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Tuesday, 25 November 2003

The SPEAKER (Mr Neil Andrew) took the chair at 2.00 p.m., and read prayers.

MINISTERIAL ARRANGEMENTS

Mr HOWARD (Bennelong—Prime Minister) (2.01 p.m.)—I wish to inform the House of a change in relation to ministerial representation in the Senate which took effect on 3 November. The Minister for Fisheries, Forestry and Conservation, Senator the Hon. Ian Macdonald, has assumed responsibility for the Environment and Heritage portfolio. The Minister for Revenue and Assistant Treasurer, Senator the Hon. Helen Coonan, will represent the Minister for Veterans’ Affairs. The Special Minister of State, Senator the Hon. Eric Abetz, will represent the Minister for Employment and Workplace Relations, and the Minister for Employment Services. The changes will distribute representational duties more evenly amongst Senate ministers. For the information of honourable members, I present a list of the full ministry indicating the new representational arrangements. In all other respects the list is the same as that presented to the parliament on 7 October 2003.

QUESTIONS WITHOUT NOTICE

Aviation: Air Safety

Mr CREAN (2.02 p.m.)—My question is to the Minister for Transport and Regional Services. I refer to the comments made of his National Airspace System by the acting head air traffic controller, who said:

It’s a joke. The whole fabric of airspace management in Australia... has been destroyed. It has been politicised and trivialised.

Is the minister aware that domestic and international pilots, air traffic controllers, emergency medical service helicopter operators, fixed-wing aeromedical organisations, regional and mainland airlines, and charter and flying training organisations have all said that the new system will be unsafe and will increase the risk of a mid-air collision? Why won’t the minister listen to aviation experts and operators and abandon or halt the introduction of this new flawed system?

Mr ANDERSON—I thank the honourable member for his question. For years in Australia it has been broadly agreed that low-level air space in Australia in particular needs reform. Our systems are essentially now based on models developed prior to 1950. Technology has moved on enormously since then, as has best practice internationally. The system that Australia is broadly moving to, it ought to be understood, is the North American system; that is what NAS stands for.

Mr Crean—It’s unsafe.

The SPEAKER—Order! The minister has the call.

Mr ANDERSON—The Leader of the Opposition has apparently now become an expert on aviation safety and wishes to advise us that the North American air space system is unsafe. America is roughly the same size as Australia. It has far more aviation activity in its skies than Australia and, of course, it has more inclement weather than Australia has.

Mr Tanner—It has more crashes too.

The SPEAKER—The member for Melbourne!

Mr ANDERSON—The fact of the matter is that the government—

Mr Crean—What about safety?

Mr ANDERSON—Aviation safety is purportedly important in the eyes of the Leader of the Opposition. Would you like the answer?

Mr Crean—Yes.
Mr ANDERSON—He would like the answer!

Mr Tanner—We’ll just ask Dick Smith!

The SPEAKER—The member for Melbourne for the second time! The minister has the call.

Mr ANDERSON—The fact is that the airline companies, the RAAF—the Royal Australian Air Force, hardly known for taking safety flippantly—

Ms O’Byrne interjecting—

The SPEAKER—The member for Bass!

Mr ANDERSON—and a whole range of aviation experts—

Ms O’Byrne interjecting—

The SPEAKER—I warn the member for Bass!

Mr ANDERSON—believe that this is the appropriate model for reform of air space in Australia. But, further to that, the bodies charged with aviation safety in Australia—plainly CASA, the regulatory body, and Airservices, who are charged with the responsibility for managing air space—have run this through exhaustive appropriate analysis to ascertain its safety. They are satisfied with the direction in which the process is being taken.

Mr Crean—What about all of these people’s concerns? You’re just ignoring them.

Mr ANDERSON—We are not ignoring them. The Leader of the Opposition charges that we are ignoring them. There has been exhaustive consultation. There is a campaign going on at the moment by the air traffic controllers—I don’t deny that. It is not the first time it has happened. It has happened before; it will no doubt happen again. But the objectives of the government relate to maintaining our outstanding standards in relation to aviation safety, harmonising internationally and seeking through that process not only to improve safety in the future but to improve Australia as an international aviation market, as an opportunity and a place where people will come and train and where we can hopefully grow aviation in the future. But I make the point again that the body charged with establishing whether or not it is safe is CASA, the Civil Aviation Safety Authority. It has done safety tests and will continue to do so.

Mr Martin Ferguson—Mr Speaker, I seek leave to table an email from the government’s acting head of air traffic controllers in which the system is described as ‘a joke’.

Leave granted.

Medicare: Reform

Mr NAI RN (2.07 p.m.)—My question is addressed to the Minister for Health and Ageing. Would the minister inform the House why the safety net in the government’s new MedicarePlus package is necessary? What has the government done to meet concerns about the introduction of a safety net?

Mr ABBOTT—I thank the member for Eden-Monaro for his question and I acknowledge his concerns to ensure that we get more doctors and nurses into general practices in rural and regional Australia—concerns that will be substantially addressed by the MedicarePlus package. The MedicarePlus package is a significant improvement to the Medicare system. It is a substantial structural improvement to the existing Medicare system. The brand new MedicarePlus safety net will protect Australians from significant out-of-pocket medical expenses and it closes a substantial gap in the existing Medicare system.

In 2002 there were 50,000 concession card holders who faced out-of-hospital, out-of-pocket medical expenses exceeding $500. In 2002, 30,000 Australian families faced
out-of-hospital, out-of-pocket medical expenses exceeding $1,000. These people deserve protection and they deserve protection now. I want to make it clear that the new MedicarePlus safety net does not just cover general practice costs; it covers the cost of visits to specialists and diagnosticians, and it covers the costs of out-of-hospital medical treatments such as radiation oncology. This safety net will benefit an average of 200,000 Australians a year, but all 20 million Australians will benefit from the security of knowing that they will never face crippling out-of-pocket health care costs.

For the last five months, the Senate has been inquiring into the Medicare system. That Senate inquiry received 226 written submissions and heard from more than 170 witnesses. This subject has been well and truly inquired into and there is no reason at all why the Senate needs to hear the same people say the same things over and over again. There is no reason why the Senate cannot decide this matter now. A further Senate inquiry would simply prolong uncertainty over health policy. So I call on the Senate to approve MedicarePlus this week.

Aviation: Air Safety

Mr MARTIN FERGUSON (2.11 p.m.)—My question is to the Minister for Transport and Regional Services. I refer to the urgent industry summit held in Melbourne this week to discuss concerns with the new National Airspace System. Can the minister confirm that he called his own crisis meeting last Friday but failed to invite air traffic control representatives, professional pilot groups, the Guild of Air Pilots and Air Navigators and the Australian Airports Association, because he thought they were being too public in expressing their concerns about an increased risk of mid-air collisions, death and injuries as a result of the new system?

Mr ANDERSON—I did not call a crisis meeting—

Mr Martin Ferguson—Why?

Mr ANDERSON—Because there has been no need to call a crisis meeting. There has been a regular period of extensive consultation across the industry. I believe that all players have had their say and they will continue to have their say. This is not being introduced overnight. An earlier question went to a narrow extract from an email that was sent from the then acting head air traffic controller, Phillip Faulkner, to some colleagues in the industry. That is purported to have this officer saying that this system is not safe. The officer himself has directly confirmed that NAS stage 2b, which begins on the 27th of this month, is safe.

So much for the scare campaign from the Leader of the Opposition and the opposition spokesman for transport, who seek to politicise a process which they know full well has involved a full safety check-off from the body which is responsible for aviation safety in Australia—CASA—and which they know full well has been, if you like, broadly directed by a group known as the Aviation Reform Group and headed by the head of my department. It has involved the RAAF, Airservices and CASA and there have been endless discussions, precisely because we wanted to avoid the politicisation of this needed reform in the way that we saw five years ago and precisely so that we could ensure that there was wide based consultation.
It is interesting to note that we brought out a couple of American experts to travel the length and breadth of the country and explain to people in aviation what was involved and let them ask the hard questions—and these reforms are based on the North American system; I think that international harmonisation would of itself suggest to people that this is a sensible safety direction to take—and it was only after those experts left that the members opposite seek to try and join in this process of politicisation of aviation safety.

Mr Martin Ferguson—I seek leave to table a letter of 28 October from the Guild of Air Pilots and Air Navigators to the minister, in which they clearly say that the system is flawed and unsafe.

Leave granted.

Economy: Small Business

Mrs HULL (2.14 p.m.)—My question is addressed to the Treasurer. Would the Treasurer inform the House of the results of recent surveys of small business conditions in my electorate of Riverina and across Australia? What do they indicate about the importance of sound and disciplined economic policy?

Mr COSTELLO—I thank the honourable member for Riverina for her question and her interest in small business. Today the Sensis Business Index—Small and Medium Enterprises was released—it was previously known as the Yellow Pages index—and it revealed that the confidence of small and medium sized businesses continues to increase, taking it to the highest level since 1994. Because the honourable member comes from Riverina she would know and be interested in the fact that regional businesses in New South Wales were the most confident, having recorded a confidence level of 75 per cent—no doubt influenced by good parliamentary representation in New South Wales. Looking ahead, some 83 per cent of respondents believed the economy will be performing as well or better than now, and perceptions of the Australian economy, according to this small business survey, are at the highest level since the index commenced. So small business is reporting expectations of continued economic growth and strong confidence, and expectations are at the highest level since the index began.

I am sure both sides of the House would welcome the fact that the economy is strong and that small business is recording that kind of confidence. That backs up the ACCI small business survey, which was released last week, reporting that general business conditions have improved markedly, and that is consistent with the fact that the Australian economy continues to grow. We grew faster than any of the G7 economies in 2001-02. The Economist predicts that the Australian economy will be the fastest growing in 2003 and the second-fastest, incidentally, in 2004 as the US economy recovers. But we will not be disappointed by that: a strong US recovery will lead to a strong global recovery.

Strong economic management does not happen by chance. It is not the outcome of chaos theory, which seems to be the guiding principle behind the Labor Party’s economic attempts these days. It comes from disciplined and stable management in the economic portfolio, rather than the chaos theory management that the opposition seem to prefer. That is the way the coalition will continue, with sound, disciplined, purposeful economic reform, which provides confidence for small business and jobs for more Australians.

Medicare: Reform

Ms GILLARD (2.18 p.m.)—My question is to the Minister for Health and Ageing and concerns eligibility for the government’s new bandaid safety net. Can the minister confirm that a family with two children over the age
of 16 which chooses not to estimate its income for family tax benefit purposes and instead claims the benefit at the completion of the financial year cannot access the so-called Medicare safety net for the same year in which it qualified for the family tax benefit? Doesn’t this mean that if this family had medical expenses over $500 in the year it qualified for the family tax benefit it will not be able to claim any of the safety net in that year? Minister, how simple is this so-called safety net?

Mr ABBOTT—The answer to the honourable member’s question is yes, but of course they will be able to claim the $500 threshold in the succeeding calendar year.

Iraq

Mr HUNT (2.19 p.m.)—My question is addressed to the Minister for Foreign Affairs. Would the minister inform the House of the government’s response to the recent attack on CARE headquarters in Baghdad and threats made against international non-government organisations working in Iraq?

Mr DOWNER—I thank the honourable member for Flinders for his question. I know he has been very close to many of these NGOs, such as CARE Australia, over a number of years. The government condemns the attack on CARE’s Baghdad headquarters which took place on Friday. Sir William Deane, who is the Chairman of CARE Australia, rang me on Saturday and told me about the attack and about CARE’s decision not to close their operation, which has about 70 Iraqis working in it, but to withdraw around six expatriate staff from Baghdad to nearby Jordan. Fortunately no-one was injured in the attack, CARE Australia has told me, and I think it is right to say that the attack happened during the course of the night.

The self-proclaimed perpetrators of this attack are called the Iraqi Resistance, and they have issued a death threat demanding all international aid staff leave Iraq before the last day of Eid, which is this week. The government cannot verify the credibility of this threat but it does continue to advise Australians against travelling to Iraq, as we have done for a long time. We understand the need for NGOs to take precautions, but we hope the draw-down of staff will be temporary because their work is vital for the Iraqi people. CARE, for example, is repairing water sanitation and health care infrastructure in Iraq and is assisting schools for the disabled. The government has given CARE $4 million for these activities.

Let me just make this clear to the House: the terrorists who have committed this outrage and many other outrages in Iraq will not prevail in their campaign, which is designed to restore the Ba’athist regime of Saddam Hussein. We are implacably opposed to the restoration of that evil and barbarous regime and, more to the point, most of the people of Iraq are implacably opposed to the restoration of that barbarous regime. We will not allow these sorts of attacks, we will not allow this sort of intimidation to bend our resolve to ensure that the people of Iraq are able to live in peace and freedom in the years ahead.

Medicare: Reform

Ms GILLARD (2.22 p.m.)—My question is to the Minister for Health and Ageing and concerns eligibility for the government’s new bandaid safety net. Minister, isn’t it the case that, where one family has an irregular income or arranges its income in order to access family tax benefits and a similar family with the same income does not, the second family will not qualify for the $500 safety net, even though both families have the same yearly income? Minister, how fair is the so-called safety net?
Mr ABBOTT—Let me make it very clear to the member for Lalor that the safety net has universal coverage.

Ms Gillard interjecting—

The SPEAKER—The member for Lalor has asked her question.

Mr ABBOTT—Every single Australian is now eligible for the brand-new MedicarePlus safety net. Obviously some people are eligible for the $500 threshold and some people are eligible for the $1,000 threshold. Those who are eligible for the $500 threshold are those with concession cards or those who are receiving family tax benefit part A. That is very clear, but what is even more clear is that, thanks to the MedicarePlus package, all Australians have access to a brand-new safety net that they did not have access to before and that they will not have access to if members opposite have their way.

Immigration: People-Smuggling

Mr CAMERON THOMPSON (2.23 p.m.)—My question is to the Attorney-General. Is the Attorney-General aware of statements suggesting that the crew of the recent boat carrying unauthorised arrivals should have been retained in Australia? Would the Attorney-General advise the House of the impact of that line of action and of the government’s record in prosecuting boat crews?

Mr RUDDOCK—I thank the member for Blair for his question. I certainly am aware of the comments from some quarters that we should have kept the crew here in Australia to prosecute them. I think it is important to recognise that, when that is possible and when it is safe in terms of the people who may be on the vessels, those prosecutions do occur and have occurred very frequently. In fact it was this government that increased the penalties for organisers of illegal entry groups of five or more. We doubled the maximum penalty to 20 years in jail, we provided a minimum sentence of five years in jail and we also introduced a fine of up to $220,000. In recent years many boat crews have been convicted and sentenced to very lengthy terms in jail. Twenty-seven people are currently serving sentences, including two who were jailed in 2001 for eight years and others who are serving terms ranging from 2½ to seven years. Several alleged organisers have also been extradited to Australia and are now subject to arrest warrants in relation to their activities. Dozens of boats have been seized and destroyed.

