give so much of their time and, indeed, who put their lives on the line for fellow Australians.

There is that great Australian spirit of mateship and stepping up to the mark when needed. Whenever the call goes out, our volunteer communities step straight up—no questions—looking for the job, looking out for where they need to participate, doing what has to be done to save people’s lives and property. That is the true spirit of Australia. I suppose that spirit was formed right back before the days of ANZAC and those horrific days in Gallipoli. That Australian spirit of mateship and the desire to help each other has been there since time immemorial in Australia’s history.

The most important thing about this spirit of Australia is that it is done without any need for recognition. We do not see our volunteer communities—firefighters, coastguards, people from the state emergency services or other volunteer rescue associations—out there looking for credit or honour, for medals or certificates. They do it because they want to do it. They do it because they know it is the right thing to do for their fellow Australians.

I am glad to see that this bill will make it unlawful to dismiss an employee who is temporarily absent from work on voluntary emergency management duty. Currently there is no federal legislation protecting those volunteers who are temporarily absent from work undertaking these emergency duties. Indeed, after the bushfires at Christmas last year I had a visit from a young chap asking for help. He had been away for a couple of weeks fighting fires and had come back to find that his job was no longer there. I can understand the concerns of the small business operator—whose name I will leave out of this—who said that his business had suffered financially because he employed only one person, and this young chap was the person he had employed and he could not financially afford to support him. But this young chap had put his own life on the line and, indeed, extended himself in the protection of others outside the area in which he had lived. He had gone down to the South Coast, to the Jervis Bay region, to fight fires in another region. His own home was not under threat, his own family were not under threat, but to him all that was important was other Australians and their property, which was at risk.

It is a pleasure to be speaking to this bill and to see this bill being put through the parliament. This bill will provide the legislative recognition that emergency volunteers deserve for their outstanding service in the protection of the Australian community. It will cover those involved in state emergency services, volunteer rescue associations, rural fire services, coastguards, coastal patrol and, in fact, any recognised volunteer organisation responding to matters of emergency affecting our community.

I reflect on the time, not so long ago, when volunteer firefighters from Paterson gave their time to help communities during the 2001 Christmas bushfires. They were some of the most ferocious fires in Australia’s history. They began on Christmas Day and finished around 16 January. When you drive along the Pacific Highway in my electorate, you can see the most damaged areas and how regrowth has appeared in the bush. In local areas there were fires at Swan Bay, Fullerton Cove, Booral, Stroud, Gloucester and Nabiac. But volunteer firefighters

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also travelled further afield—to the Blue Mountains, Gosford, Penrith, Sydney and the Hawkesbury area. There was an estimated $100 million worth of damage in New South Wales from those fires, and that figure would have been significantly higher if not for the efforts of our firefighters.

One firefighter from Paterson, Albert Kinman, came very close to death during these fires when he was volunteering his time down at Warragamba. He was working with five other firefighters at the time. Their vehicle went up in flames, taking all their belongings with it. Fortunately, no-one was injured in that particular incident but it shows how close to danger our volunteer firefighters actually came. More than 185 firefighters from Great Lakes Fire Control volunteered their time to fight fires, with some people travelling out to Parkes to help with efforts there. I congratulate Fire Control Officer Ian Lewis and the firefighters in the Great Lakes area for their efforts.

More than 80 volunteer firefighters from Dungog Fire Control Centre were involved in helping to fight the fires. I thank Fire Control Officer Allan Gillespie and his team for their efforts. The Port Stephens Fire Control Centre had around 130 firefighters working that Christmas, and I congratulate Fire Control Officer Mark Lewis and his volunteers. Maitland Fire Control Centre had around 70 volunteers working on the fires, and I extend my thanks to Fire Control Officer Barry Pont and his team.

Shortly after those fires, some 18 months ago, the Prime Minister moved a motion in the parliament recognising the efforts of those fine young men and women. In a further mark of respect, those firefighters were honoured with a certificate from the Commonwealth for their courageous efforts in serving our communities. These men and women perform an outstanding service for the community, and that is why I fully support the legislation before us today.

However, if it were not for the support of employers in Paterson, the volunteer firefighters whom I have just mentioned would not have been able to perform their duties. When I travelled around my electorate of Paterson to present the certificates, a number of firefighters made the point of thanking their employers for their support. They appreciated the fact that their employers saw the good that these firefighters were doing for their community and allowed them time to carry out their volunteer duties. Today, the Commonwealth is adding weight to that support by adding to the list of prohibited reasons for terminating a person’s employment with the new category of temporary absence from work for carrying out voluntary emergency management duty.

At this point, I should point out that, not long after the election in 2001, in November, the Port Stephens area was affected by tremendous windstorms and hail damage. True to form, the local SES volunteers were out there within minutes removing dangerous trees which were resting on houses, making sure that roofs were tarped down and doing what they had to do to make sure that people’s property was protected from further damage and that people felt secure in their environment. I also recognise the efforts that were undertaken at the Salamander Christian Outreach Centre church building, where an emergency centre was set up to provide accommodation, meals, support and coordination. I thank those people and their leader, Alan Williams, who does a tremendous volunteer job as the head of the SES organisation.

Having said that, there is one thing to note: any absence from employment would need to be reasonable in the circumstances in order to be covered by this protection. We need to see

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give and take from both the employer and the employee, remembering that these people contribute to their community but, at times, there is an incredible cost to the employer as well. So, in order for a volunteer to be covered by this protection, the absence needs to stand the reasonable test, having regard to all of the circumstances. In most circumstances there will be an expectation that the employee would seek the employer’s consent before leaving their workplace but, as always, there may be circumstances where this is not possible.

During their time away from work, it must at all times be reasonable. For example, as I said before—in the example where one young chap was laid off—for the sole employee of a small business to be away for several weeks fighting fires may not be reasonable because it may place the financial viability of that business in jeopardy and, therefore, have some very serious ramifications. The protection applies to volunteer members of a recognised emergency management body who are requested or expected to attend an emergency matter.

Legislation is usually not acceptable unless there has been broad community consultation. I am glad that the officers in the department consulted with the Australian Chamber of Commerce and Industry, the Australian Industry Group, the Australian Council of Trade Unions and, indeed, Emergency Management Australia, through the Attorney-General’s portfolio, to discuss and develop guidelines for this legislation.

Section 170C of the act will be amended to include reasons for which employers may not dismiss employees under the lines of this volunteer service. It will add to other reasons for which people cannot be dismissed, such as race, sex or temporary absence of work because of illness or injury. Dismissal on these grounds is unlawful, unless it is based on the inherent requirements of a particular job. The act also provides a clear statement that these are not normally accepted reasons for dismissal. So inclusion of voluntary emergency management duty under this provision will recognise the importance of the service that the volunteers provide in protecting our communities in times of disaster.

Finally, I am glad to say that this amendment to the Workplace Relations Act is a public statement of support for the efforts of our emergency volunteers. They are highly valued, they are respected by our community, and we need to do what we can to encourage people to participate and become volunteers through our rural fire services, state emergency services, volunteer rescue associations and coastguards. Indeed, anything that we can do in this House that encourages people to be involved in supporting and protecting their community is to be commended. I commend this bill to the House.