This has been an important signal to people smugglers, but the strongest signal sent to people smugglers occurred in 2001 when four boats were returned to Indonesia. That was the strongest signal that has been sent. Those four boats carried hundreds of potential unauthorised arrivals back, and at least one was organised by one of the largest people smugglers in the business. When he failed, it sent shock waves through the smugglers’ ranks, and their customers came to them and told them, ‘If you can’t deliver us to Australia, we’re no longer intending to pay you.’ That is the advice that they were given and, of course, people have not been prepared to part with money to people smugglers to arrange voyages in expectation that their vessels would be interdicted and they would not reach their destination. That is the reason that this has been the strongest signal sent yet. It is one of the reasons that we have had only two boats approaching our shores in the last two years.

It is necessary to contrast that with what the opposition is now saying. The opposition is now saying, ‘Keep the crew here.’ It is saying that we should either forsake the opportunity of returning the people who were being trafficked or, alternatively, put them on a vessel without a crew, where their lives would be at risk. You have only got two courses open to you, but that is what you are
saying. We have sent a very strong signal to people smugglers and their customers that they will not succeed. We know, particularly after what we saw in the Senate yesterday, that the Labor Party wants to knock right off the table the very important legs of our policy which has succeeded. That is what it wants to do. Labor’s message is that it will unwind border protection and will send to smugglers the signal, ‘Get back into business.’ Let me say that we are not soft on border protection, and we will determine in each case the best way of ensuring that smugglers do not think that they are achieving their ends.

Medicare: Reform

Ms GILLARD (2.28 p.m.)—My question is to the Minister for Health and Ageing. I again ask the minister to clarify the confusion about the eligibility for the government’s new bandaid safety net. Can the minister confirm that, in order for the expenses of a family to be jointly counted towards the so-called $1,000 safety net, the family structure and any changes to the family structure will need to be reported to government officials?

Mrs Bronwyn Bishop—Mr Speaker, I rise on a point of order.

Opposition members interjecting—

The SPEAKER—Order! I am less than amused by the fact that, every time a point of order is raised on my left, people expect that they will be heard, but when one is raised on my right it is presumably a matter for amusement.

Mr Latham interjecting—

The SPEAKER—Points of order are something that everyone has the right to raise, and the Speaker has an obligation to hear them. The member for Werriwa is more aware of that than most members in the House.

Mrs Bronwyn Bishop—Mr Speaker, I draw your attention to standing order 144, which very simply states that questions should not contain hypothetical matter and that questions should not ask ministers for an expression of opinion. I also refer you to page 527 of *House of Representatives Practice*, which says that questions should not be used as vehicles for the discussion of issues. This is clearly what the member opposite is doing, and I ask you to rule it out of order.

The SPEAKER—If I were to rule out of order the question currently being asked by the member for Lalor, I suspect that very few questions in this parliament would stand.

Government members interjecting—

The SPEAKER—I also suspect that, if those so full of advice on my right care to check the *Hansard* records for the last 20 years that I have been in the parliament, they will find that a great number of questions over that 20 years would not have survived either. The member for Lalor has the call.

Ms GILLARD—My question is: can the minister confirm that, in order for the expenses of a family to be jointly counted towards the so-called $1,000 safety net, the family structure and any changes to the family structure will need to be reported to government officials? Minister, doesn’t this mean that, every time a couple marries, separates or divorces, or when new dependants enter a family, or children who were dependants become independent, Australians will now have to report this to the Health Insurance Commission? Minister, how bureaucratic is the so-called safety net?

Mr Sidebottom interjecting—

The SPEAKER—Order! The question was addressed not to the member for Brad- don but to the Minister for Health and Age- ing and Leader of the House, and I recognise him.
Mr ABBOTT—I regret to inform the member for Lalor that there are very many government benefits which require the notification of that kind of information. That is the way the system works. The MBS safety net will work in exactly the same way that the PBS safety net works. People who wish to claim the MBS safety net will have to notify their family structure to the Health Insurance Commission in exactly the same way that they have always had to notify their family structure to the Health Insurance Commission for the purpose of accessing the Pharmaceutical Benefits Scheme safety net.

Ms Gillard interjecting—

The SPEAKER—The member for Lalor has asked her question.

Mr ABBOTT—This is exactly the same way that it has always been done.

Immigration: Border Protection

Mr RANDALL (2.33 p.m.)—My question is addressed to the Minister for Foreign Affairs. Will the minister inform the House of the government’s response to the international measures taken to support border protection in Australia, and are there any alternative views?

Mr DOWNER—I thank the honourable member for Canning for his question. I know how concerned he is about this issue. There are a lot of reasons why the government has a tough approach to illegal migration and people-smuggling. To put it into a global context, there are about four million people a year who are smuggled or trafficked across international borders, generating an estimated $US10 billion worth of revenue. This is a massive business. According to Interpol, it is comparable with the profits made from drugs and arms smuggling. So, whatever political criticisms the government suffers, we regard it as important to counter this evil trade.

We have taken tough measures, with our regional neighbours—through the Bali process; through bilateral cooperation, in particular with Indonesia, obviously; and through the establishment of offshore processing centres in Nauru and Papua New Guinea. These are all important components of our border protection policy, but we must have deterrents here in Australia in order to reduce the ‘pull factor’. Of course, that is why the government has taken the decisions that it has taken on excision, which was once supported by Labor and is now apparently opposed by Labor. There is no doubt at all that, if people smugglers can convince people that they can deliver them to the shores of Australia, then those people smugglers will get business and more business. There is simply no doubt about the logic of that argument. Therefore, it is crucially important to continue with the strong and successful policies we have to stop those people getting to our shores.

Is there an alternative approach? Yes, there is Labor’s approach, which will put the people smugglers back in business. They will abandon most of what the government is proposing and allow the people smugglers to deliver people to Australia. The only positive proposal that comes from the Labor Party is to establish a coastguard, which, according to the member for Gellibrand, would involve three motorboats covering thousands upon thousands of square kilometres of sea, where there are 500 fishing vessels at any one time, but no excision, no offshore processing and no strong stance by the Australian government to deter the people smugglers.

What would the coastguard actually do? It is a very interesting question to ask. Labor’s coastguard would bring the boats to Australia! That would be the job of the coastguard. It would not be to turn the boats back, which Labor is opposed to. Labor’s coastguard would become a ‘coast guide’. Bringing people to Australia would be its only role.
All I can say is that this simply underlines the bankruptcy of the Labor Party’s approach to dealing with the evil trade of people-smuggling.

**Medicare: Reform**

Ms HALL (2.36 p.m.)—My question is to the Minister for Health and Ageing. I refer to the case of a Central Coast resident with cancer who visits a specialist each month for his ongoing cancer treatment. He pays $125.95 up front and he gets $58 back from Medicare. Won’t this cancer patient have to make 12 visits to his specialist and 18 visits to his GP and fork out $1,000 before qualifying for the government’s new band-aid safety net?

Mr ABBOTT—I say very respectfully to the member for Shortland that the person in question will be much better off under the government’s MedicarePlus safety net that—

Ms Hall—What about bulk-billing?

The SPEAKER—The member for Shortland has asked her question.

Mr ABBOTT—Members opposite are saying that, under Labor, such a person would have been bulk-billed. How many cancer specialists bulk-bill? The answer is very, very few. It is precisely to address the kind of situation that people like that quite often find themselves in—

Ms Hall—He bulk-billed!

The SPEAKER—I warn the member for Shortland!

Mr ABBOTT—that we now have the Medicare Plus safety net.

**Taxation: Reform**

Mr BAIRD (2.39 p.m.)—My question is addressed to the Treasurer. Would the Treasurer inform the House of the importance of keeping income tax rates at competitive levels? Is the Treasurer aware of any alternative policies?

Mr COSTELLO—I thank the honourable member for Cook for his question. I can tell him that it is very important that we keep a competitive income tax system in this country. It is one of the reasons the government introduced $12 billion per annum of income tax cuts on 1 July 2000 and why we cut income tax by another $2.4 billion per annum commencing on 1 July this year. One of the things that the government proposed as part of its tax plan was to take the threshold for the top marginal rate, which was $50,000, and increase it to $75,000. That was the plan we took to the election, that was the plan we introduced in the parliament and that was the plan which the Labor Party, led by the member for Hotham, opposed on the grounds that they were opposed to giving tax cuts to the so-called rich—as if people earning between $50,000 and $75,000 these days can be considered rich.

If the Labor Party had supported our tax plan, that would be the threshold today. But unfortunately the Labor Party did not support it. So you can imagine how pleased we were to see the member for Werriwa come out recently and endorse the government’s position by saying that people earning up to $80,000 a year deserve tax cuts. He had the opportunity to vote for that policy. Not only did he not vote for it, but, along with the member for Hotham, when he had the chance he voted against it. I always say, ‘Don’t listen to what the Labor Party says; look at what the Labor Party does.’ The big hero of the tax cut, the member for Werriwa, when he had his golden moment in this parliament, did not have the courage to nail himself to the floor and vote for those tax cuts.

We welcome the conversion of the member for Werriwa to our policy. Unfortunately
he seems to be rather lonely in this position. No sooner had he put forward the position that people earning up to $80,000 deserve income tax cuts than colleagues, one after the other, came out to shoot him down. It was like the opening of the duck season. They came out one by one. The member for Grayndler came out and shot him down. The member for Lilley came out on a rooster shoot to shoot the duck, saying that he was sick of the constant drumbeat for changes to the top marginal tax rate. The member for Sydney got into the action, saying that her priorities—Mr Speaker, why are all their heads down at the moment?

The SPEAKER—The Treasurer has the call and will address his remarks through the chair.

Mr COSTELLO—Mr Speaker, it is just that when it falls silent I get very worried. The member for Brand came out next. He said, ‘You’ve got to look at what’s happening to middle Australia, not upper income earners.’ The member for Fremantle, who is the new ALP president—congratulations!—

Mr Hockey—Where is she today?

Honourable members interjecting—

Mr COSTELLO—Her mother is sick; fair enough.

Honourable members interjecting—

Mrs Crosio—Mr Speaker, I rise on a point of order. I find it offensive that the frontbench of the government question where Carmen Lawrence is. For their information, her mother was critically ill and I gave her leave to go there immediately. I regret to inform you her mother died last night. How dare you!

Mr COSTELLO—We understand completely.

Mr Fitzgibbon—Apologise!

Mr Gavan O’Connor—He should apologise!

Mr Tanner interjecting—

The SPEAKER—Let me inform the member for Hunter, the member for Corio and the member for Melbourne that, had they been listening, the Treasurer in fact indicated his regret at the remarks he had made.

Mr COSTELLO—I understand completely. All our sympathies go to the member for Fremantle. Of course they do.

We come to the member for Melbourne. Not only have we had the member for Grayndler, the member for Lilley, the member for Sydney, the member for Brand and the member for Fremantle but yesterday, in scenes which I have never seen before, we had published in the Australian research that was commissioned by the member for Melbourne to undermine the shadow Treasurer’s endorsement of the government’s position. It was given to the Australian, as commissioned from the Parliamentary Library, by the shadow minister for communications, Mr Tanner. After he had given the commissioned research against his own shadow Treasurer to the Australian, Mr Tanner said:

Whatever the merits of tax cuts for high-income earners, it’s not a smart political strategy for Labor.

Whose political strategy was it for Labor?

Mr Tanner—Yours.

Mr COSTELLO—Mine? No, it was actually the member for Werriwa’s. The member for Werriwa came out and endorsed the government’s position. Labor’s communications spokesman went out and commissioned research from the Parliamentary Library and leaked it to the Australian.

Mr Sidebottom interjecting—

The SPEAKER—The member for Brad- don!

Mr COSTELLO—Apparently the Leader of the Opposition, in the party room today, told his troops—
Mr Sidebottom interjecting—

The SPEAKER—The member for Braddon is defying the chair.

Mr COSTELLO—that they had to—

Mr Sidebottom interjecting—

The SPEAKER—I warn the member for Braddon.

Mr COSTELLO—stop their public disagreements over tax policy. He said that he expected debate with discipline. A front-bencher, Kevin Rudd, came out saying: ‘We’ve had a few ragged moments in recent times. I don’t think it’s right to say it’s all been hunky-dory.’ That must be the understatement of the case. You will never hear it from us again, but on this one the member for Werriwa is right. People earning up to $80,000 do deserve income tax relief. They deserve that under our tax plan. It would have occurred if the Labor Party had voted for it. We call on the Labor Party to support that tax plan, even at this late hour.

DISTINGUISHED VISITORS

The SPEAKER—I inform the House that we have present in the gallery this afternoon members of a parliamentary delegation from Greece, led by the ambassador to Australia. On behalf of all the members of the House I extend to our guests a very warm welcome.

Honourable members—Hear, hear!

QUESTIONS WITHOUT NOTICE

Economy: Interest Rates

Mr KATTER (2.47 p.m.)—My question is to the minister representing the Minister for Trade. Is the minister aware that interest rates are currently one per cent and 0.002 per cent in the United States and Japan whilst in Australia they are five times higher at five per cent? In light of the soaring Australian dollar, resulting from the Reserve Bank’s failure to restrain this gap, would the minister agree to discuss worsening implications for exporters with western and northern local government leaders? Further, would the minister agree with the statement from Charles Burke of the NFF that a 3.7 per cent rise in the Australian dollar costs farmers $426 million a year? If so, would the minister agree that the loss to Australia’s exporters, farmers and miners would now be exceeding $25,000 million a year? Finally, could the minister outline what measures the government is looking at to restrain further appreciation of the dollar and the consequent worsening of the deficit on the current account, which was described by former Treasurer Keating as at banana republic levels when it was $11,000 million—

The SPEAKER—The member for Kennedy—

Mr KATTER—I am finishing, Mr Speaker; I have one sentence to go—and by our current and esteemed Prime Minister as the ‘overwhelming economic problem’ when it was $26,000 million but which now stands at $42,000 million?

Mr DOWNER—I thank the honourable member for Kennedy for his question. As the honourable member knows, for some years now—since, from recollection, 1983—the Australian dollar has been on a floating exchange rate. It was floated by the Hawke government, as one of its early initiatives, towards the end of 1983. Bearing in mind that we have a floating exchange rate, ipso facto there are weeks when it is higher and weeks when it is lower against a variety of different currencies.

In recent months, we have seen a significant depreciation of the United States dollar against a wide range of currencies, including the Australian dollar. It is worth observing, though, that the United States dollar, on the contrary, appreciated very substantially over a number of years as a result of international perceptions, particularly about the United
States’ technological lead over other countries. There has been a correction of that in the international marketplace. The market will find its way.

The government’s attitude to trade is that we make the most of the international environment we have to deal with. Unlike the Labor Party, which believes that the only trade policy that is acceptable is a WTO negotiation, and whilst we support the WTO negotiations, we, for our part, are looking to get better access in a range of additional markets for the sorts of exporters that the honourable member refers to. We have a free trade agreement with Singapore and we have a free trade agreement now with Thailand, which is a wonderful achievement by the government. I acknowledge the role the Prime Minister played at the end of those negotiations with Prime Minister Thaksin.

Finally, unlike the Labor Party, we support negotiating a free trade agreement with the United States, which again offers, potentially at least if the negotiations are successful, tremendous advantages to our exporters. That is the best thing for Australia to do in these circumstances, as well as continuing with our Export Market Development Grants program and support from Austrade.

**Quarantine: Border Protection**

Mr HAASE (2.51 p.m.)—My question is addressed to the Minister for Agriculture, Fisheries and Forestry. Would the minister advise the House how the Australian government is responding to community concerns about quarantine risks associated with border protection?

Mr TRUSS—The honourable member for Kalgoorlie takes a keen interest in northern quarantine, and I thank him for his question. The federal government takes very seriously the importance of protecting our northern borders, especially from the threats that might be posed by the arrival of illegal entry vessels. These vessels may bring significant quarantine risks, including infestations of timber pests such as borers, mosquitoes and the like. The food carried on board could also carry some risks and, of course, the passengers may bring items that give concern in relation to our pristine animal and plant environment.

There is widespread support, particularly among the island communities, for strict quarantine controls. Indeed, many of the island communities are vigorously engaged in the government’s northern Australian quarantine strategy and are actively involved in assisting to ensure that no pests and diseases come into those areas. The government has provided $600 million to upgrade quarantine which was sadly neglected and allowed to run down under the previous government. We particularly appreciate the efforts of the Tiwi Islanders, who have demonstrated their interest in quarantine issues.

It is important that there is a recognition of the shared responsibility between the enforcement agencies and the community to deliver good quarantine outcomes. The government recognises that contribution through quarantine awards. I am very pleased to tell the House that the Tiwi Land Council, due to its efforts in quarantine and its enthusiasm for protecting the environment of the Tiwi Islands, has received the regional award for quarantine services in the Northern Territory. Other Northern Australian people have also been recognised: Bruce Lansdown, who runs the Coen Information and Inspection Centre, has been recognised for the work that he does to inform visitors to the north about quarantine issues. I am sure the honourable member will be interested to know that the Shire of Roebourne is to receive the award for Western Australia for its particular role in dealing with the exposure to exotic pests and diseases in the port of Dampier. The government warmly appreciates the role of is-
landers—for example, the people of the Tiwi Islands, the Torres Strait Islands and other regions—for the keen interest they have taken in quarantine issues. They are helping to protect our borders, and they deserve the commendation and congratulations of the people of Australia on their outstanding efforts.

Education: Higher Education

Mr SAWFORD (2.54 p.m.)—My question is to the Minister for Education, Science and Training. Can the minister confirm that applications for South Australian universities in 2004 are up by more than 1,000? Is the minister aware that the Vice-Chancellor of the University of Adelaide, James McWha, has warned that 2,000 South Australian university places are at risk under the Howard government’s university changes? Will the minister guarantee that no places will be lost from South Australian universities?

Dr NELSON—I thank the member for Port Adelaide for his question. There are a number of things that I can confirm. The first is that this government realises that Australian universities need reform, they need significant sums of money in the longer-term and they need changes to the way in which they are currently funded and regulated. I can confirm that in the state of South Australia the overenrolment at South Australian universities ranges from 2½ per cent at the University of South Australia to 10 per cent at Flinders University. I can also confirm that, in working through this package with those members of the Australian parliament that are prepared to take a constructive approach to these issues, I can guarantee in fact that the opportunities for university education in South Australia and right across Australia will expand under the proposals being put forward by this government. I can also confirm that if the Australian Labor Party were of a mind to get off the $10 billion of public money we are waiting to invest in Australian higher education over 10 years, all universities and future generations of students would sleep more easily.

Workplace Relations: Union Movement

Mr BARRESI (2.56 p.m.)—My question is addressed to the Minister for Employment and Workplace Relations. Minister, considering that the labour movement has been unable to tackle the problem of union thuggery, would the minister inform the House what the Australian government is doing to stamp out violence and create safer workplaces? Is the minister aware of any obstacles to improving safety for workers?

Mr ANDREWS—I thank the member for Deakin for his question about union thuggery, of which the most recent and deplorable example was the attack last week on the National Secretary of the Australian Manufacturing Workers Union, Mr Doug Cameron. I note that after that attack, the Secretary of the ACTU, Greg Combet, said that he had been trying to get rid of thuggery in the union movement for years. Regrettably, this has shown that the ACTU and the union movement are unable to clean up their own backyard. In his recommendations and report on the royal commission into the building industry, Justice Cole indicated many examples of a culture of lawlessness in that industry, including chronic disregard of legally binding agreements and a culture of coercion and intimidation.

Mr Bevis—Do you know who did it?

Mr ANDREWS—I presume the member for Brisbane is not defending this. Recently, we have seen instances where union officials in three different courts have been guilty of thuggery, intimidation, threats and other poor conduct in this regard. That is why, as honourable members know, the response of the government to the royal commission is well known. It includes measures to clean up
these inappropriate practices and measures to improve safety. Can I say to the House that, if we have come to the stage in Australia where a leading union official cannot walk outside his front door without being bashed, the time for talking is over and the time for action is now. It is time the ALP got behind the measures of this government to clean up the building and construction industry.

**Education: University Fees**

Ms MACKLIN (2.58 p.m.)—My question is to the Minister for Education, Science and Training. Is the minister aware of comments by the new head of the Group of Eight universities, Professor Ian Chubb, that he does not believe that ‘capacity to pay should be able to get you into a degree which is not otherwise available’? Minister, don’t the Howard government’s unfair university changes mean that half of all university places will be reserved for full fee paying students? When will the minister take Professor Chubb’s advice and make sure that no Australian undergraduate can jump the queue by paying $100,000 for a university degree?

Dr NELSON—I am asked about the views of Professor Ian Chubb, the Vice-Chancellor of the Australian National University. I can confirm as a result of meeting with and speaking with Professor Chubb early this morning that he is doing everything he possibly can to see that these reforms are passed by the Australian parliament.

I should also inform the Australian public, contrary to the implications in that question, that under this government the first $1 1/2 billion of extra public money in the first four years and the extra $10.6 billion of taxpayers’ hard-earned money into the university sector in the first 10 years includes full funding for 25,000 overenrolled places that would otherwise disappear from universities and 6,500 extra HECS places. It includes extra money—$122 million—for 60 universities and campuses servicing regional and rural Australia. For the very first time in recent memory it includes $161 million for scholarships worth up to $6,000 for students to support their living costs. One other thing this government is determined to do is to see that those students, Australian citizens, who do miss out on HECS places determined primarily on merit—apart from the 40,000 who got a place by going through TAFE or using life experience or other opportunities given to them by universities—will have no less a right to be full fee paying students in an Australian university than the 118,000 international students we currently welcome to Australian universities.

It is a travesty that the Australian Labor Party is proposing to ban and to throw out from Australian universities 9,700 Australians who currently pay their own way, without any support from the taxpayer, having been determined as eligible for university entry by those universities. Let us be very clear about this: the Labor Party is saying that the only way an Australian citizen will ever be able to have an opportunity for a full fee-paying place in an Australian university is to go overseas and sell their passport. We do not accept that. This is a policy that needs to be supported. It is supported by Australia’s university leadership, and the Labor Party ought to get out of the way and let us get on with helping Australia.

**Education: Higher Education**

Mr BARTLETT (3.02 p.m.)—My question is also addressed to the Minister for Education, Science and Training. Would the minister inform the House of the implications for our universities if the Senate does not pass the government’s $1.5 billion reform package? Is the minister aware of other comments or statements in this area?
Dr NELSON—I thank the member for Macquarie for his question. He shows a very strong commitment to Australian education and to university education in particular. We as Australians need to understand that, unless we undertake reform and change now, well within a decade and probably as early as within five years Australian universities will have sunk below the watermark of mediocrity. That is not something that I say lightly as Australia’s Minister for Education, Science and Training; but it is absolutely critical that the Australian parliament pass the legislation for reform to enable us to invest significantly more resources of public money into Australian universities and to allow us to change the way in which universities are currently regulated and administered.

If the reforms are not passed this year—and the Labor Party is doing everything it possibly can to see that they are not—then, in the first instance, 450 places will not be available in universities next year and $70 million of additional money will not be available immediately to universities. That means 210 regional nursing places and 234 medical places—and here is the Labor Party attacking the Minister for Health and Ageing about MedicarePlus at the same time that it is trying to actually stop this government creating more nursing places where we really need them, out in regional Australia, and supporting more doctors being trained for outer suburbs. Try and tell the member for Canning and the Peel region about the nurses that will not be there at Murdoch University.

Here are the people that say they drive the social justice truck but, at the same time, as a result of Labor Party obstruction, 4,000 low-income students will not get scholarships to help them with their living and accommodation expenses next year. They cannot even cost their own policy correctly and then they want to oppose what the government is trying to do to build Australia’s future. We will strengthen this country’s future—we are determined to see these reforms through, and the Labor Party ought to get out of the way.

Education and Training: Funding

Mr ALBANESE (3.04 p.m.)—My question is addressed to the Minister for Education, Science and Training. I refer to the ANTA ministerial council meeting last Friday and its failure to finalise a new agreement for 2004 to 2007. Did the minister threaten state and territory governments that they could be stripped of millions of dollars of funds if they do not sign up to the new ANTA agreement? Can the minister confirm that the major area of disagreement is the refusal of the Commonwealth to provide any growth funding to meet the growing demand for trainees and apprentices? Will the minister now withdraw the threat he has made to state and territory training ministers?

Dr NELSON—In relation to the next three years of training, this government has put on the table $3.57 billion of extra money to support apprenticeships, training and TAFE’s throughout Australia. That represents a 2½ per cent real increase per year in the first three years of the agreement. We are asking the states to contribute another 1½ per cent per annum real increase in funding. This government is proposing to fund at least an extra 71,000 places in the sector over the next three years. In relation to the Australian Labor Party, I think this is only the third question in two years that the Labor Party have been able to ask about training. There have been lots and lots of questions about middle-class people training to be lawyers, doctors and dentists—there have been endless questions about that—but they cannot even mention the word ‘apprentice’ in a country where we have nearly 400,000 apprentices.

What is important is that a lot of progress has been made in concluding this agreement.
It is an unusual thing to say, but I must congratulate the states on the constructive way in which they have engaged in these discussions. As you would not be surprised to know, Mr Speaker, if the states were not to sign up to an agreement to create another 71,000 places then of course this government would make sure that we did everything we possibly could to see that Australia’s interests came first and that there were training opportunities for apprentices in Australia.

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

PERSONAL EXPLANATIONS

Mr Latham (Werriwa) (3.07 p.m.)—Mr Speaker, I wish to make personal explanations on two matters.

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

Mr Latham—Yes.

The Speaker—Please proceed.

Mr Latham—During question time when the Treasurer said that I endorsed the government’s income tax plan from three years ago he was referring to an article on the front page of the Sydney Morning Herald on Saturday, 18 October, written by Mr Matt Wade. In that article I actually said: “If you are raising children, you’ve got a mortgage and you are living in expensive cities like Sydney, Melbourne and Brisbane, I don’t think anyone could pretend that $65,000 is a huge amount of affluence ... It’s part of a broader problem of disincentive right across the income bands.”

Labor’s greatest concern was for low-income earners, but there was also “a problem around that 60-, 70-, 80-thousand-dollar level”.

So that is the truth of it: no endorsement of a policy, let alone the government’s policy, just the identification of problems under the highest taxing government in Australia’s history.

The Speaker—The member for Werriwa has indicated where he was misrepresented. He had a second matter he wanted to raise.

Mr Latham—Yes. The second matter concerns a letter written by the member for Parkes to his local newspapers, dated 25 November, falsely claiming that I proposed an inheritance tax in my 1998 book Civilising Global Capital. Anyone reading the book will see that he is referring inaccurately to material from a Queensland academic reproduced in the appendix. My book makes clear at page 349 that I do not endorse the proposals by Professor Hinckfuss. The member for Parkes is misleading his electorate with this false claim.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Medicare: Reform

Mr Abbott (Warringah—Minister for Health and Ageing) (3.08 p.m.)—Mr Speaker, I seek the indulgence of the chair to add to an answer.

Mr Abbott—Earlier today the member for Shortland asked me a question about someone in her electorate receiving radiation treatment for cancer. This is one of the reasons why we need the safety net. I can inform the House that in the last financial year in New South Wales the bulk-billing rate for radiation therapy was only 10.9 per cent. I can also inform the member for Shortland that in 1995-96 the bulk-billing rate for radiation therapy was only 5.7 per cent.

PERSONAL EXPLANATIONS

Mr Crean (Hotham—Leader of the Opposition) (3.09 p.m.)—Mr Speaker, I wish to make a personal explanation.

The Speaker—Does the honourable member claim to have been misrepresented?
Mr CREAN—Yes.

The SPEAKER—Please proceed.

Mr CREAN—Today in question time the Treasurer again repeated a claim that he has made many times before that Labor voted against the tax cuts in 1999. This is false. Labor did not vote against either the second or third reading in the House, and I table excerpts from the House Votes and Proceedings to prove this point. In fact what happened is that the Prime Minister did the dirty GST deal with the Democrats, and that is what—

The SPEAKER—The Leader of the Opposition will resume his seat. He has indicated where he was misrepresented. As I heard the Leader of the Opposition, he was seeking leave to table a particular document. Leave is granted.

Ms HALL (Shortland) (3.10 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Ms HALL—Yes.

The SPEAKER—Please proceed.

Ms HALL—I claim to have been misrepresented by the Minister for Health and Ageing. At no time in the question that I asked the Minister for Health and Ageing did I mention radiation treatment; rather, I mentioned cancer treatment. I am sure—or at least I hope—the Minister for Health and Ageing is aware that there are a variety of cancer treatments.