Mr GAVAN O’CONNOR (Corio) (11.43 a.m.)—The Workplace Relations Amendment (Protection for Emergency Management Volunteers) Bill 2003 will be supported by the opposition, although we do consider that it does not go far enough in protecting our volunteer firefighters in their employment. I think it is fair to say that the government has been dragged to the table on this piece of legislation. I remind the House that in October 2002 the Leader of the Opposition put before the House a private member’s bill that enshrined a range of protections for our volunteers in this area of emergency service activity. At that particular time, the government opposed the bill because it claimed it was unnecessary. We have experienced the worst bushfire season on record, where literally thousands of our volunteers were called into service. An unfortunate incident where one volunteer firefighter lost his employment has basically prompted the response of the government today.
We certainly do support the central element of this bill, but we do not believe it goes far enough. The bill that Labor proposed sought to restore the power of the Australian Industrial Relations Commission to grant paid emergency services leave as part of an award. Our bill attempted to protect volunteers from any form of discrimination as a result of their volunteer service. We felt that those particular provisions were worth while and worthy of consideration by the government, but what we have here is just one element of the three elements of Labor’s proposal that was tabled before the House in October 2002. This bill will add to the list of reasons termination of employment by an employer is rendered unlawful by the Workplace Relations Act 1996. The current list of reasons termination is unlawful includes temporary absence due to illness or injury; union membership and legitimate union activities; non-membership of a union; the filing of a complaint against one’s employer; race, sex or disability; and refusal to negotiate or sign an AWA. Of course, we have now added to that list by virtue of this piece of legislation.

Prior to the enactment of the Workplace Relations Act 1996, the Australian Industrial Relations Commission was empowered to make federal awards dealing with volunteer emergency leave. It was the government that basically curtailed those provisions, and section 89A of the Workplace Relations Act now provides that awards may only include certain allowable award matters, which include annual leave and leave loadings, long service leave and personal or carer’s leave, including sick leave, family leave, bereavement leave, compassionate leave, cultural leave and other like forms of leave. Volunteer emergency leave was no longer an allowable award matter. The bill that we sought to introduce and have passed in the parliament would have restored volunteer emergency leave as an allowable award matter. Of course, it is a matter now on the public record that the government saw fit at the time to oppose a piece of legislation that would have given broad and comprehensive support to volunteers and in particular to our volunteer firefighters. It is now on the public record that a key element of the legislation that was introduced by Labor has now been picked by the government in this bill. We made several attempts to bring that legislation before the House and have it passed. They were opposed by the government, but we are pleased that the government has finally come to its senses and is supporting at least one element of the bill that Labor introduced in October 2002.

My interest in these particular matters is on two levels. The first is the fact that I am shadow minister for regional services, and the whole area of budgetary allocations for bushfire purposes comes under my portfolio responsibility. I also have a personal interest in the support that we give to our volunteers, because, as members of this House will recall, the Geelong community lost several of its volunteer firefighters in the Linton tragedy several years ago. I will most certainly add my voice in support of any measure that is brought before this House that gives real support to our volunteer firefighters. That event was a tragedy for the Geelong community. Indeed, it was a tragedy for the volunteer firefighting community in the state of Victoria. It had an enormous impact on our community. I would say that only now, many years later, the effects of that tragedy have washed through the community. For the families concerned, obviously that memory will never go away, but they can be comforted by the fact that this parliament is at least taking some measures—not enough, in my judgment—that acknowledge the contribution of volunteer firefighters to our firefighting effort.
Australia has recently gone through a bushfire season which has been acknowledged as one of the worst on record. A combination of climate change factors and the drought made our forests virtual tinderboxes, and it did not take much to spark the disasters that we observed over the last summer. It was not only last summer that we faced this situation. Going back to the season before last, there were some very serious bushfires that threatened life and property in many communities throughout Australia. In this recent bushfire season, Geelong volunteers stepped in, as they always have, to assist other communities in danger. Over 400 firefighters served over the course of the season in various capacities both within Victoria and interstate. I would like to place on the public record the appreciation of the Geelong community and, indeed, of the national parliament for the efforts of those volunteers in my electorate who gave of their time and who in some situations put themselves in some personal danger for the benefit of their fellow Australians.

Members in this debate have acknowledged the important role that employers have played in supporting our volunteer firefighters. I endorse the remarks made in his contribution by the member for Paterson, who preceded me in this debate. He made two very important points, which I support. He said that it is very important in this whole area of volunteer effort that every volunteer keeps in mind their position in their enterprise and the fact that, if they do go away on voluntary service to another community, it does place pressure on that enterprise and on other employees. The test in all of these situations is one of reasonableness, and it is one that I would certainly endorse. Having said that, most employers are very pleased with the involvement of their employees in their local communities and with the fact that they do make a contribution beyond their local communities in their chosen field of volunteer activity, and they are, of course, pleased to support them in that. And they do it without getting the acknowledgement from the community that I think they deserve. So here in this debate I would like to acknowledge the contribution that has been made by Geelong employers to the firefighting effort in the state of Victoria and indeed around Australia through their support for those of their employees who happen to be volunteer firefighters and were in the last season engaged in firefighting activities.

I would also like to especially mention the support given by families and friends to volunteer firefighters. The member for McMillan made the point that these are ordinary people in our community who have a deep sense of duty to their communities and to this nation. They go about their daily business and they volunteer their time and effort, without getting acknowledgement for it, and they are happy to do it. It is that true spirit that we have identified in a bipartisan way in this debate that really makes this community of Australians very strong. It is a sentiment that is echoed around the world. I was recently in Canada, where the provinces face similar situations to those that we face here and there is a similar situation, with communities coming together to fight fires. I have been hearing on the news of the current bushfires that are occurring in the United States and the efforts of communities to contain those fires. The spirit that we claim as our own is really a universal one. It is one we should be encouraging at every level of our community.

Sad to say, I think that spirit is a little on the wane. The pressures we are imposing in our society—and the government must accept some responsibility for this—have meant that in our workplaces the task of earning a living has become very tough. Many people simply do not have the time available that they had in the past to devote to these community based ac-
tivities. Families and households are under stress from policies that have been introduced by this government. So I say to members opposite that it is all very well to get up in this debate and acknowledge the contribution of volunteers, families and employers—we join you in that acknowledgement—but we ask you to have a look at the policies that you have introduced. Indeed, this particular bill is one example of where the government has put inordinate pressures on families and households and, as a consequence, many people are not able to participate in a voluntary capacity to the extent that they would like.

But I think there is another cultural danger emerging for Australians. It is emerging among many of our young people, who have a self-centred approach to their futures and to their communities. I know the natural tendency of youth is to look to their immediate future, and I am not being overcritical here, because in the main young people do contribute quite significantly—and in my community quite heavily—in a whole range of activities of a voluntary nature. You do not go many Sundays in Geelong without seeing young people, from both public and private schools, in their school uniforms collecting for various charities. You also see young people at the traffic lights supporting our surf lifesavers and the CFA in their fundraising activities. So these comments are in no way made to disparage those particular contributions. But I think as a community we need to pay particular attention to nurturing the culture of voluntary service, because that is the real fabric that weaves our communities and brings us together.