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

QUESTIONS TO THE SPEAKER

Questions on Notice

Mr FITZGIBBON (3.11 p.m.)—Mr Speaker, under standing order 150, I wonder whether you would be prepared to write to the Minister representing the Minister for Family and Community Services seeking an explanation as to why question on notice No. 2231 has not been answered and similarly to the Treasurer asking why I have not received responses to questions on notice Nos 2370 and 2371.

The SPEAKER—I will follow that matter up on behalf of the member for Hunter as the standing orders provide.

AUDITOR-GENERAL’S REPORTS

Report No. 13 of 2003-04

The SPEAKER—I present the Auditor-General’s performance audit report No. 13 of 2003-04 entitled ATSIS Law and Justice Program—Aboriginal and Torres Strait Islander Services.

Ordered that the report be printed.

PAPERS

Mr ABBOTT (Warringah—Leader of the House) (3.12 p.m.)—Papers are tabled as listed in the schedule circulated to honourable members. Details of the papers will be recorded in the Votes and Proceedings and I move:

That the House take note of the following papers:


Migration Agents Registration Authority—Report for 2002-03.

Debate (on motion by Mr Latham) adjourned.

LEGISLATIVE ASSEMBLY OF QUEENSLAND

The SPEAKER—I inform the House that I have received a copy of a resolution passed by the Legislative Assembly of Queensland on 11 November 2003 relating to Pauline Hanson and David Ettridge. I do not propose to read the resolution to the House. Copies have been placed on the table and the full
text will be recorded in the Votes and Proceedings and Hansard.

The resolution read as follows—

Resolution agreed to by the Legislative Assembly of Queensland on 11 November 2003

(1) That this Parliament refers to the Crime and Misconduct Commission for consideration and advice:

1. Comments regarding the Queensland justice system in the judgement of the Court of Appeal in the cases of Pauline Hanson and David Ettridge, in particular:

   (39) “it should be understood that result (the release of the appellants) will not mean the process has to this point been unlawful. While the appellants experience will in that event have been insupportably painful they will have endured the consequence of adjudication through due process in accordance with what is compendiously termed the rule of law.”

   (40) “...it is my view that had both appellants been represented by experienced trial counsel throughout, the relevance of all of the evidence would more likely have been addressed with appropriate precision.”

   (41) “the case will in my view provide a further illustration of the need for a properly resourced, highly talented, top level team of prosecutors within or available to the Office of the Director of Public Prosecutions. In this complex case which resulted in a trial of that length, and the consumption of vast public resources, highly talented lawyers of broad common law experience should desirably have been engaged from the outset in the preparation and then presentation of the Crown case. ... had that been done, the present difficulty may well have been avoided.”

2. The involvement of Federal Minister, Tony Abbott and others in the original legal action against Pauline Hanson and David Ettridge.

3. Submissions from any interested party in relation to these matters.

Further, this parliament calls on the Australian Electoral Commission to ensure that donors to the fund established by Tony Abbott are fully disclosed in the public arena.

(2) That this House requests the Commonwealth Parliament to establish an inquiry to investigate the possible involvement of members of the Commonwealth Parliament and others in the process or funding of the investigation and civil and criminal prosecution of Pauline Hanson and David Ettridge and that the Speaker, on behalf of the Legislative Assembly, relay this request to both Houses of the Commonwealth Parliament.

R K Hollis                  N J Laurie
Speaker of the             Clerk of the
Legislative Assembly       Parliament

MINISTERIAL STATEMENTS

Military Detention: Australian Citizens

Mr RUDDOCK (Berowra—Attorney-General) (3.14 p.m.)—by leave—The government has reached an understanding with the United States of America concerning procedures which would apply to any military commission trials for the two Australians detained at Guantanamo Bay: David Hicks and Mamdouh Habib. Mr Hicks is included in the list of six detainees who have been declared eligible for trial by military commission. That list was signed by President Bush on 3 July 2003. To date, charges have not been laid against Mr Hicks, but the laying of charges is a matter for the authorities of the United States. The United States is expediting consideration of Mr Habib’s case. As the government has said in the past, it
would like to bring some certainty to Mr Habib’s situation. The government does not want either man to remain in detention without trial any longer than is necessary.

The government has been advised that Mr Hicks or Mr Habib could not be prosecuted in Australia in relation to their activities in Afghanistan or Pakistan under Australian laws that applied at that time. The government has also been advised that Mr Hicks and Mr Habib both trained with al-Qaeda. That organisation has committed and sponsored terrorist acts around the world. These are serious matters that must be addressed. In these circumstances, the government accepts that Mr Hicks or Mr Habib could be tried by the United States, provided their trials are fair and transparent while protecting security interests. The government has held extensive discussions with the United States concerning military commission processes. As a result, the United States has made significant commitments on key issues of concern to the government.

As part of the government’s extensive discussions with the United States concerning the military commission processes, my colleague the Minister for Justice and Customs, Senator the Hon. Chris Ellison, visited the United States from 21 to 23 July 2003. As a result of that visit, the United States made important commitments in relation to Mr Hicks’s possible trial, including that, based on the specific facts of his case, the United States assured Australia that it will not seek the death penalty in Mr Hicks’s case. Australia and the United States agreed to work towards putting arrangements in place to transfer Mr Hicks to Australia, if convicted, to serve any penal sentence in Australia, in accordance with United States and Australian law. Based on his circumstances, conversations between Mr Hicks and his lawyers will not be monitored by the United States. The prosecution in Mr Hicks’s case does not intend to rely on evidence in its case in chief requiring closed proceedings from which the accused could be excluded. Subject to any necessary security restrictions, Mr Hicks’s trial will be open, the media will be present and Australian officials may observe proceedings.

The government has since continued its high-level dialogue with the United States. As a result, the United States has made further important commitments. These further commitments are now being finalised. They include that the United States has assured Australia that key commitments made in relation to Mr Hicks could also apply to Mr Habib, should he be listed as eligible for trial, including that he would not be subject to the death penalty, given the circumstances of his case.

Mr Kerr—What does that mean? He stays in jail for the rest of his life?

Mr Ruddock—The government may make submissions to the review panel which would review either man’s military commission trial. Should Mr Hicks or Mr Habib choose to retain an Australian lawyer as a consultant to their legal teams, following approval of military commission charges, subject to security requirements that person may have direct face-to-face communications with their client. Mr Hicks and, if listed as eligible for trial, Mr Habib may talk to their families via the telephone, and two family members would be available to attend their trials. An independent legal expert sanctioned by the Australian government may observe the trial of Mr Hicks or Mr Habib. The United States Department of Defense is in the process of drafting clarifications and additional military commission rules that will incorporate the assurances given to Australia where appropriate. All people attending military commission trials would require appropriate background checks.
I would remind honourable members that the rules governing the military commission trials provide fundamental guarantees for the accused. These guarantees are similar to those found in our own criminal procedures. In fact, they are the basis upon which our criminal justice system is founded. The guarantees include the right to representation by a defence counsel, a presumption of innocence, a standard of proof beyond reasonable doubt, the right to obtain witnesses and documents to be used in their defence—

Mr Kerr—What about an impartial jury?

The SPEAKER—I will deal with the member for Denison if he persists with his interjections!

Mr RUDDOCK—the right to cross-examine prosecution witnesses and the right to remain silent with no adverse inference being drawn from the exercise of that right.

The accused will be represented at all times by military defence counsel who have considerable expertise in military law and will provide a full and expert defence. An accused may also retain civilian defence counsel. To assume that a military defence counsel will act other than in the best interests of their client has no basis in fact. The rules of evidence applicable in Australian criminal proceedings do not apply to a trial before a US military commission. Those rules of evidence also do not apply to other international tribunals. For example, the rule against hearsay does not apply in relation to trials before the International Criminal Tribunal for the former Yugoslavia. Similarly, the rule against hearsay does not apply in many states with highly developed legal systems which are based on the civil law tradition.

Although certain rules of evidence do not apply to a military commission trial, provision is made to ensure that the accused can examine and refute the evidence presented against him. Under the rules of military commissions, the defence shall be provided with access to the evidence the prosecution intends to introduce at trial and evidence known by the prosecution that tends to exculpate the accused. In addition, the defence shall be able to present evidence in the accused’s defence and to cross-examine each witness presented by the prosecution. Government officials will attend any military commission trial of Australian citizens. In this way we will monitor the military commission proceedings.

Military commissions are a recognised way of trying persons who have committed offences against the laws of war. In the United States, military commissions have a long history of use. They were used extensively during the Mexican-American war and the American Civil War. They were also used more recently during the Second World War. In fact, the United States Uniform Code of Military Justice recognises the jurisdiction of military commissions in certain cases. Immediately after World War II, Australia established military tribunals to try Japanese prisoners of war charged with committing war crimes. Like the military commissions, those tribunals did not apply the usual procedures, including the normal appeal rights and rules of evidence applicable in criminal trials at the time. However, those trials were still fair and transparent.

Far from the sustained indifference which some commentators have claimed the government has shown towards Mr Hicks and Mr Habib, the government has always been concerned for the welfare of Australian detainees in United States custody at Guantanamo Bay. But Australians who breach the laws of foreign countries while overseas have no automatic right to be repatriated to Australia for trial. So long as their trial is fair and transparent, those who breach foreign laws while overseas are liable for their of-
fences. The United States has assured the government that Mr Habib and Mr Hicks will receive no less favourable treatment before a military commission than other non-US detainees. We will remain in close contact with the United States to ensure both men are treated fairly and appropriately at all times.

*Mr Kerr interjecting*—

**The SPEAKER**—I warn the member for Denison! It seems no other language is understood.

**Mr RUDDOCK**—I present the following paper:

_Military Commissions for Guantanamo Bay detainees—Copy of Ministerial Statement._

**Mr TRUSS** (Wide Bay—Minister for Agriculture, Fisheries and Forestry) (3.23 p.m.)—I move:

That the House take note of the paper.

I seek leave to move a motion in relation to the debate.

Leave granted.

**Mr TRUSS**—I move:

That so much of the standing and sessional orders be suspended as would prevent Mr McClelland speaking for a period not exceeding 9 minutes.

Question agreed to.

**Mr McCLELLAND** (Barton) (3.24 p.m.)—Naturally the opposition welcomes any improvement in the situation of Australian citizens David Hicks and Mamdouh Habib. We recognise the fact that the Attorney has elevated this matter to the significance of making a ministerial statement, and we welcome that. We do, however, note an element of complacency and indeed compliance in the government’s statement, unlike the advocacy that we have seen, for instance, from Lord Goldsmith, the United Kingdom Attorney-General, on behalf of United Kingdom citizens detained in circumstances where Great Britain was very much a part of the coalition of the willing. Nonetheless, Lord Goldsmith has been a vigorous advocate for the rights of the United Kingdom citizens, saying in his advocacy that all United Kingdom citizens are entitled to the principles that have been developed in our common law system since the time of the Magna Carta.

In relation to our claim of complacency, the government has stated that the laying of charges is a matter for US authorities, and certainly that situation has resulted in these men remaining in detention for a period now in excess of two years without facing any charge or any trial. That is something that will concern all Australian citizens of fair mind. We do have fundamental concerns that they are being held in what appears to be a legal vacuum. Just what this concept of ‘enemy combatant’ is is of concern to us. It does not appear to have any recognition at international law, and indeed I understand that within the United States military there is a very real concern that this concept of ‘enemy combatant’ may simply result in other countries following the example of the United States with the consequence that United States military personnel could be detained indefinitely by other countries. Certainly, Australian defence forces should also have that concern.

Essentially, though, in addressing the matters raised by the government, the minister announced five commitments given by the United States about the continued treatment of these two Australians. Of course, we cannot judge the guilt or innocence of these two men in terms of what they may or may not have done, but all the opposition is saying is that they are entitled to a fair trial. They should be charged before they are detained on an ongoing basis and then given the opportunity to answer their accusers in a proce-
The five changes that the government has announced are these. Firstly, the United States has said that the commitment already given in respect of Mr Hicks will apply to Mr Habib if—and I emphasise ‘if’—he is charged. That remains uncertain. He has no closure in the sense of knowing if he may be able to contact his wife and children and so forth, and that is obviously of concern. It would be surprising if the government did not welcome that commitment, because we say that all Australians are equal before the law and entitled to the same rights.

Secondly, it appears the government may now make submissions to the review panel which would review any military commission trial if a request for review was made. That review panel, however, will consist of three military officers appointed by the United States Secretary of Defense, Donald Rumsfeld. It is not an independent court of appeal, as would exist under Australian laws. Indeed, under the military commission rules, it is not required to consider any submissions from the accused. I ask in that context: why is it that the government will be allowed to make submissions when the rules provide that Mr Hicks and Mr Habib will have no such opportunity? What role, for instance, will the government play? Will it be one of advocacy for those two men or, instead, will it be addressing security issues that may arise in the proceedings, for instance? These are issues that remain unanswered.

Thirdly, according to the ministerial statement, any lawyers retained by Mr Hicks or Mr Habib as a consultant would be, subject to security requirements, allowed face-to-face communications with their clients. As we have noted, the right to speak to an Australian lawyer is a right that has been denied both Mr Hicks and Mr Habib for almost two years. It will be a pleasant surprise to Mr Hicks and Mr Habib that they even have Australian lawyers in this capacity as consultants—whatever capacity that may mean—as opposed to in the capacity of an advocate. But, again, there are unanswered questions as to whether the communications between Mr Hicks and Mr Habib and those lawyers will be confidential or whether they will be monitored. These issues are still unresolved.

Fourthly, Mr Hicks and, if listed as eligible for trial, Mr Habib may talk to their families via the telephone. Indeed, two family members would also be allowed to attend the trials. As I have said, in respect of Mr Habib that is very much subject to a precondition of him being ruled eligible to stand trial, a concept which is not known in our jurisdiction. We see this right as fundamental.

Fifthly, an independent legal expert sanctioned by the Australian government may observe any trial. This is in fact an initiative announced by the Law Council of Australia some months ago, and it was warmly welcomed by Labor at the time. They indicated they would seek to attend the trial as an impartial observer, and we welcomed that. Just what is meant by an “independent legal expert sanctioned by the Australian government”? It may be an oxymoron, depending on whether they are in fact independent of the interests of the executive arm of government, as opposed to representing the interests of the individual. The Attorney has indicated in his statement that the advice of the government is that these men cannot be prosecuted under any laws in Australia. Certainly Australian laws, I would concede, do not recognise any category such as enemy combatant, but there are, for instance, laws against insurgents—Australians acting in insurgent operations. Those laws arose from the Sandline incident in West New Guinea, as I recall—
Mr Downer—Bougainville.

Mr McCLELLAND—Yes, Bougainville.

I thank the Minister for Foreign Affairs. Also there are issues about whether laws relate to breaches of the Geneva Convention—certainly in the case of Mr Hicks—and whether criminal sanctions which arise from those would apply. We would like to see, quite frankly, the government’s advice as to why they cannot be prosecuted, and whether consideration has been given to those matters.

Fundamentally, we do have concerns about the trial process. The defence counsel will be military, the tribunal itself will be appointed by the military and the defence counsel will be made to give strict undertakings. For instance, they cannot challenge the jurisdiction of the tribunal. There are all kinds of limitations which are foreign to trials in Australia, including, as the Attorney indicated, the absence of the rules of evidence; so, for instance, what we are saying today in this House is arguably admissible as evidence against the men. All things considered, we are still very concerned about the two Australian citizens. We cannot pronounce on the guilt or innocence of these individuals. All we can say is that as the Australian parliament we should be ensuring that two Australian citizens are given, at the very least, the opportunity for a hearing and a fair trial according to standards of Australian justice. That occurred, I might say, in respect of the American citizen Lindh, and we say no less should apply to Australian citizens.

Debate (on motion by Mr Truss) adjourned.

COMMITTEES
Selection Committee
Report

Mr CAUSLEY (Page) (3.33 p.m.)—I present the report of the Selection Committee relating to the consideration of committee and delegation reports and private members’ business on Monday, 1 December 2003. The report will be printed in today’s Hansard and the items accorded priority for debate will be published in the Notice Paper for the next sitting.

The report read as follows—
Report relating to the consideration of committee and delegation reports and private Members’ business on Monday, 1 December 2003

Pursuant to standing order 331, the Selection Committee has determined the order of precedence and times to be allotted for consideration of committee and delegation reports and private Members’ business on Monday, 1 December 2003. The order of precedence and the allotments of time determined by the Committee are as follows:

COMMITTEE AND DELEGATION REPORTS
Presentation and statements
1 TRANSPORT AND REGIONAL SERVICES—STANDING COMMITTEE:
Regional Aviation and Island Transport Services: Making Ends Meet.
The Committee determined that statements on the report may be made—all statements to conclude by 12.40 p.m.
Speech time limits—
Each Member—5 minutes.
[Proposed Members speaking = 2 x 5 mins]

2 ENVIRONMENT AND HERITAGE—STANDING COMMITTEE:
Employment in the Environment Sector: Methods, Measurements and Messages.
The Committee determined that statements on the report may be made—all statements to conclude by 12.50 p.m.
Speech time limits—
Each Member—5 minutes.
[Proposed Members speaking = 2 x 5 mins]

3 ECONOMICS, FINANCE AND PUBLIC ADMINISTRATION—STANDING
The Committee determined that statements on the report may be made—all statements to conclude by 1 p.m.
Speech time limits—
Each Member—5 minutes.
[Proposed Members speaking = 2 x 5 mins]

The Committee determined that statements on the report may be made—all statements to conclude by 1.10 p.m.
Speech time limits—
Each Member—5 minutes.
[Proposed Members speaking = 2 x 5 mins]

The Committee determined that statements on the report may be made—all statements to conclude by 1.20 p.m.
Speech time limits—
Each Member—5 minutes.
[Proposed Members speaking = 2 x 5 mins]

6 TREATIES—STANDING COMMITTEE:
Report 56—Treaties tabled on 8 October 2003
Economic and Commercial Cooperation—Kazakhstan
ILO Convention No. 182—Elimination of Worst Forms of Child Labour.
The Committee determined that statements on the report may be made—all statements to conclude by 1.30 p.m.
Speech time limits—
Each Member—5 minutes.
[Proposed Members speaking = 2 x 5 mins]

7 PROCEDURE—STANDING COMMITTEE: (2 reports)
Arrangements for second reading speeches.
Appointment of additional tellers.
The Committee determined that statements on the 2 reports may be made—all statements to conclude by 1.40 p.m.
Speech time limits—
Each Member—5 minutes.
[Proposed Members speaking = 2 x 5 mins]

8 PARLIAMENTARY DELEGATION TO SRI LANKA AND TO THE 49TH COMMONWEALTH PARLIAMENTARY CONFERENCE: Report of the Parliamentary Delegation to Sri Lanka and to the 49th Commonwealth Parliamentary Conference, Bangladesh (1-12 October 2003).
The Committee determined that statements on the report may be made—all statements to conclude by 1.45 p.m.
Speech time limits—
Each Member—5 minutes.
[Proposed Members speaking = 1 x 5 mins]

PRIVATE MEMBERS’ BUSINESS
Order of precedence
Notices
1 Mr Zahra: To present a Bill for an Act to amend the Renewable Energy (Electricity) Act 2000 for local input into decision making relating to renewable energy developments. (Local Community Input into Renewable Energy Developments Bill 2003)
Presenter may speak for a period not exceeding 5 minutes—pursuant to standing order 104A.

2 Ms C. F. King: To present a Bill for an Act to amend the Flags Act 1953 to recognise the Eureka Flag as an official flag of Australia, and for related purposes. (Flags Amendment (Eureka Flag) Bill 2003)
Presenter may speak for a period not exceeding 5 minutes—pursuant to standing order 104A.
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3 Mr McClelland: To present a Bill for an Act to amend the Crimes Act 1914, and for related purposes. (Racial and Religious Hatred Bill 2003) (Notice given 24 November 2003.)
Presenter may speak for a period not exceeding 5 minutes—pursuant to standing order 104A.

4 Mr Organ: To present a Bill for an Act to provide for the appointment of a Royal Commission to investigate the implementation of a system of proportional representation for elections of the House of Representatives, and for related purposes. (Royal Commission (House of Representatives Elections) Bill 2003) (Notice given 24 November 2003.)
Presenter may speak for a period not exceeding 5 minutes—pursuant to standing order 104A.

5 Ms Roxon: To present a Bill for an Act to get kids out of detention before Christmas 2003. (Migration Legislation Amendment (Children and Families) Bill 2003) (Notice given 24 November 2003.)
Presenter may speak for a period not exceeding 5 minutes—pursuant to standing order 104A.

6 Mrs Gash: To move—That this House calls on the Government to fund a national study to determine the prevalence of Parkinson’s Disease in the Australia community and that:
(1) the study determine the number of sufferers, the range of symptoms experienced by sufferers, the length of time taken to reach diagnoses of sufferers, the extent of the load on carers and quantify the real cost of Parkinson’s disease in Australia;
(2) on presentation of the study to the Parliament, sufficient resources are applied to improve the diagnoses, treatment and quality of life for sufferers and their carers, in both the short and long term; and
(3) included in any action subsequent to the presentation of the results of the study, further resources be made available to better educate current and future doctors, nurses and paramedics in the range of symptoms identified as pertaining to Parkinson’s Disease, how to diagnose the disease and how to advise the sufferer and carers involved. (Notice given 24 November 2003.)

Time allotted—20 minutes.
Speech time limits—
Mover of motion—5 minutes.
First Opposition Member speaking—5 minutes.
Other Members—5 minutes each.

[Proposed Members speaking = 4 x 5 mins]
The Committee determined that consideration of this matter should continue on a future day.

7 Ms Gambaro: To move—That this House:
(1) recognises that franchising in Australia contributes $80 billion to the Australian economy and represents 12% of GDP;
(2) acknowledges the mandatory code of conduct in franchising and its support in the sector;
(3) acknowledges that franchising forms an important part of small business and offers new entrants greater security than stand alone businesses;
(4) recognises the importance franchising plays in the export earnings of this country; and
(5) recognises that franchising has over 50,000 workplaces and employs more than 500,000 Australians. (Notice given 4 November 2003.)

Time allotted—remaining private members’ business time.
Speech time limits—
Mover of motion—10 minutes.

[Proposed Members speaking = 1 x 10 mins, 1 x 5 mins]
The Committee determined that consideration of this matter should continue on a future day.

MATTTERS OF PUBLIC IMPORTANCE

Trade: Australia’s Cultural Identity

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:

CHAMBER
The threat to Australia’s cultural identity from the Government’s trade agenda. 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.)—Members may recall that in recent times I have been rather critical of the National Party—just a bit—and that on a number of occasions I have accused them of selling out their regional Australia constituents. Some may think this is a little harsh and that there is a bit of life in the old dog yet, as they have not betrayed them on everything. In fact, it is worth noting that the member for Mallee is to be commended on standing up for his constituents who want to keep the asylum seekers that are working as good members of the community in their part of the world. He will go down on the record of history as a man of courage and principle, but sadly he is very lonely in the National Party because I have to report that they are at it again; they are betraying their country constituents yet again.

This time it is the Minister for Trade, the leader in waiting, the man who was supposed to become leader of the National Party only a couple of months ago but got a phone call late at night telling him that good news was yet to be provided. He is now in the United States betraying not only his country constituents but all Australians by selling out Australia’s future right to regulate the content that we see on our TV screens—to regulate the local content, the Australian content, of broadcasting in this country—as part of the free trade agreement negotiations with the United States. The government is planning to give away our right to regulate for the future. The government is planning to quarantine existing mechanisms for broadcasting—what we now know as free-to-air television and radio—and say that the existing regulatory arrangements can stay in place but abandon Australia’s right to regulate future mechanisms for the delivery of electronic content, broadcasting content.

I have always thought that there is one thing you can rely on with the National Party, and that is culture. Some may say that it is not often that you hear the words ‘National Party’ and ‘culture’ in the same sentence, but I have always been of the view that you could rely on the National Party to defend Australia’s culture. They might sell out on Telstra and they might always cave in to the big end of town and their mates in the Liberal Party, but we could always rely on the National Party to stand firm on issues of culture. But not anymore—I know it is difficult to believe, but I think they have even given up on Australian culture.

The Minister for Trade—and we know they are not that sophisticated—has gone over to Washington. He has stars in his eyes: he has seen the bright lights and big buildings. All those blokes in the 10-gallon hats sat him down for a negotiation and they said: ‘Boy, have we got a great deal for you! You get to keep the right to regulate your existing television and radio in the way you currently do forever. In return, you can put all of your beef, wool, lamb, sugar and other products into the United States markets.’ This is a negotiating triumph for the Deputy Leader of the National Party.

What they did not tell him about, though, was the fine print. What they did not tell the Minister for Trade and what they are not telling the Australian people—and even when the Prime Minister gets asked about it, he wobbles around the place trying to explain away what they are about to do—is that they are going to abandon Australia’s future right
to regulate the local content of our broadcasting sector and of our creative and cultural sectors.

To be fair to the National Party, they are sometimes a bit slow to catch on to these new-fangled things like the Internet, digital, 3G and stuff like that. No doubt they think that, in 30 years’ time, our grandchildren will be watching reruns of *The Waltons* or perhaps *McLeod’s Daughters* on analog TV and that things will be pretty much the same as they currently are. In fact, none of us can know what the future of Australian broadcasting holds, what the delivery mechanisms will be or how we will go about connecting and communicating with each other and conveying our own culture to each other into the future. You can just see the Leader of the National Party down there on the farm saying to his constituents: ‘It’ll never catch on, this new-fangled stuff. We don’t need to worry about any of this stuff. We can abandon our right to regulate it into the future because we’ll still have good old analog television broadcasting indefinitely into the future.’

The reality is very different. The only certainty in the longer term for broadcasting in this country and other countries is unpredictable change. The digital television world will eventually swamp the government’s antiquated regulatory regime. Pay TV is digitising, which means we will have hundreds of pay TV channels. The Internet provides opportunities already for streaming of video. That will ultimately become a mechanism for competition in broadcasting that will have enormous impact on television as we know it. Radio is in the early stages of shifting to digital. And, of course, we have the very early days of 3G mobile phones.

The existing media landscape is going to change beyond recognition in this country. It will be a little while and certainly we are not at the point where we can get rid of the regulatory regime for cross-media ownership under the existing rules. Nonetheless, what the Howard government is proposing to do is to get rid of all of our options into the future indefinitely, without any guarantees whatsoever for local content. Technological change will eventually eat away at our existing local content arrangements, because it will eat away at the delivery mechanisms that provide them. It will become much more difficult than it currently is for us as a nation to ensure that we have decent local content provisions in our broadcasting.

We have all seen how hard it proved for the government to try and regulate pornography on the Internet because of the capacity for people to locate websites outside Australia and still service an Australian market. Those kinds of problems are going to hit broadcasting and our ability to regulate it. Therefore, at a time when it is getting harder for us to produce deliverable outcomes, local content and guaranteed outcomes, it is complete madness for the Australian government to propose to abandon our capacity to regulate local content.

Why is this important? It matters at two levels: at an economic, practical level and also at an emotional level. I am not a protectionist. I am a strong internationalist and a strong supporter of Australia being integrated into the world economy. But, in this particular industry, there are unique dynamics, which means that, for Australia to be able to compete and be a significant exporter of creative content, we have to protect ourselves against the impact of the enormous economies of scale that prevail. When the United States make an edition of *Law and Order* or a *Seinfeld* program, they spread the costs of that, including the inflated costs of stars’ salaries and all those things, over a market of 280 million people. The additional marginal cost of then selling that or export-
ing it to other smaller markets is negligible. They can therefore on-sell the product at very cheap prices because they are getting their money from the huge domestic market.

It is virtually impossible for a market of Australia’s size to compete head-on directly with a market that is so much larger. So, in order to ensure that we are able to compete, at least at a basic level, and that we have a base of Australian activity, skills and creativity in this sector, it is crucial that we have some regulation of local content to ensure that that can occur. We have a great future in the 21st century as a major exporter of creative content, particularly if the government can unshackle itself from the antiquated digital television restrictions that it has imposed, get broadband out to people much faster and generate more competition in telecommunications and broadcasting. We do have a great future in these industries. But, to ensure that future, we need a minimum level of local activity in creative content, involving all of the specialised skills that are involved in producing and creating television content and films. We need a minimum level of local activity to ensure that we do not end up purely as an exporter of talented people. We have a lot of talented people in Australia, but, without some guarantee of the existence of an industry in Australia, we will simply export those talented people rather than export the products that they ultimately produce.

Our broadcasting market is already very open. In fact, it is one of the most open in the developed world. We could not be said to have a highly protectionist regime. Guaranteeing some local content is going to be significantly harder into the future. For example, we will see the ABC become much more important as a means of developing local content. The ABC will have to play a crucial role as a funder and a direct deliverer of local content. But, if the Howard government signs up carte blanche with the United States and gives away our right as a nation to ensure local content, we will not even be able to fund the ABC specifically to produce local content because that will be in breach of the free trade agreement with the United States. The relatively limited local content restrictions at the moment matter in one particular respect more than any other: they guarantee high-end, top-quality productions as well as basic things like game shows, news and things of that nature, and drama—things that employ people and involve serious and substantial skills.