In conclusion, I hope the measures contained in this bill will be passed. Let me restate our disappointment that perhaps the bill has not gone as far as we would have liked in terms of containing the measures we put before the House in the private member’s bill tabled in October 2002. But the government has at long last acknowledged that this particular provision is necessary. In October 2002, following the tabling of our legislation, the government said these particular measures were unnecessary. Now that we have gone through the experience of the bushfire season and we have seen the contribution that was made by volunteers, at least there is a final acknowledgement of the importance of this particular piece of legislation to volunteers throughout the nation.

On this side of the House we are accused by the government of being a policy-free zone, but I think the boot is on the other foot. We have heard from the member for Hunter about the fact that the government has no energy policy. I was in this committee several times during the last session, and I have put before the committee the fact that the government still does not have a tourism policy and, of course, I have put before this committee the fact that the government does not have a national bushfire policy. And it still does not.

It is quite extraordinary to see the minister’s press releases coming out on the issue of national bushfire policy, because he has done it all before. Following the 2001-02 bushfire season, the Deputy Prime Minister said that the government would develop a national bushfire strategy with the states and territories, and the Minister for Regional Services, Territories and Local Government stated the very same thing in one of his press releases. He commissioned Australia’s top firefighters to prepare a report, and he received it in August 2002. He binned the report, saying that it was simply a wish list of aerial firefighting resources that would be required in the next bushfire season. A very important opportunity was lost. The rest is history.
While the minister fiddled, Australia burned. It is a source of regret that, in the enormous task that faced our volunteers in the worst bushfire season on record, all we had from the government was a few sexy Elvis helicopters that they brought to the task and a few good photo opportunities for the Prime Minister and the minister concerned. However, the diversity of aerial firefighting resources that our top fire chiefs said was necessary to combat fires in the past season was not provided by the minister. He did not take the advice of his top fire chiefs from the states, and the rest is history.

I mention this for one particular reason: when you are out in the bush as a volunteer firefighter and the wind changes and you get that shiver up your spine because you know there is the potential for you to lose your life, the ability to call on an aerial firefighting resource is absolutely critical. I am very disappointed that the government did not take the golden opportunity to do something constructive in this policy area before the last season. I am passionate about this, because some of my volunteer firefighters faced it at Linton, and they were incinerated—burnt to death. So it is a very personal matter that the Geelong community raises in the context of this debate. We warmly receive the one provision that has been made in this legislation. You said it was not necessary; well it is—and so are the two other matters that were raised by the Leader of the Opposition and proposed to the House in October 2002. (Time expired)

Mr GEORGIOU (Kooyong) (12.03 p.m.)—I warmly welcome the fact that the member for Corio, despite a panoply of criticisms, actually does endorse on behalf of the opposition the Workplace Relations Amendment (Protection for Emergency Management Volunteers) Bill 2003. I think it is important that there be that sort of endorsement, and the government is very grateful to have it.

The Canberra winter may have dulled our recollection of what an Australian summer looks like, but just a few months ago we saw devastating bushfires—amongst the worst on record—sweep through large tracts of the Australian countryside, many parts of which had already been debilitated and parched by the drought. Amidst the devastation, the Australian tradition of community and comradeship shone through, and the efforts of volunteer firefighters and emergency service personnel were instrumental in limiting damage and saving many rural towns and homes from destruction. Everybody in the parliament appreciates the selfless efforts of our emergency service volunteers, and they do so very substantially.

With this in mind, it is important that we address a gap in the Commonwealth government’s legislative net—a gap which might otherwise undermine a priceless contribution. Under current Commonwealth legislation, it is not illegal for an employer to dismiss an employee who is acting as an emergency services volunteer and is absent from their place of work in order to perform an emergency duty. There are many informal social sanctions on an employer who dismisses an employee in their capacity as a volunteer firefighter, is absent from work in order to fight bushfires that threaten his or her local community. But we cannot rely just on social sanctions to protect emergency volunteers; it is incumbent upon the Commonwealth government to ensure that this protection is in place.

The Workplace Relations Act 1996 provides employees with protection from unfair termination. Section 170CK provides that an employer must not terminate an employee for reasons such as a temporary absence from work due to illness or injury. It also provides that an employer cannot terminate an employee on the grounds of race, colour, sex, sexual preference,
age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin. The Workplace Relations Amendment (Protection for Emergency Management Volunteers) Bill will insert into section 170CK of the Workplace Relations Act a new clause making it unlawful for an employer to dismiss an emergency services volunteer who is temporarily absent from the workplace for the purposes of emergency management duty. As the minister has noted, this clause reflects the International Labour Organisation’s recommendation 166 on the termination of employment, which provides that an absence from work due to civic obligation should not constitute a valid reason for the termination of employment.

It is worth while remarking that the minister thought it important to note in his reference to the ILO’s recommendation that it did not ‘represent a wider endorsement of the [ILO’s] recommendation for any other purposes of the Workplace Relations Act’. Leaving this aside, I note that Australians volunteering to assist their community in times of emergency and disaster are without question performing an invaluable civic duty.

For the protective measures outlined in this bill to apply, the employee must be carrying out emergency management activities on a voluntary basis. The employee must also be a member of—or in a member-like association with—a recognised emergency management body. The concept of a member-like association is intended to cover circumstances where a recognised emergency management body has no formal membership requirements, or where a person’s membership may have recently lapsed but the person is for all practical purposes still considered to be a member of the emergency organisation. The bill lists the categories of emergency management bodies that will fall within its protection regime. The categories of recognised emergency management bodies are deliberately wide in their scope in order to extend the bill’s protective measures to as many deserving emergency organisations as possible. The categories are: bodies that have a role or function under a Commonwealth, state or territory designated disaster plan; a firefighting, civil defence or rescue body; and any other body with a primary objective of ensuring the safety of persons and animals, and the protection of property in the event of an emergency or a natural disaster.

The protective measures outlined in the bill will apply to employees who, as volunteers, are carrying out an activity that directly deals with an emergency or a natural disaster. An emergency’s immediate preparation and post-emergency activities would be covered; however, participation in more regular activities—such as training—would not fall within the scope of the protection provided by this bill. This bill makes it clear that, in carrying out a voluntary emergency activity, the employee must receive a request from or on behalf of an emergency services body. If no request is made, the employee will still fall within the scope of the protective measures outlined in the bill if it can be determined that a request would have been made had circumstances permitted. This provision makes it clear that employees who act as ‘casual volunteers’—that is, those who take it upon themselves to provide unsolicited assistance during an emergency—cannot use the protective measures outlined in this bill as a reason for not appearing at work.

This bill complements existing state and territory legislation relating to the employment rights of emergency services volunteers, and it will provide broad coverage of the range of conceivable situations in which emergency volunteers may need to be absent from their place of work. For instance, the protection measures in this bill are not restricted to those situations
where a formal state of disaster or emergency has been declared. They will apply to any emergency situation where the employee’s absence may be considered reasonable.