I said before that there is also an emotional factor to this issue. There is an issue about what it is to be Australian, about who we are and how we communicate and continue our cultural expression; what it is that makes us unique and what it is that defines our identity as Australians. People probably know that I do not really go for the phoney sort of John Howard-National Party version of the Australian character and Australian culture—the ‘Chips Rafferty on steroids’ sort of thing. That is the caricature that is always wheeled out to support interventionist wars elsewhere, to keep asylum seekers out, and to whitewash Australia’s past oppression of Australian Aboriginal people. I do not really go for that version of Australian identity, but I will tell you what I do go for: I want my kids to grow up saying ‘zed’ not ‘zee’; I want my kids to grow up knowing what tomato sauce is; I want my kids to grow up calling a barbecue a barby, not a steak fry; I want to be in a situation where my children and other people in this country are able to continue the distinctive and unique features of what it is to be Australian. I do not like the idea that things like Halloween are gradually permeating the Australian culture. It will not be long before you will see Thanksgiving.

Mr Downer interjecting—
Mr TANNER—The lickspittle of the tory ruling class here may well mock these things, but these things are ultimately about whether or not our Australian cultural expression is going to have true rein and the capacity to be reflected on our TV screens; whether there is some space for the continuation of the Australian identity or whether our idiom—the unique features of what it is to be Australian, with our communication with each other and how we feel—is going to have some space in our world of broadcasting or whether eventually American expressions and other expressions are going to prevail completely.

We cannot prevent that huge influence; nor should we seek to prevent that huge influence from American expressions. But what we should do, what we must do—and what this government is about to abandon our capability to do—is ensure that there is space for the uniquely Australian expressions, ensure that there is somewhere that they are going to get a run and ensure that there is a mechanism for continuing those things which determine our unique cultural identity. Without local content rules, without the capacity for future governments to regulate in ways that we cannot yet predict, we will not be able to ensure that into the future.

It is getting harder to ensure that we have local content in our broadcasting world as technology changes. The Howard government wants to give up our capacity to do anything about it at all. That is something that all Australians should abhor, and it should be taken off the table in the free trade agreement negotiations with the United States. We should retain our freedom and our capacity to decide what is on our television screens, and we should retain the ability to ensure that all Australians see themselves being reflected in the world of broadcasting that exists in Australia and into the future. (Time expired)

Mr DOWNER (Mayo—Minister for Foreign Affairs) (3.49 p.m.)—That sounded rather like Hansonite xenophobia, I thought, in that we will get to the point in Australia where we are going to stand up against Halloween and basketball, because Halloween is supposedly an American idea. Actually, Halloween, from recollection, is a celebration of All Saints' Day and its derivation is European, not American. Let us just think about this: if Australia is to be one of the world’s major content producers we cannot unduly restrict access to our own market. Does the honourable member agree with that statement? Does the honourable member agree that the best way to promote Australian content is to enhance innovation, investment and skills formation in the new information economy and not restrict foreign access? Does the honourable member agree with that?

‘Australia must take an open approach to the information technology revolution’—these are the words of the member for Melbourne. The member for Melbourne was in favour of these things when he wrote Open Australia in 1999, but now he is apparently promoting a closed Australia—we must not have Halloween or basketball. It is a pretty sad reflection—

Mr Tanner—I didn’t say ‘basketball’.

Mr DOWNER—No, but basketball is American. This kind of anti-American tirade reflects a deep sentiment in the modern Labor Party—not in the Labor Party of Bob Hawke but in the modern Labor Party. There is a deep anti-American strain and it comes through over and over again. There is no
point in trying to hide it. Substantial elements of the Labor Party do not like America, and that is what this is about. When the government negotiated the free trade agreement with Singapore that was fine, apparently. When we were negotiating the trade agreement with Thailand there was no controversy and there were no questions asked. I do not think a single question was asked by the opposition in the parliament about the trade agreements with Thailand and Singapore. I may be wrong, but I do not think any questions by the opposition were asked about any aspect of those free trade agreements, but when it comes to negotiating a free trade agreement with what the opposition apparently regard as the ‘Great Satan’—the United States—then this is a matter of enormous controversy.

This debate is an enormous beat-up, as the opposition knows only too well. Our trade negotiations with the United States pose no threat to Australian culture. Claims by the opposition and some people in the film industry simply misrepresent—deliberately, in the case of the opposition—the government’s position. We are not going to compromise Australia’s ability to support, promote and protect Australian culture. The government’s direct support for our culture—including support for film producers and public broadcasting and grants for writers, artists and musicians—will not be affected by these negotiations. We will continue to use local content rules for commercial television programming and advertising, to ensure our viewers are able to see Australian stories told in Australian voices. As participants in the Australian film industry said the other day, the United States has been very clear that it is not even seeking changes to existing local content rules covering free-to-air television and pay television.

This is an absolutely enormous beat-up by the opposition, and I have a bit more to say about that. First of all, I noticed that some people at the AFI Awards—and I think the Minister for Communications, Information Technology and the Arts was at the AFI Awards; I was unable to go unfortunately—

Mr Tanner interjecting—

Mr DOWNER—I would have enjoyed going; you are right. The honourable members were probably not there, the Labor Party being rather culturally bankrupt these days—at least, according to cultural communities, they are. A lot of the claims that were made in speeches at the AFI Awards were frankly wrong. In some cases claims were made that the Australian film industry was going to collapse or in fact was already collapsing, even though we have not even completed free trade agreement negotiations with the United States. Some of those claims were made by people who have made millions out of Hollywood. They have made millions out of America, but they apparently do not want Australians to be able to watch American films, except perhaps for the ones they are in. Maybe they would be happy if we watched those.

We should reflect on the fact—not that the government has ever had or now has any intention of changing our local content rules—that this country, according to the government, has a very strong and positive culture. This is an interesting debate, because part of the opposition’s entirely spurious argument—part of the leitmotiv of what the opposition is saying—is that our culture is weak, that we do not much like our own culture and that the only way we will show any interest in our own culture, the only basis of us participating in our own culture, is if the government cuts off foreign imports, otherwise our culture will just collapse. If ever there was an example of the cultural cringe, that is it. If ever there was a political party that lacked confidence in our own country, in
our own people, in our own creativity and in our love of our own culture, it is the Labor Party. It is absolutely extraordinary. The proposition here is that Australians are not interested in Australian productions—and that could not be further from the truth.

Let us turn to the case of books. I do not know how many books are produced every year in the United States but presumably thousands and perhaps tens of thousands are published. When you compare that to the number of books that are published in Australia every year, it would obviously be massively more. A lot of books are produced in the United Kingdom as well. The United Kingdom’s population is three times the size of Australia’s, and the population of the United States is 15 or so times the size of Australia’s. That gives you some idea of how many more books published in the English language are published in those countries. We do not have local content rules at the Matilda Bookshop in Stirling. People can buy what books they want. One of the interesting things about the Australian book industry is that approximately 60 per cent of all books sold in Australia are published in Australia. That is what I have been told. I would be happy to be contradicted if that figure is wrong, but that is what I have been told.

That says something pretty obvious about Australia: we have good writers and publishers, we produce good products and we like them. These are people telling our stories to us in all sorts of different ways, as books do. We do not have a great wall of protection to protect a pathetically weak publishing industry. We have a good publishing industry. We like our books. And I think we like our films. The Australian film industry has been well supported by the government, and in recent years it has been very well supported by the government, as have the advertising industry, production industries and so on. I think it does a good job. It is true that the film industry has apparently had a bit of a downturn over the last year, but it does reflect the fact that film producers have a challenge—like our writers have a challenge to produce good books that people want to read—to produce films at least a percentage of which the public would like to see. We have good years and bad years. Some years we have produced wonderful films which have made an enormous impact around the world; other years, like last year, frankly have not been quite so good. My plea to the Labor Party is: do not always undersell Australia and present Australia as a country with some sort of dreadful postcolonial cultural cringe.

**Mr Tanner**—You’re a living example of it!

**The DEPUTY SPEAKER (Hon. I.R. Causley)**—The member for Melbourne is warned!

**Mr Downer**—I think that comment is exactly my point: there is something about the way that different people speak that really upsets you. You say that you believe in multiculturalism, but everyone has to speak like you do, do they?

**Mr Tanner**—I hope not!

**Mr Downer**—You as well.

**The DEPUTY SPEAKER**—The minister will address the chair.

**Mr Downer**—It is an extraordinary proposition. The Labor Party put forward this idea of conformity in society, apparently, and the Labor Party also put forward the idea that we are so desperately inferior that we could never compete with United States or the United Kingdom. On this side of the House we say to you: ‘Don’t worry. We’re not about to change the local content rules and the Americans aren’t arguing for us to change them.’

**Mr Tanner interjecting**—
The DEPUTY SPEAKER—The member for Melbourne will remove himself from the chamber under standing order 304A!

The member for Melbourne then left the chamber.

Mr DOWNER—And we say to them: ‘Don’t worry; the government recognise the strength of Australian culture. We have great confidence in our film and television producers, our actors and our writers and our artists.’

I said earlier that one of the things that strikes me about the Labor Party’s approach to this issue is that they had no argument about a free trade agreement with Singapore and they had no argument about a free trade agreement with Thailand, but they have an enormous argument about a free trade agreement with the United States. At the end of the day, the Labor Party are opposed to a free trade agreement with America because it is America—it is all part of this notion of inferiority the Labor Party have. They feel inferior to America; they feel overwhelmed by America. However, this anti-Americanism is not pervasive through all of the Labor Party. Someone like the member for Kingsford Smith has always been happy to go to America and has an interest in America—he even has some knowledge of American history, I think. The Premier of New South Wales, Bob Carr, has an enormous enthusiasm for America. And let me tread on a toe with a corn on it: the member for Brand is a great Americaphile as well. But I am afraid the construction of the current frontbench exhibits all the hallmarks of the old 1950s and 1960s anti-Americanism and of the terrible Labor oppositions in those eras. We are now seeing more and more of that.

In conclusion, it is very seldom we have an opportunity to talk in this House—in MPIs or any other way—about the arts. I want to make the point that the government has increased base funding to the 31 major performing arts companies by $31 million over a four-year period from the year 2000, and I am pretty proud of what we are doing by supporting those major performing arts companies. The Myer report into contemporary visual arts and craft has resulted in additional funding of $19½ million over four years in that sector, as announced in this year’s budget. We have also maintained a strong commitment to cultural activity in regional Australia. Yes, I am a bit biased here: my wife is the President of Regional Arts Australia and she does a fantastic job. She was elected to that position, I hasten to add. The government has provided strong support for the regional arts—for the contemporary music touring program and for Playing Australia—and we can be proud of what we have done to help develop the arts in regional Australia.

We built the National Museum, which was opened in 2001. It was a $150 million investment and it attracted more than one million visitors in its first year of operation.

Mr Martin Ferguson interjecting—

Mr DOWNER—Yes, I am afraid it was; I am afraid it was the Howard government that did that.

Mr Martin Ferguson interjecting—

Mr DOWNER—Perhaps you are not telling your constituents? Maybe you are spinning them a little bit of a line? The government implemented several recommendations from the Gonski review into the film industry, most notably by introducing the Film Licence Investment Company pilot scheme to raise private sector investment for Australian film. It has made a significant contribution to the national production slate, resulting in over $19 million of investment in 11 feature films and several animation and documentary productions between 2000 and 2002.

CHAMBER
It disappoints me that the Labor Party has not asked questions about the arts—I suspect in all the time we have been in government—or shown the slightest interest in the arts. I remember when I was in my early 20s and Don Dunstan was the Premier of my own state and Gough Whitlam was the Prime Minister of Australia. They were not guys who could run an economy, I can tell you, but in their defence they had a great interest in and a passion for the arts. They supported the arts with all their heart and soul, and it was a great credit to them. But the current opposition has no interest in the arts; it asks no questions about the arts and suddenly there is all this mock indignation about an FTA which has not even been negotiated yet—we are in the process of negotiating it—and the putting up of some canard about how the Australian film industry is going to close down. All this is because the Labor Party has a cultural cringe. Don’t worry; we will look after the industry. Don’t you worry about Australians being inferior, they are not. You may feel they are, but they are not.

Ms O’BYRNE (Bass) (4.04 p.m.)—I feel better now. I was really worried about the Australian film industry, but the minister and the government are going to take care of it—just like they took care of Medicare. They took care of that and they will take care of the Australian film industry, so everything will be a lot better. But it is really sad that we cannot have a debate in this place, that we cannot defend Australian cultural identity and that we cannot talk about Australian content. We cannot even talk about trade negotiations without this government typically, traditionally and every single time saying: ‘They’re dreadful anti-Americans. Aren’t they awful? They don’t like the Americans at all.’ The fact is that we actually have a huge faith in the quality and substance of our film industry. Any allegation that we do not is simplistic, it is childish and it is exactly what that minister—who is not staying around for the rest of the debate, I notice—and this government do.

Frankly, we are currently on the precipice of an exciting new era in media production through the introduction and acceptance of our emerging digital technologies. It is a time when the Australian film, television and music industries should be looking forward to what can be achieved through these really exciting technologies; it is not a time when they should be avoiding the use of these technologies out of the fear that they might lose not only their own jobs but also the whole industry. Instead, as this government is set to sign a free trade agreement with the US that will effectively eliminate local content rules, these industries are fighting for their survival. Local content rules that since 1942 have ensured local programs on radio and since 1961 have encouraged the production of local television are in danger of becoming the major casualty in a fight that will see the hand pitted against the lamb. Local content rules have ensured the emergence and growth of the Australian film, television and music industries. These are rules that have given us the experience and the confidence to successfully showcase our unique Australian culture and diversity to the world.

At the recent AFI awards in Melbourne—which I believe the minister at the table, the Minister for Communications, Information Technology and the Arts, was fortunate enough to attend—local actors and filmmakers, who have contributed a lot towards Australian cultural identity and pride, made a direct appeal to this government about the future of the Australian culture and its diversity through film. Actor Toni Collette, when accepting her award, said she wanted to see Australian culture remain intact. In fact she appealed to the Prime Minister when she said:
I just beg you … to see straight and not jeopardise our cultural future.

David Wenham also urged the government to consider its position. He said:

I do hope that the Australian culture has been championed in the current negotiations with the US, so that our voices, our character and our unique stories continue to be heard … for all generations to come.