In developing the measures outlined in this bill, the government has been conscious of the need to minimise disruption to Australian business. This government has a proud record of supporting Australian business of all shapes and sizes. It should be acknowledged that many employers, particularly those with few staff, do face problems if an employee is away for an extended period. It is for this reason that the bill stipulates that the employee’s absence from work must be considered ‘reasonable, having regard to all the circumstances’. This involves the employee, wherever possible, seeking the employer’s consent before absenting himself or herself from the workplace. Obviously, there will be cases of sudden or extreme emergencies where prior consent from the employer is simply not possible, and that is a consideration in determining what is reasonable in the circumstances. The duration of the employee’s absence would have to be considered reasonable, and, of course, it would be only temporary. The size of the employer’s business is another factor that may affect what is considered reasonable. Some employers have greater flexibility in terms of the ability of their business to respond across a long period of time to an emergency situation.

The purpose of the bill is to protect the employment status of employees during their periods as emergency service volunteers, not to impose a burden upon employers to provide time off work other than on agreed leave. I note these points to highlight the balance between competing interests and not in any way to suggest that employers oppose their employees volunteering as emergency service personnel—quite the opposite, as previous speakers have noted. It is a very notable attribute of Australian society that we are a nation with a deep commitment to volunteerism and allowing employees to volunteer for emergency bodies, and this is seen by most employers as a facilitation of a vital community service.

The bill will provide peace of mind to volunteers without causing undue headaches to employers. Volunteers will know that, when they are willingly putting their lives on the line to protect the people, animals and properties of Australia from disasters and emergencies, their jobs will be protected. I once again welcome the support of the opposition for the bill and I commend the bill to the House.

Ms VAMVAKINOU (Calwell) (12.12 p.m.)—I rise today, like my colleagues before me, to speak on an issue that is increasingly becoming an important part of hundreds of local communities throughout Australia. Such is the case in my electorate of Calwell. For years our volunteer firefighters have been at the forefront of some of this nation’s worst and most horrific natural disasters, particularly bushfires, but they are at our service in all emergencies, from small-scale to large. The Workplace Relations Amendment (Protection for Emergency Management Volunteers) Bill 2003 presents us with the ability to reward this service and show them that, as a parliament and as a community, we value the provision of their voluntary labour and will do everything we can to protect them and uphold their rights in the workplace.

In my electorate of Calwell, as the urban sprawl continues, pockets of suburbia are getting closer to what is essentially bush and scrub land. It is a sprawl encouraged, admittedly, by this government’s First Home Owners Scheme, but it is done without much thought for the growing household debt, the cost to social services or, more importantly, the lack of infrastructure for these new communities. In the case of fire protection and prevention, CFA volunteers play a sizeable part in the defence of farmland, residences, livestock and human lives. Similarly,
the SES volunteers play an integral role in ensuring that, when disaster does, unfortunately, strike, people are inconvenienced as little as possible and the lives of those affected are quickly restored to some level of normality.

In this bill the government finally seeks to protect emergency workers from unlawful dismissal if their absence is reasonable in all circumstances. While it is generally agreed that this risk of dismissal is minimal, and it is felt that most employers take a reasonable approach to their volunteer firefighters, matters can occasionally get out of hand and dismissals can and have occurred. While such matters are often addressed with a simple communication on the part of the emergency services commander, in some cases, as illustrated by the recent sacking of a firefighter in Victoria, this reliance on reasonableness is indeed not infallible.

This bill seeks to address the status quo where, under current Commonwealth legislation, it is not illegal to dismiss on these grounds. Furthermore, it seeks to bring the legislation in line with recommendation 166 of the International Labour Organisation, which states that absence from work due to civic obligations is not a valid reason for termination of employment. While the Australian Labor Party welcomes the government’s new found admiration for the ILO recommendations, we suggest that the government should develop an even greater fondness for the spirit and conventions of the International Labour Organisation.

It is interesting to note that from the period 1972 onwards, of the 24 conventions ratified by the Commonwealth government, only one convention has occurred during coalition governments. While this government may be awash with the spin and rhetoric of looking out for the battlers, its track record, both in this domain and in a host of others, is suggestive of a very different picture. This is further illustrated by the fact that in October 2002, when the Leader of the Opposition aired the possibility of protecting our volunteers, the response by the government was one of refusal, arguing that such legislation was not in fact necessary.

We are relieved that the government has finally decided to address this issue, and we are amused to note that the minister feels that his decision to present this bill was a result of some of the initiatives and statements from members on this side of the House. Labor has a proud tradition of, and is dedicated to, protecting the rights of workers. With this bill the parliament has an opportunity to correct the omission that still exists whereby under Commonwealth law it is, as I have said, not illegal to dismiss on the grounds of absence due to emergency volunteer service. As I have already indicated, while such action is unlikely, the fact that it nevertheless exists is a matter that requires urgent and careful consideration.

For decades volunteers from all persuasions of Australian life, all deserving of our admiration and support, have been an integral part of the fabric and, indeed, the survival of this country. This bill presents us with an opportunity to defend the very people who risk life and limb for the rest of the community—whether they are volunteers in my electorate fighting grassfires or the hundreds of volunteers who converged on Canberra in January to help fight that national bushfire disaster—and heroically save life and property across the nation.

I know the community values the commitment and sacrifice of volunteer firefighters, because it understands the fundamental role they play in protecting property and life. While we welcome the government’s actions in introducing this bill, we are disappointed to see that it is a diluted version of the private member’s bill introduced by the Leader of the Opposition—which has resulted, of course, in this bill before us today. While the minister might like to dwell on his new found instincts and the impulses of government members to protect workers,
he appreciates that this bill has indeed come forward into the parliament as a result of opposition initiatives and statements. Nevertheless, at the final hurdle, the government has stumbled and once again fallen short of a satisfactory defence for workers. As I said, while we welcome the intention of the bill—which is to prohibit the termination of employment for volunteers as a result of participation in emergency volunteer operations—it is, in its present form, far from being a satisfactory outcome.

The bill fails in two key related areas, and it is in these two areas that the opposition is moving amendments to the bill. The first of the areas relates to the overarching threat of victimisation. The amendments moved by the opposition would give the Federal Court the jurisdiction to guard emergency services volunteers against victimisation. Such victimisation can be quite implicit in its nature and can include instances where volunteers, whilst not being threatened with loss of employment, are nevertheless assigned less favourable tasks or shifts or are systematically and constantly overlooked for promotional advancement. It is utterly deplorable that these people are ultimately discriminated against simply because of their solid commitment to community spirit. As a parliament we need to do all we can to prevent that from occurring. While instances of victimisation are rare, state emergency services are unanimous in their welcoming of any additional employment protection. Despite the fact that this is a concept that might be a little unfamiliar to the government, the utmost protection of these employees is of great importance not only to the workers themselves but also to the Australian Labor Party.

The second aspect that the government has chosen to ignore in its protection of workers relates to paid leave. The amendment to this bill that the Labor Party will move will restore the power of the Australian Industrial Relations Commission to make award provisions granting emergency service volunteers paid leave. While the government may not deem it necessary, it has been well documented that the CFMEU has already lodged a claim with the commission to vary two federal awards, the results being the protection of volunteers’ pay in addition to their employment. This is indicative of a growing trend within a range of industries, one that has seen a host of companies provide paid leave for emergency services.