The film industry, like the Australian television and music industry, fears that under the negotiations for a free trade deal between the United States and Australia that Australian voices, Australian stories and Australian culture will be drowned out by cheaper imported American programming and media.

An impending free trade agreement with the US has thrown the local film, television and music industries into crisis. Under the free trade agreement, the Motion Picture Association of America is demanding that Australians give up the right to regulate for local content within future media delivery systems which will become available as a result of digitalisation. It seems that this government is quite happy to sign a deal that will effectively eliminate representation of Australian culture and Australian diversity. The Howard government seems quite happy for there to be a final, full saturation of American culture as the dominant programming on Australian television, in the production of film and in music, and is showing its true colours on its commitment to supporting our local industries and artists.

How Australia’s media will actually look in the next 10 years is anyone’s guess. There are currently trials under way on the future of digital radio and, while the current regulatory system ensures it is impenetrable, there is much potential in digital television. The potential also for broadband Internet technology is unfathomable, and the introduction of 3G technology is ensuring that we are seeing new ways of using mobile phones. The fact that the government believes that, by proposing a standstill agreement on local content rules but allowing a free-for-all on all emerging technologies is, frankly, a joke. I cannot work out whether this ludicrous proposal of a standstill agreement is an insulting proposal or simply naive. It is either a direct dismissal of the Australian public’s intelligence in recognising that media and technology are rapidly changing, or the government is still stuck in the 1950s and is so out of touch that it truly believes that Cop Shop is in its first run.

If the Howard government signs a free trade agreement with the United States that includes this concession, Australia will likely never see the emergence of another Kylie Minogue, Bert Newton or The Wiggles. It has been local content rules that have ensured that programs like Neighbours, Good Morning Australia and The Wiggles are made—despite the fact that it costs 10 times as much to produce a local program than it takes to import an American program.

Mr Sidebottom—Go The Wiggles!

The DEPUTY SPEAKER (Hon. I.R. Causley)—The member for Braddon is in a very perilous position.

Ms O’BYRNE—Instead of icons like Kylie, Bert or The Wiggles, do we really want an environment where we would only have the option of watching American personas like Ridge Forrester, David Letterman or Barney the Dinosaur? At the moment there are clear guidelines on how much Australian content must be on our televisions, in our advertising and on our radios. On Australian television the quota set out by the guidelines stipulates that there must be 55 per cent of Australian content between 6.00 a.m. and midday; yet these quotas in no way compare to the 98.5 per cent of US television broadcast on American TV or the 95.7 per cent of UK programs on British TV. The Australian
content rules have been the backbone of the Australian media industries and have helped many Australians develop a sense of pride in who we are through seeing a diverse representation of our culture and our society.

Even without the standstill program, this government, through its lack of support for local content production, has already managed to allow a significant drop in the number of films produced. In 2002-03, 26 feature films and 54 TV dramas were produced in Australia, compared to 39 feature films and 49 TV dramas in 2001-02. Australian films, television and music are popular around the world, and the Australian public expect far greater support than this for their industries.

Whether we are watching Crocodile Dundee, Priscilla Queen of the Desert or The Boys, we are seeing Australian representations of Australian stories and hearing Australian voices. It has taken some time, but Australians have lost their cultural cringe—which the minister who spoke previously would love us to continue to have—and have developed a pride in their unique culture and diversity. There is a real danger of a further Americanisation of Australian culture under the FTA. If production of local television programs is ceased, I fear that Kath and Kim will be very much in danger of becoming Anna-Nicole and Peggy-Sue—and no more will things be ‘noice’ and ‘unusuwal’; they will end up being fine and dandy.

Labor is not against a free trade agreement if it does not take away the right of an Australian government and the Australian public to make their own decisions and if it does not have adverse impacts on Australian industries. Labor will not support this government to allow another country to undermine the provision and regulation of essential social services to the Australian people. These demands are not unreasonable and they already exist within the free trade agreements Australia has with New Zealand and Singapore.

A free trade agreement with the United States should not detract from the multilateral trade negotiations undertaken via APEC and the World Trade Organisation. The government cannot afford to become distracted from these multilateral negotiations by bilateral negotiations. The WTO negotiations, which 148 countries are participating in, are seeking to reduce trade barriers and will have a far greater trade potential for Australia than any single free trade agreement. The demand by the US to eliminate the local content quotas in Australia’s media industry does not meet either of these criteria.

We cannot allow the US or any other nation to bully us into relaxing the quotas that have been the backbone of the success of the Australian film, television and music industries. Labor will not stand by and allow the Howard government to attempt to destroy Australian culture. The Prime Minister believes he is a champion of Australian culture and is happy to support our sporting heroes. It is now time to show that commitment to all Australian culture and not support a deal that is not in our interest.

The free trade agreement with Singapore shows that it is possible to have bilateral agreements that do not trade off our culture. In that agreement, there was never any mention of the need to compromise any part of the Australian ethos—despite all the interpretations and intimations made by the minister. So why is it necessary to roll over when the United States suddenly makes such demands? Dick Letts, Executive Director of the Music Council of Australia, recently said: The US agreement offers no positives for Australian culture. None. No-one, even in the government, has pointed to any. … Losses in culture are to be accepted in exchange for gains in agriculture. That’s unfair and unwise.
Of course, we all support our farmers. But ... Only we can grow Australian culture. If we don’t do it, it won’t exist. ... Unfortunately, at this point, it seems like it’s only a question of whether the government rolls onto its side or its back. It should just stand up.

In response to this sentiment, the Minister for Trade dismisses the fears of actors, musicians, film-makers and producers in a statement that calls these concerns nothing but political scaremongering by Australians that oppose closer economic ties with the US.

The minister assures Australian actors, writers, directors, producers, movie-goers, television viewers and radio listeners that Australian culture is not under threat by the FTA. The minister believes that the US is clearly not seeking substantive changes in Australian laws, yet this assurance is in direct contrast with the demands being put on FTA negotiators who have reported that the US is pressuring Australia for cultural concessions. Members of the Music Council of Australia, the body negotiating on behalf of the music industry, have been told that it is clear from the negotiations that the Howard government is desperate to get access to the US for Australian agriculture but, because agriculture is already an open market, there can be no concessions in this area and, therefore, these concessions must come from another area.

The impact of the loss of cultural concessions under the FTA will not be immediate, because the US will concede on our current content rules under the standstill agreement. It is the future of Australian content that is in danger of disappearing. But this government and this Prime Minister do not have to worry about that because, by then, they will have long disappeared. Labor will not allow Australian culture to be traded in this manner. In the vernacular of the Prime Minister’s very special new best friend, Crikey it’s a crock, but you know, Mr Speaker, we’ll save it if we can!

Mrs DE-ANNE KELLY (Dawson—Parliamentary Secretary to the Minister for Transport and Regional Services and Parliamentary Secretary to the Minister for Trade) (4.14 p.m.)—This MPI is about the threat to Australia’s cultural identity from the government’s trade agenda. The member for Melbourne launched into one of those extraordinary arguments—the whole basis of the argument was false but what he was trying to say in his attack on The Nationals was that they had defied their support base by supposedly going against support for Australia’s cultural identity. It is a load of nonsense because we know that the Minister for Trade has said the government will not enter into any agreement that does not offer significant benefits to Australian exporters or the nation as a whole.

It was interesting that we were being accused—quite falsely, can I say—of supporting Australian farmers rather than supporting perhaps what might be seen as the cultural sector of Australia. That is quite untrue. It was an interesting argument from the member for Melbourne but we will deal with him later. What I want to speak about now is the commitment that has been made on the free trade agreement by minister Mark Vaile and the exaggerated claims that the free trade agreement with the US threatens the continued viability of local film and television production. The ALP has added to this confusion with its split personality. The Labor state premiers have enthusiastically supported the free trade agreement. I would like to quote Bob Carr:

It is in Australia’s interests to link ourselves with the world’s most dynamic and creative economy. Steve Bracks said it had ‘potential ... benefits for the Victorian economy’. Mike Rann from South Australia said, ‘An FTA would give
access to 280 million consumers.’ Even Peter Beattie, the Queensland Premier, said ‘It could be the most momentous boost for our primary industries for a hundred years.’ I note also that all Labor premiers signed a letter endorsing the signing of the free trade agreement with the United States. However, the split personality in the ALP continues. The left wing of the union movement opposes it and the federal parliamentary party is desperately split on it.

But let me assure those who work in Australian film and television that the Minister for Trade has made it quite clear that Australian culture is not under threat. Australian viewers will continue to see Australian stories told in Australian voices. We will continue the direct government support for Australian culture, including film production. None of that will be affected in any way by the free trade agreement. There have furthermore been extensive consultations with the film and television industry. Our local content rules will remain in place. Commercial free to air television networks are to broadcast 55 per cent local content during prime time. There are guarantees that 80 per cent of TV advertising is Australian and that the drama channels on pay television allocate at least 10 per cent of their program expenditure to local production. Those rules are in place now and will remain in place. The Minister for Trade has made that quite plain.

But, as the minister has also made plain, we are not inclined to overregulate and restrict the future and the development of new media technologies and platforms. Australia consumers are best placed to decide what they want to watch. Overwhelmingly, that will plainly be local content. There is a strong consumer demand for local entertainment. However, what those new platforms will be is anyone’s guess. But they will certainly offer consumers greater choice. People talk about 200 channels via broadband Internet or digital television. But the future will unfold as it will. As new media develops there will be plenty of room for Hollywood and plenty of room for local content.

I often say to people in my electorate that we are in a unique position—a window in time and history. In John Howard we have a Prime Minister who is widely respected in the United States and across the globe. We have a President of the United States with a strong personal rapport with our Prime Minister and moreover a decided respect for Australia. And we have a very active and energetic and committed Minister for Trade in Mark Vaile.

I often say to people, ‘What if we had that reversed? What if we had Mr Crean, Al Gore and the opposition spokesman for trade?’ I do not much hear from the opposition spokesman for trade—I think it is the member for Rankin. The people I talk to all say, ‘Thank goodness we’ve got what we’ve got.’ Sixty per cent of Australians are like my constituents. They support a free trade agreement with the United States. They know it is going to be a tough deal; they know they may not get everything they want. But they support going forward. If we wanted to have an Australian re-run of an American classic, Crean, Gore and the member for Rankin could be ‘The Not Good, the Bad and the Ugly’.

The DEPUTY SPEAKER (Hon. I.R. Causley)—The member for Dawson will refer to members by their position or seat.

Mrs DE-ANNE KELLY—Indeed I will. I apologise for that. The Leader of the Opposition; the previous candidate for President, Mr Gore; and the member for Rankin in a remake of such a film could be ‘The Not Good, the Bad and the Ugly’.

Mr Murphy—Mr Deputy Speaker, I rise on a point of order. It might help the member
Mrs DE-ANNE KELLY—Excellent. That will not change the re-run of the film, I assure you. I noticed that the member for Melbourne was concerned about Zed, tomato sauce and barbies. Come to Queensland; we actually talk like that. But the member for Melbourne need not worry. Australian culture is alive and well. All he needs to do is to turn on to *Kath and Kim*, one of Australia’s great successful comedy productions. I love it, I have to say; I absolutely love it. They are both fantastic actresses. I love it and so do 2.15 million other Australians. So do not worry: the barbie is okay, Zed is there and the tomato sauce is on the table for Kath and Kim.

But I now want to turn to some of the comments made at the AFI Awards. One was by Sue Brooks, the director of *Japanese Story*. She said:

> Like everybody else’s been saying tonight, it’s an honour to be able to tell Australian stories. But it’s also important that our cultural entity is intact and we just can’t trade that off for a few lamb chops.

I want people to remember that. Of course our cultural identity is important; of course our film and television industry is important. But to dismiss Australia’s agriculture industry as a few lamb chops sells Australia’s farmers very short.

Let me share with the House our major exports to the United States. Our major export is bovine meat—$1.6 billion worth, even with a massive quota and tariffs. Our second major export is meat at $321 million, even with the quota. The third is dairy products and eggs at $72 million. The fourth is crustaceans, then we go on to fruit and nuts—fresh and dried—food and live animals, and alcoholic beverages. You have to go a long way down the list to find something that Australian farmers do not produce very well and very competitively. We will stand up for all Australians in the free trade agreement, but I do not want to see Australian farmers and Australian farm products denigrated as ‘a few lamb chops’. I think that they deserve better than that.

I would now like to turn to some film re-makes we could do in Australia. For ALP policies, we could have *Legally Bland*. For Mark Latham, the member for Werriwa, working hard to get his tax cuts, we could remake *In the Cut* and call it *In the Rough*. Looking at the National Conference of the ALP, what else could you call it but the current favourite, *Intolerable Cruelty*, which is one you cannot miss. For the attitude of the ALP to responsible management—what they have done in the Senate to the Pharmaceutical Benefits Scheme, to border protection, to the new Medicare bill—we could remake *Kill Bill*. Looking at some of the Left in the Labor Party and their attitudes, you could not do better than *Titanic 3D—Ghosts of the Left*. Let us talk about our Minister for Trade, Mark Vaile, and what he is doing. He is presently in the United States working to get an increase in the standard of living for all Australians. What better film for him than *Master and Commander—the Far Side of the World*? Well done, Minister Vaile; keep up the good work and ignore the weeping wailers from the Labor Party.

**The DEPUTY SPEAKER (Hon. I.R. Causley)—Order! The discussion is now concluded.**
That, in accordance with the provisions of the Public Works Committee Act 1969, and by reason of the urgent nature of the work, it is expedient that the following proposed work be carried out without having been referred to the Parliamentary Standing Committee on Public Works: the Australian Pavilion at the 2005 Aichi World Exposition.

A proposal to proceed with a construction project without referral to the Public Works Committee is not common, because the government supports and endorses the role of the committee and appreciates the value that the committee adds to projects. However, there are some instances where referral to the committee is just not feasible. The government has decided that, given the urgent need to meet time frames set by the Japanese Expo authorities, it is not feasible to refer the construction of the fit-out of the Australian pavilion to the committee.

On 16 July this year, the Prime Minister advised Japan that Australia would participate in the 2005 World Exposition in Aichi, Japan, from 25 March 2005 to 25 September 2005. The 2005 Aichi Expo will be the first World Expo since Hanover, Germany, in 2000 in which Australia has participated. Australia’s participation is being funded by the Australian government, but contributions may also be made by state governments and through corporate sponsorship. The Department of Foreign Affairs and Trade has portfolio responsibility for this project and will manage Australia’s presence at the expo. The Australian pavilion is expected to be a popular attraction at the Expo, given its good location and Australia’s high profile and popularity in Japan. It is expected that up to 20 per cent of the planned 15 million Expo visitors will visit the Australian pavilion.