As reported in the Australian on 29 January 2003, Holden, Telstra, Coles Myer and Bendigo Bank already have in place a system ensuring that employees who are absent from work due to volunteer service are not financially disadvantaged. As a parliament, we need to be adamant in our protection of workers, especially when those very same workers go out of their way in order to protect our homes, our properties, our communities and ultimately our lives. I would like to quote former President of the United States Bill Clinton, who I believe has epitomised almost perfectly the whole spirit of volunteering. Bill Clinton said:

Volunteering is an act—it’s an act of heroism on a grand scale, and it matters profoundly. It does more than help people beat the odds; it changes the odds.

The passage of this bill, together with the amendment, would be a perfect illustration to these volunteers that they have the support and the appreciation of their communities, of their federal parliament in particular and of the nation as a whole.

Mr BRENDAN O’CONNOR (Burke) (12.21 p.m.)—The Workplace Relations Amendment (Protection for Emergency Management Volunteers) Bill 2003 is indeed very important, but it is rather a pale imitation of the one that was introduced in October last year by the Leader of the Opposition. Again, this bill follows the opposition in the area of policy. The
Prime Minister followed the Leader of the Opposition when he decided to commemorate a day for the Bali victims. The Prime Minister followed the Leader of the Opposition when he started to make doorstep references to maternity leave. The Prime Minister’s references to maternity leave were rather inane, but nonetheless they were subsequent to the Leader of the Opposition’s comprehensive proposal on maternity leave. Again, the government follows the opposition in attending to what is clearly a deficiency in the Workplace Relations Act—more importantly, a deficiency in attending to the needs of the many thousands of volunteers across the country, many of whom reside in my electorate of Burke.

As the member for Calwell said, volunteers are the lifeblood of the community—not just volunteers who fight fires but also volunteers who do all sorts of other things in the community. I suppose what we are looking at today are those emergency services requiring people to quite often give up their own time but, on occasions when they might otherwise be gainfully employed, to give up time undertaking the protection of their own community. I think under the auspices of emergency services we should also add the volunteers who come to the aid of communities suffering from either drought or flood, the other excess. There are many volunteers who do that, and I think they should be referred to.

This bill is a narrow construction of the Leader of the Opposition’s bill that was introduced last year. It gives only very limited protection to those volunteers who might have to attend an emergency while at work and who might find themselves facing the wrath of an employer. I think these employers would be in the minority, but nonetheless they do have the ability to terminate their services. Firstly, let us examine the very limited capacity of this bill to protect the interests of those volunteers. Clearly, this bill will not allow employers to terminate the services of volunteers who attend to an emergency and who return to work that day or subsequent to that day. I applaud that. I think that is quite correct. It is something that the Labor opposition supports overwhelmingly but, again, it does not go far enough.

It is fair to say that we do not expect volunteers to risk their jobs as well as their lives; but it is not fair to say that this bill properly encompasses the needs of volunteers in the workplace, because the needs of volunteers in the workplace go beyond whether they can be terminated. It is important to ensure that volunteers are not adversely affected by contributing to their communities in the way that they have chosen to do in emergency services. It would be quite foolhardy of this nation to allow that. The Prime Minister likes to stand on his soapbox and laud the efforts of volunteers but when it comes to comparing the two bills—the bill to which we refer today and the bill introduced by the opposition in October last year—this bill is inferior in many respects. It is inferior because it fails to give any assurance to volunteers that they will not be adversely affected in terms of promotions or the way in which they may be treated by their employer. Indeed, it does not even provide for their time of absence to be paid for if that was agreed to under a federal award.

These deficiencies show yet again that this government are ideologically blind to the needs of volunteers. By that I mean the passion and energy this government put into narrowing the entitlements of employees supersedes their concern for volunteers in this society. That is a disgrace. With respect to this area, which the Prime Minister has made so much mileage out of, you would think he would have come across to the opposition’s view and said, ‘Yes, there should be no ability for an employer to diminish the career capacity of people who have volunteered in emergency services.’ But the Prime Minister has not said that. The government
have failed to say that. Whilst I support the bill I think it is very narrow in its construction. It pays lip-service to the needs of the many workers who volunteer.

I have some personal experience with many hundreds of volunteers. I have the good fortune of representing workers in local authorities and water boards. Historically those authorities have always expected their work force, in times of flood and fire, to attend to local needs. It has been their custom and practice for many years. In Victoria, under the Kennett Liberal government, there were changes to that. All of a sudden those undertakings by local authorities diminished and there was more pressure on them to act as if their duties to the community at large, compared to their day to day activities, were no longer important. I think since the Kennett government lost the 1999 election that is starting to turn around.

I would like to cite one live example of what can happen when there is no protection afforded to these volunteers. I was personally involved in a matter that had to do with the Bellarine Bayside foreshore committee, which I believe is in the member for Corio’s electorate but might overlap with the member for Corangamite’s electorate. This foreshore committee’s manager, who was appointed by the then Kennett government, wished to place the employees under duress so that they would sign Australian workplace agreements. And he had some success because he had all the employees in the outdoor workforce, except one, signing an Australian workplace agreement. That one worker had a job to cut the lawns around the foreshore and on one amazing day he was on his ride-on mower and he was mowing the lawns. As is his right, he was without an AWA; he was resisting the efforts of the employer to have him sign up to an individual contract.

He was on his ride-on mower and his pager went off. He was an officer of the CFA—a lieutenant, if you like, of the CFA in that area—and he was asked to attend to a fire, which he did. He locked up the ride-on mower, phoned his office and left a message with the reception staff to say that he was attending to a fire. He got on the vehicle; in fact, he was the only officer available and that truck could not go out, under the rules of the CFA, without his attendance. He went to the fire—thankfully, it was not a large fire—and he helped put the fire out. He came back to his workplace and finished his mowing—would you believe? The next day he received a letter of termination, and the first reason in that written termination was the fact that he had abandoned his employment by going to a fire without getting permission from his manager. That actually happened in a local government authority in Victoria, only three years ago.

As an employer you would have to be a fool, for a start, to think that the community would accept you dismissing that employee, particularly given that he was employed by a local government authority. Indeed, this employer, knowing they could not use the fact that the employee would not sign an AWA, decided instead—thinking, ‘I’ll be cute here’—to sack him on the basis that he abandoned his employment and went to fight a fire down the road. That is what this employer did. As you can imagine, I was very happy to get involved in that matter. Too often dismissals are not very easy matters to deal with, but in that case, representing that employee, we sorted that matter out very quickly to the satisfaction of that employee.

The point that has to be made is that there was no protection under the award. Sure, the community got together and there was a lot of public outcry. Whilst the fire was small, it was very close to the Linton tragedy. Indeed, this employee knew a number of those fighters that the member for Corio mentioned who tragically lost their lives in the Linton fire. You would
have thought in an area that was so sensitive to this issue that there could not be a possibility that a local authority would terminate a worker with the express reason that he abandoned his employment to fight a fire, but that is exactly what happened.

This is a very important bill, though very narrowly constructed and therefore not providing the real protection needed for the volunteers across this country. We support the bill. But again it is another example of the government following the opposition in an area that it has failed to attend to because it has no domestic agenda whatsoever. It is another area where it is following the leader—in this case, it is following the Leader of the Opposition in introducing this bill. We support the bill, but it certainly falls far short of attending to those other issues that we have referred to—namely, giving the capacity for people to take paid leave and providing protection to ensure that the workers that might be involved in emergency services in a voluntary capacity are not adversely affected in their career, in their workplace.

These failings, I think, highlight not just a deficiency in the government, not just tardiness in the drafting of legislation, but an ideological conflict, an ideological blindness. In the end, they would far prefer volunteers to suffer than actually accept that the Workplace Relations Act may have to be properly broadened to ensure that these fantastic contributors to society are protected at the workplace.

Mr McCLELLAND (Barton) (12.33 p.m.)—The opposition will be supporting the Workplace Relations Amendment (Protection for Emergency Management Volunteers) Bill 2003 in the Main Committee. I should indicate that in the Senate we will be moving some amendments which we believe will improve or appropriately broaden the bill. If those amendments fail, we have indicated to the government we will nonetheless support the current bill because it is at least an improvement, albeit a lesser improvement than that proposed in a private member’s bill moved by the Leader of the Opposition.

The bill provides our emergency service volunteers with job protection. This is an important measure for several reasons, not the least being that the last thing volunteers engaged in emergency operations should have to contend with is the fear of losing their jobs while fighting a fire, rescuing a drowning child or caring for injured Australians in a disaster situation. Fortunately, most employers support and appreciate the service their employees perform as volunteers in the emergency services area. It is rare for employees to suffer detriment or retribution as a result of their volunteer services. Nevertheless, there are examples of this, as the member for Burke recounted from his previous experience. Labor believes that job protection for employees who volunteer for emergency services is not solely a question of legal rights and remedies; it is equally important for our laws to recognise the value the community attaches to volunteers.

By enshrining job protection for volunteers in Australian law, this parliament will add to the list set out over eight paragraphs in the Workplace Relations Act containing various impermissible reasons for an employer to terminate the employment of an employee. Such reasons now include temporary absence due to illness or injury, various union activities, race, sex, age and the taking of parental leave. The list of banned reasons for the dismissal of an employee is not just a recitation of proscriptions on employer behaviour; it is much more than that. It is a reflection of Australian and international values of what is fair and just in the workplace. Here the law directly expresses community standards and values on what should and should not be allowed in the workplace. By adding service as a volunteer in emergency
situations to this list, the parliament will be keeping our laws in touch with community standards and expectations.

The protection this bill will provide to workers will cover almost all Australian volunteers. This is because the constitutional foundation for this protection will be Australia giving force to its obligations under the International Labour Organisation’s recommendation 166, Termination of Employment Recommendation 1982. Article V of the recommendations adds to the list of invalid reasons for dismissal that were set out earlier in the ILO’s Termination of Employment Convention. The recommendation reads, among other things:

Civil obligations should not constitute valid reasons for an employer to terminate an employee.

By the parliament passing this law, Australia will be further adopting the job protection standards identified by the ILO as having general application, and this course of action is welcomed by Labor. This course of action will also mean there will be some overlap between state and federal laws on job protection for emergency volunteers. Labor takes the view that this overlap will not detract from the operation of state laws and, where state laws give additional protections to that which is provided for in this bill, it is not the intention of this bill to derogate or detract from the operation of those state laws. For example, under the State Emergency and Rescue Management Act 1989, a New South Wales act, volunteers are protected from victimisation in their employment. The current federal bill does not go to that issue. Nonetheless, Labor expects that New South Wales employees covered by the state act will retain such protections in addition to the remedies that will be afforded to them under this bill.

In making this comment, I should add that Labor would prefer that this bill go further and provide, as far as is constitutionally possible, protection for all Australian workers from victimisation in employment as a result of their volunteer activities. I should also point out that Labor did introduce into the House prior to this bill a private member’s bill—in fact, it was introduced by the Leader of the Opposition—to highlight the significance of the issue that provided employees with protections against victimisation because of their participation in emergency situations as a volunteer. In addition, Labor’s bill reinstated the Australian Industrial Relations Commission’s powers to include in awards volunteer leave provisions. Labor sought this provision because it had faith in the commission to deal with the leave issue in a balanced way, taking into account the case for employers to pay wages to employees engaged in voluntary activities against other competing arguments, not the least of which is the impetus to keep well-staffed, capable and professional emergency services.

Within sight of this parliament earlier this year, Australians were faced with disaster in the form of a savage and calamitous bushfire. The fire caused much grief and loss, but Australians reacted in the way we expect: by helping their neighbours, giving to those who lost their homes and businesses and taking risks to save others. This bill recognises the spirit of aid and comfort that emerges in disaster, and for those reasons we will support the government in respect of this bill. As I have indicated, to expedite the bill’s passage we have agreed to its proceeding through the Main Committee without amendment. We will seek to move amendments in the Senate, it being noted that ultimately we would in any event support the government’s bill, as it is at least a significant improvement on the vacuum that currently exists in protection for volunteer workers.

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (12.40 p.m.)—in reply—In summing
up the Workplace Relations Amendment (Protection for Emergency Management Volunteers) Bill 2003, I thank members on both sides of the House who have spoken and who have taken an interest in this topic and urged upon me and the government the necessity for a bill along these lines. As usual, I particularly thank the shadow minister for workplace relations, the member for Barton, for his very thorough and carefully considered contribution.

Some members in the course of this debate have raised questions about possible discrimination and possible victimisation of emergency services volunteers. I believe that, in all reasonably conceivable circumstances, those matters are already adequately dealt with in other legislation. But this is an important bill, because it is important for us as a society to indicate to emergency service volunteers that we take them seriously, that we encourage what they do and that we do not want to see them in any way damaged or hurt because of their participation in protecting our community. It is very encouraging that the shadow minister has indicated Labor’s support for the bill notwithstanding the fate of any amendments in the Senate. I think it would be most desirable to have this bill through the parliament well before the coming bushfire season, because we do not want any emergency service volunteers to feel under any unnecessary pressure or to have any unnecessary anxiety as we go into the next summer.

Question agreed to.
Bill read a second time.
Ordered that the bill be reported to the House without amendment.

Main Committee adjourned at 12.44 p.m.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Social Welfare: Disability Support Pension
(Question No. 1579)

Ms Jann McFarlane asked the Minister representing the Minister for Family and Community Services, upon notice, on 06 March 2003:

On the most recent data, how many disability support pension recipients reside in (a) Western Australia and (b) the postcode areas of (i) 6018, (ii) 6019, (iii) 6020, (iv) 6021, (v) 6022, (vi) 6029, (vii) 6060, (viii) 6061 and (ix) 6062.

Mr Anthony—The Minister for Family and Community Services has provided the following answer to the honourable member’s question:

(a) 55,976.
(b) (i) 666, (ii) 320, (iii) 270, (iv) 626, (v) 101, (vi) <20, (vii) 770, (viii) 1,782, (ix) 916.

Data current at 07/03/2003.

NOTE: Figures represented with <20 are not provided to protect the privacy of these customers.

Prime Minister: Ministerial Statements
(Question No. 1613)

Ms Burke asked the Prime Minister, upon notice, on 18 March 2003:

(1) How many ministerial statements have been made in the years 1996 to 2003.
(2) In respect of each ministerial statement: (a) what was the name and portfolio of the Minister who made it, (b) on what date was it made and (c) was it published.
(3) In respect to each ministerial statement that was published; (a) how many copies were printed, (b) what was the cost of publication and (c) what was the method of distribution of the printed material.

Mr Howard—The answer to the honourable member’s question is as follows:

I am advised by my Department as follows.

(1) 95, noting that, when the same statement was also made or tabled in the other chamber on behalf of the responsible minister, it has not been counted twice. Statements made as part of the Budget have not been included.
(2) (a) and (b)

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1Statement made by Senator Ellison (Special Minister of State) on behalf of the Minister for Environment and Heritage.
Mr Ripoll asked the Minister representing the Minister for Family and Community Services, upon notice, on 18 March 2003:

(1) What strategy does the Government have in place to address issues such as homelessness induced by funding cuts under the Commonwealth State Housing Agreement.

(2) How many people are homeless in (a) Australia and (b) each State and Territory.

(3) How many people are homeless in each federal electoral division and, in particular, the electoral divisions of Oxley and Blair.

Mr Anthony—The Minister for Family and Community Services has provided the following answer to the honourable member’s question:

(1) There are no funding cuts to the Commonwealth State Housing Agreement (CSHA).

On 25 October 2002, the Commonwealth offered the States and Territories a new agreement that will provide funding of $4.75 billion over 5 years from July 2003. This is around $210 million more than if the current CSHA was extended, because indexation will be provided for the first time.

The key Commonwealth strategies to address homelessness are through the CSHA and Supported Accommodation Assistance Program (SAAP). CSHA grant funding enables States and Territories to assist low-income households whose housing needs are not met in the private rental market, in particular people with special needs, that is those with disabilities, lone parents, indigenous and the aged. By targetting these groups, the CSHA works to assist people to avoid homelessness. The CSHA gives priority access to housing for those in greatest need, including homeless people. Specific strategies will be negotiated bilaterally with each State and Territory.

As well as the broad objectives, the CSHA has a specific program to target people who are homeless or at risk of becoming homeless, the Crisis Accommodation Program (CAP). CAP is a capital program that provides short-term housing accommodation to people in crisis. Around $40 million of CSHA funding is committed to the CAP program annually. The CAP program has close links with the Supported Accommodation Assistance Program (SAAP).
SAAP is the main service delivery response to homelessness. SAAP is a cost shared program with States and Territories aimed at providing support services to assist people in crisis who are homeless and those at risk of homelessness to move toward independence. States and Territories administer SAAP on a day-to-day basis. There are currently over 1200 non-government organisations funded to provide crisis support services to homeless people. Under the current SAAP IV Bilateral Agreement, the Commonwealth’s recurrent contribution to SAAP is estimated to be approximately $830 million (2000/01—2004/05). Combined with the States and Territories contribution, the total funding to SAAP will be over $1.4 billion for the same period.

(2) (a), (b) There are currently no reliable estimates of the number of homeless people in Australia. The Australian Bureau of Statistics used a special strategy on Census night in 2001 in an attempt to devise an estimate of people who were homeless on that night. It is expected that they will release a paper on that work as part of the 2001 Census papers.

I am however able to provide numbers of clients assisted by the Supported Accommodation Assistance Program (SAAP), which is a key program assisting homeless people. SAAP provided assistance to 95,600 clients in 2001-02 (Table 1).

Table 1: SAAP clients by State and Territory, Australia, 2001-02

<table>
<thead>
<tr>
<th>State / Territory</th>
<th>Number</th>
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<tr>
<td>NSW</td>
<td>26,400</td>
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<tr>
<td>Vic</td>
<td>29,200</td>
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<tr>
<td>Qld</td>
<td>18,400</td>
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<tr>
<td>WA</td>
<td>9,000</td>
</tr>
<tr>
<td>SA</td>
<td>8,800</td>
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<tr>
<td>Tas</td>
<td>3,700</td>
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<tr>
<td>ACT</td>
<td>1,900</td>
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<tr>
<td>NT</td>
<td>3,100</td>
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<tr>
<td>Australia</td>
<td>95,600</td>
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(3) This information is not readily available by federal electorate.

Family and Community Services: Program Funding

(Question No. 1649)

Mr Ripoll asked the Minister representing the Minister for Family and Community Services, upon notice, on 18 March 2003:

Is the Government planning to continue program funding under the Men and Family Relationship Initiative within the context of the Partnerships Against Domestic Violence Strategy beyond June 2003; if not, what will replace this program.

Mr Anthony—The Minister for Family and Community Services has provided the following answer to the honourable member’s question:

In the 2003-04 Budget the Government allocated an additional $19.6 million over four years to the Men and Family Relationships program, increasing total funding for this program to $41.6 million over eight years.

Workplace Relations: Bargaining

(Question No. 1821)

Mr McClelland asked the Minister for Employment and Workplace Relations, upon notice on, 13 May 2003:

(1) How much has the current Government spent to date on providing training or assistance to employees wanting to bargain collectively under the Workplace Relations Act?
(2) How was such training or assistance provided?

(3) How much does the Government plan to spend on providing such training or assistance in future?

Mr Abbott—The answer to the honourable member’s question is as follows:

(1) and (3) The Government provides information to employees and employers on agreement making opportunities under the Workplace Relations Act. As this forms part of the Department of Employment and Workplace Relations’ overall workplace relations service, it is not possible to disaggregate the amount spent to date on employees or how much will be spent in the future.

(2) The Department provided this information through seminars on agreement making, its telephone advisory service (WageLine) and its online advisory service (Australian WorkPlace, including WageNet).

Taxation: Bankruptcy Laws
(Question No. 1849)

Mr Murphy asked the Attorney-General, upon notice, on 14 May 2003:

(1) Is he aware that Mr Clarrie Stevens, Mr John Cummins, Mr Stephen Archer, Mr Timothy Wardell, Mr Robert Somosi, and Mr Roger de Robilliard, who have been the subject of notorious taxation fraud and other breaches, and who were formerly holders of practising certificates and registered as Barristers on the roll of the New South Wales Bar Association, are no longer registered with that Bar Association.

(2) Is he also aware that these persons were the subject of persistent adverse media coverage leading up to their ultimate discovery and expulsion as barristers on grounds of repeated abuse of licit legal instruments such as family court property orders, bankruptcy provisions including creditors petitions, family trusts and other instruments, for the sole or substantial purpose of either defrauding the Commonwealth of its revenue by evading taxation or placing assets out of the reach of the Taxation Commissioner who was usually their sole or principal creditor.

(3) What preventive and punitive steps is he taking to ensure that it is not necessary for the media and public outcry to force action to be taken in these matters; if no action is being taken, why not?

Mr Williams—The answer to the honourable member’s question is as follows:

(1) I am aware of the allegations concerning a number of barristers, including some of those named in the honourable member’s question. As advised in my answer to your question on notice 1416, all States and Territories have codes of conduct for legal practitioners. The enforcement of those standards of conduct is a matter for the relevant State or Territory legal professional body and Supreme Court. The NSW Bar Association does not inform me of what action it takes in respect of individual barristers.

(2) I am well aware generally of media coverage of the issue of high income professionals using bankruptcy law to avoid their taxation obligations.

(3) As I indicated in my answer to your question on notice number 1416 (3), the Government has introduced changes to bankruptcy law aimed at preventing people using bankruptcy in an improper way. Amendments to the Bankruptcy Act 1966 contained in the Bankruptcy Legislation Amendment Act 2002 allow Official Receivers to reject a debtor’s petition where it appears the debtor can afford to pay their debts and the petition is an abuse of the bankruptcy system. Other changes include strengthening of the trustee’s powers to object to the discharge from bankruptcy of uncooperative bankrupts after the standard three year bankruptcy period.

In relation to the issue of high income earners using bankruptcy to avoid paying tax, following consideration of a report by an agency taskforce, the Government released an issues paper on possible further changes to bankruptcy and family law to address these issues. The issues paper was
open for comment until 20 February 2003. Comments received are being considered and will assist
the Government in finalising its approach to this issue.

In our joint press release of 2 May 2003 the Assistant Treasurer, Senator the Hon Helen Coonan,
and I reported in detail on the progress made to date responding to the recommendations of the
taskforce. However, a timeline for the introduction of any amendments to legislation that I admin-
ister flowing from the report and the submissions received in response to the issues paper cannot be
determined until all of the submissions have been considered.

**Defence: Brighton Army Camp**

(Question No. 1863)

*Mr Kerr* asked the Minister Assisting the Minister for Defence, upon notice, on 14 May 2003:

1. What was the rateable valuation of the land at the Brighton Army Camp that was recently sold by
   the Department of Defence.

2. What, if any, other valuations did the Department of Defence or the Department of Finance and
   Administration obtain before the sale of the land and what were those valuations.

3. Was the land advertised to potential buyers with an indication that the expected price was in the
   range of $2 million; if not, what were the terms of the advertisements.

4. What was the price obtained for the land and are reports that this large area of land was sold for
   approximately $150,000 correct.

5. If the land was sold for substantially less than $2 million, why did the responsible Departments
   proceed with the sale for much less than the land’s valuation.

6. Is the Government aware of complaints from members of the Tasmanian community that the land
   has been disposed of for a fraction of its real value and in circumstances in which many other of-
   fers would have been made had the offer been put in terms that did not suggest that a price under
   $2 million would not have been acceptable to the vendor.

7. What is the Minister’s response to those who have expressed such concern and to those who be-
   lieve the sale process was misleading and mishandled.

*Mrs Vale*—The answer to the honourable member’s question is as follows:

1. The Office of the Valuer General for Tasmania valued the property for rating and taxing purposes
   on 1 August 1999 with a capital value of $2,400,000, a land value of $370,000 and an Assessed
   Annual Value of $98,000.

2. The Australian Valuation Office provided Defence with a market valuation of the property on 21
   August 2002 at $200,000.

3. No. The property was advertised through a tender process.

4. $150,000 inclusive of GST.

5. The valuation of the capital value of the buildings in 1999 reflects the value of the buildings based
   on the Defence’s use at the time. The valuation in 2002 by the Australian Valuation Office of
   $200,000 reflects the estimated market value of the property based on a tender process. The deci-
   sion to proceed with the sale of the property was in line with the market valuation.

6. Yes.

7. The property was placed on the open market via a tender process and later through an Agency List-
   ing in line with the Commonwealth Property Disposals Policy. This provided potential purchasers
   over nine weeks to submit an offer for the site. The price achieved represents the true market value.
**Health and Ageing: Aged Care**
(Question No. 1895)

Ms George asked the Minister for Ageing, upon notice, on 26 May 2003:

1. What is the current waiting list for (a) low care, and (b) high care beds in aged care facilities in the electoral division of Throsby.
2. How do these waiting list figures compare with those of (a) 1996, (b) 1998, (c) 2000, and (d) 2002.
3. How many (a) low care beds, (b) high care beds, and (c) aged care packages have been allocated to the electoral division of Throsby.
4. How many (a) low care, and (b) high care beds are currently operational within the electoral division of Throsby.

Mr Andrews—The answer to the honourable member’s question is as follows:

1. and 2. The Department of Health and Ageing does not maintain waiting lists of persons seeking entry to residential aged care or collect data on waiting lists from any source.

3. The electorate of Throsby is located in the Illawarra Aged Care Planning Region.
   
   At 31 December 2002, there were:
   
   (a) 1,723 low care places;
   (b) 1,457 high care places; and
   (c) 20 EACH packages and 637 Community Aged Care Packages allocated in the Illawarra Aged Care Planning Region.

4. Under the Aged Care Act 1997, providers have a period of two years in which to bring provisionally allocated places online.

**Social Welfare: Compensatory Pensions**
(Question No. 1938)

Mrs Crosio asked the Minister representing the Minister for Family and Community Services, upon notice, on 26 May 2003:

1. Can the Minister outline the Government’s policy position on the assessment of compensatory pensions, for the purposes of social security payments, of victims of political persecution.
2. Is there a generic position, or are these pensions or payments assessed on a country by country basis.

Mr Anthony—The Minister for Family and Community Services has provided the following answer to the honourable member’s question:

1. In general, unless they are specifically exempted under the Social Security Act, compensatory pensions paid to victims of political persecution are assessed as income for social security purposes. Specific legislative exemptions have been made for:
   - Amounts paid as compensation to victims of National Socialist (Nazi) persecution from Germany (1987) and Austria (1989).

   As announced in the 2003 Budget, all payments made as compensation for Nazi persecution will be exempt from the social security income test, regardless of the country making the payment, with effect from 13 May 2003. This is subject to legislative approval.

   In addition, as part of the proposed Social Security Agreement with Chile, Pensions of Mercy, paid to victims of the Pinochet regime, will be exempt from the income test. This is subject to legislative approval in both countries.
(2) The generic position is that all income is taken into account under the social security income test. Exemptions have been made as above.

Health: Suicide
(Question No. 1939)

Mr Gibbons asked the Minister for Children and Youth Affairs, upon notice, on 26 May 2003:

(1) Since the implementation of the Child Support (Registration and Collection) Act 1988 and the Child Support (Assessment) Act 1989 how many adult male suicides have there been.
(2) How many of those adult male suicides have been related to family law issues.
(3) Could he provide a yearly breakdown of figures from 1988 to 2002.

Mr Anthony—The answer to the honourable member’s question is as follows:

(1) The Child Support Agency does not collect statistics about the numbers of client related suicides. When the CSA is notified to end a case, the reason is not recorded.
(2) As the CSA does not collect this data this question cannot be answered.
(3) As the CSA does not collect this data this question cannot be answered.

Aviation: Passenger Ticket Levy
(Question No. 2005)

Mr Brendan O’Connor asked the Minister for Transport and Regional Services, upon notice, on 5 June 2003:

(1) Does he intend to abolish the Ansett Ticket Levy; if so, when does he expect that this will occur.
(2) Will the proceeds of the levy be distributed to the creditors of Ansett.

Mr Anderson—The answer to the honourable member’s question is as follows:

(1) A decision to cease the Air Passenger Ticket Levy effective 30 June 2003 was made by the Government on 10 June 2003.
(2) The Levy was collected to support payments of a loan administered under the Special Employee Entitlements Scheme for Ansett (SEESA), with funds made available to the Ansett administrators from this loan. This loan ensured that former Ansett employees received their basic entitlements, which included unpaid wages, leave, pay in lieu of notice and up to 8 weeks redundancy pay (ie. the community standard) in advance of the sale of Ansett assets.