The Department of Foreign Affairs and Trade must submit all building plans to the Japanese Expo authorities by 15 January next year. In order to meet this tight time frame, the department called for tenders for the design, construction, fit-out and maintenance of the pavilion on 27 September 2003. Tenders closed on 17 November this year and, subject to parliamentary approval, it is hoped that a decision on a preferred tenderer will be made by Christmas. All work is to be completed and ready for use by 10 March 2005.

Expo authorities are constructing the building shells and are expected to hand over the Australian building on 15 September 2004. The limited amount of parliamentary time available means the Public Works Committee would not be in a position to report on this proposal to allow for the building plans to be submitted on time. Any undue delay could jeopardise a successful Australian display and have a negative impact on wider perceptions of Australia. This would have a detrimental effect on bilateral relationships. Host countries place great store in securing timely and successful participation by other countries.

The Public Works Committee has advised the government that it recognises the urgency of the proposed works and supports this motion. It has also asked the Department of Foreign Affairs and Trade for a further briefing on the proposed works when the design and cost of the project have been determined. The budget for the design, construction and maintenance of the pavilion fit-out and external exhibit facades is in the range of $8 million to $10 million. I commend this motion to the House.

Question agreed to.
Ms Gillard (Lalor) (4.28 p.m.)—I rise to speak in the second reading debate on the Medical Indemnity Amendment Bill 2003 and its cognate bill, the Medical Indemnity (IBNR Indemnity) Contribution Amendment Bill 2003. I will start by saying we should not be here. We should not be here debating these bills in this House, because the medical indemnity crisis for which they are a desperate patch-up should never have occurred.

The former Labor government commissioned a report into medical indemnity issues. It was completed by a woman called Ms Fiona Tito and is consequently referred to as the Tito report. When the Howard government came to office in 1996, the Tito report would have been sitting on the desk of the incoming Minister for Health and Family Services, Dr Michael Wooldridge. The Tito report said quite explicitly that there would be a problem, a potential crisis, to do with medical indemnity issues unless the government acted and changed policy settings. The former minister for health, Dr Michael Wooldridge, is proud, ironically, of his record of inaction having received this report.

Once it became a crisis, the Howard government scrambled around with a desperate patch-up job. The bills before the House are the manifestation of that desperate patch-up job. Labor will not be opposing these bills, though we do believe that it needs to be noted as they are debated in this House that it never should have been like this. A competent government that cared about the health system, a competent government that cared about medical indemnity issues, a competent government that cared about having doctors doing what they do best—treating patients—and a competent government that cared about patients’ access to quality care would never have let this situation get to where it is.

Of course the one clear truth we know about the Howard government is that its record in health is littered with incompetence, with neglect and with an inability to run the system. Every intervention it makes is destined to try and make the system worse—and we have that on grand display with the incoming Minister for Health and Ageing’s ‘Medicare Minus’ package.

Let us go through the record of how we got here. The immediate events which gave rise to the need for these bills before this House started in November 2001 with the...
collapse of the United Medical Protection medical defence organisation, better known as UMP. When it collapsed it had an estimated liability of $460 million of incurred but not reported claims—those are the now famous IBNRs—for which proper provision had not been made. Incurred but not reported claims are claims where the adverse medical event has occurred but the matter has not been reported yet and consequently the existence of a sum-certain claim is not known. Consequently all modelling of incurred but not reported claims requires some guesswork—some guesstimates about what the liability is. The estimated liability for incurred but not reported claims at the date of the collapse of UMP was $460 million.

The Howard government, faced with a medical indemnity crisis—the responsibility for which it could no longer shirk—agreed to take responsibility for UMP’s IBNR liabilities. It agreed that the cost of this bailout was to be passed directly onto UMP’s members and former members via the now infamous IBNR levy. That scheme of arrangements was passed into law urgently and without much scrutiny in an atmosphere of crisis—like everything else that has been done in the medical indemnity area by this government. That scheme of arrangements was passed into law through the Medical Indemnity Act 2002 and the Medical Indemnity (IBNR Indemnity) Contribution Act 2002. According to the plan and this legislation, the Howard government would recoup $580 million over 10 years from doctors who were members of UMP as at 30 June 2000. It should be noted that the difference between the $460 million bailout and the amount to be recouped occurs because of the need—if you are recouping money over 10 years—to recoup additional amounts in order to give a net present value of $460 million.

It was the first batch of the IBNR levies stemming from this scheme of arrangements thudding on doctors’ desks a few months ago that triggered the recent very public mass resignations of doctors from public hospitals. You will recall, Mr Deputy Speaker, that that crisis centred on New South Wales. The reason for that is that, disproportionately, UMP’s membership base was in New South Wales. The vast majority of doctors in New South Wales were members of UMP and consequently received the levy notices. The IBNR levy bills arrived with very little in the way of courtesy or even information from the Howard government. I have spoken to doctors in New South Wales who—or whose partners—literally ripped open the mail one day to find a 10-year levy account presented with very little information. For some in high-risk specialties, the number in the corner for the 10 years was $150,000 to $200,000. No wonder people got a bit of a shock. No wonder they reacted adversely when they opened up something that said they owed a six-figure sum without much explanation.

After they recovered from the shock, the doctors obviously disputed the calculations. They said that the outstanding liabilities of UMP had been figured at a time prior to the recent amendment of tort law and negligence law in New South Wales and that if the impact of the tort law and negligence law reform was properly modelled into the calculations, that should have brought the IBNR liabilities down and made the bill they had to pay cheaper.

Despite the relevant Government Actuary’s document being supplied to Laurie Oakes of Channel 9, the government never publicly released to members of parliament or to doctors the way in which those calculations were done. The doctors were aggrieved firstly by the manner in which these levy notices arrived and secondly by the fact that there was no way they could check whether or not their liability was right, whether or not...
the calculations had been done correctly. Thirdly, doctors were aggrieved that if they paid the 10-year liability up front—which they could do, getting a 22.5 per cent discount for paying it in a lump sum instead of year by year—and it was subsequently revealed they had paid more than they should have, because the IBNR liabilities had been overestimated, there was no mechanism for repaying to them the amount they had paid in excess of what they should have paid. Lastly—but by no means least—doctors were aggrieved that, whilst this might be some form of resolution to the IBNR crisis, it certainly was not a long-term resolution of medical indemnity issues.

As we know from questions asked in this House by the opposition, there were grand absurdities in the levy notices that were sent to doctors. Plenty of examples have been put before this parliament of doctors who were working part time, or who were working for very limited hours for the Royal Flying Doctor Service, yet got IBNR levy notices to pay which would have eaten up the lion’s share of the income they were actually receiving.

In October 2003 the doctors’ discontent led to threats of mass resignations from public hospitals, particularly in New South Wales. As I have noted, that is the centre of the crisis because most doctors in New South Wales were members of UMP. Faced again with a medical indemnity crisis, faced again with the consequence of its many long years of neglect of this area and the fact that it never did anything until there was a crisis which made it do something, the Howard government went into crisis management mode. The incoming Minister for Health and Ageing, Minister Abbott, even before he was sworn in dumped on his colleagues, most particularly the former Minister for Health and Ageing, Senator Kay Patterson, and Senator Helen Coonan, who had been dealing with these matters. He swept them aside with a grand wave of his arms and decided to walk in to see if he could resolve the medical indemnity crisis. One can only wonder why it is, if Senator Patterson and Senator Coonan were not dealing with these matters competently, they were allowed to deal with them for so long or, if in truth they were dealing with them competently, why the minister is dealing with them differently. One can only conclude from these circumstances and events that there was great incompetence in the way in which these matters were being dealt with—but that is what happens when you do not deal with public policy issues in a timely way and you allow them to become a crisis. We know, of course, that the Howard government’s record of competence in the health area is very low indeed.

The incoming minister for health, Minister Abbott, brokered a crisis deal with the Australian Medical Association in order to ensure that doctors continued treating patients, particularly in New South Wales. The crisis deal had two elements which are reflected in these bills and a third element which is not. The two elements reflected in these bills are the withdrawal of the current IBNR levy notices, which were the spark that caused all the trouble, and an exceptional claims scheme. The third element, which is not in these bills, was Minister Abbott’s agreement to create a medical indemnity policy review panel, which he would personally chair and which would report to the Prime Minister by 10 December 2003. The panel is supposed to be consulting widely before reporting on ways to ensure that medical indemnity arrangements in Australia are financially sustainable; are transparent and comprehensible to all parties; provide affordable, comprehensive and secure cover for all doctors; enable Australia’s medical work force to provide care and continue to practise to its full potential; and safeguard the interests of consumers and the community. We are yet to see what
comes out of the panel process, and the Labor Party will respond to what does come out. There is nothing about the Howard government’s record in this area which would reassure you that they will work their way to a competent solution. Maybe this time they will blunder across the right solution, but it certainly will not be because of competent policy development over the life of the Howard government.

The legislation we are debating this week gives effect to the two patch-up jobs agreed in an atmosphere of crisis in an eleventh hour deal with the AMA to try to get doctors back to work. One patch-up job is the withdrawal of all IBNR levy notices. They are to be withdrawn, and the moratorium on payments over $1,000 is to last for 18 months. Doctors have been advised that their levy notices will be withdrawn, that in this financial year they will get a new levy notice which will not be for more than $1,000, and that for the first six months following this first financial year—it is an 18-month moratorium, and you obviously get odd results when you pick an 18-month figure when everything is factored in years—they will not be required to pay more than $500. Current levies have been withdrawn, and there are moratoriums on amounts over $1,000 and then over $500.

If there were not a new scheme of arrangements in place at the end of the moratorium period—and that would occur if the panel process failed or if what came out of the panel process was not capable of being implemented—then, under this scheme of arrangements put before the House by the government, the situation would revert to the IBNR levy arrangements as we have known them. People would go back onto the old payments they were required to make, and there would be a catch-up process to make sure they paid, over the 10-year period, the total amount they should have paid according to the first levy notice. But, for the first financial year and the six months thereafter, their liability would be limited to $1,000 and then $500. It is a moratorium. If all else falls away, doctors will end up paying basically the amounts they got notices for in October this year. If a new scheme of arrangements can be entered into, then at least doctors have a guarantee under this legislation that they will not pay more than $1,000 in this financial year and they will not pay more than $500 for the six months after the end of this financial year.

Given that all this was conceived and developed and put on as a patch in an atmosphere of crisis, obviously there are all sorts of collateral issues that this legislation needs to deal with, like the circumstance of a doctor who has paid the 10 years up front and now needs to be repaid because of the moratorium arrangements. The legislation is effective to deal with such a circumstance. We have got the IBNR moratorium in this legislation, and it at least includes an annual review of IBNR arrangements. So, should there be no new arrangement come out of Minister Abbott’s panel, at least doctors will have the reassurance that their outstanding levy will be recalculated each year so that the full impact of tort law reform can be taken into account.

The second major thing in terms of the patch-ups that are dealt with in these bills is the Commonwealth’s Exceptional Claims Scheme, previously known as the Blue Sky Scheme. This is a scheme of arrangements where if a doctor sustains a claim above $20 million—that is, a claim above an amount for which the doctor has insurance—the Commonwealth will step in and pay the difference between the $20 million and whatever the claim is. I accept that that is a theoretical reassurance to doctors, but it is largely a theoretical reassurance to doctors in the sense that there never has been a medical negli-
gence claim in Australia that exceeded a $20 million quantum of damages, and it is very unlikely that one would occur, particularly in an environment where tort law is being revised to limit, not extend, rights. But, in the unlikely event that such a claim should occur, the Commonwealth will take on the liability.

Before moving on, I note at this point that one of the very unsatisfactory elements of the information that has been provided by the government on these bills is its failure to provide clear and appropriate costings. I accept that the likelihood of there being a claim the quantum of which is over $20 million—which would then enliven some Commonwealth payment under the exceptional claims arrangements—is so close to zero, so negligible, that it was probably not possible for an actuary or someone in Finance or Treasury to model the costs and include them in the explanatory memorandum. But the costs of having the IBNR arrangement—that is, the withdrawal and the limitation of liability to $1,500 over the next 18 months—must be known. The Commonwealth routinely calculates the cost of revenue forgone. That is what this, properly assessed, is. There ought to have been a frank disclosure of what the costs to the Commonwealth are through these arrangements, and we have not seen anything like that frank disclosure. I remind the Howard government that, at the end of the day, Commonwealth revenue is not its revenue; it is revenue that Australian taxpayers have worked hard for and given to the government for the provision of vital services. If the revenue is going to be used to fund patch-up arrangements because of policy incompetence, then Australian taxpayers are entitled to know what the bill they are paying is—and they do not know.

Once this patch is in place we will of course be waiting for what long-term arrangements come out of the medical indemnity panel. No-one wants to see a medical indemnity crisis in Australia, and it would be my hope that the panel finds the long-term solution. But I want to say that a way to find a real solution is to have all of the players around a table and to work consultatively with them. Disturbingly, the government—a government that has blundered and blundered again in this area because of quick fixes born out of crisis management—appears to be well on its way to repeating its past errors by refusing to encompass the right people in the process.

Clearly, state governments control two of the most important levers in this debate. Firstly, state governments control the tort law environment and, secondly, they effectively indemnify doctors for their work in public hospitals. Over the past 18 months, most state Labor governments have acted by making major reforms to the laws of negligence on civil and medical liability. Anecdotal evidence suggests that these reforms are having a substantial impact on the number of claims against doctors for negligence. This is only one part of resolving the medical indemnity problem; after all, there is only so much that can be done through active claims management and tort law reform. But what Minister Abbott is now failing to do is to effectively engage the state governments and work with them to develop options to resolve this issue.

I note that the Medical Indemnity Policy Review Panel makes no mention of working with the states on pulling together the data on these claims—the data about medical negligence claims and the tort law experience in the new environment—and that data is obviously needed to develop options for effectively managing this complex and difficult issue. If you do not have the data to understand the problem, how can you develop options to solve it? This is quite clear to me. In my home state of Victoria, the Bracks government now has probably the most
comprehensive set of data on medical indemnity claims of most, if not all, governments in Australia as a result of working with the Medical Indemnity Protection Society. This is exactly the type of database that the federal government needs to work towards establishing in cooperation with state governments and medical defence organisations. The process needs to be inclusive of state governments if it is to work. I would urge the Commonwealth, before it blunders again in an area where it has blundered so often before, to bring the states to the table as part of resolving the medical indemnity crisis.

I now want to touch briefly on elements that federal Labor believe need to be in the mix to resolve the long-term medical indemnity crisis. Clearly one of those elements is increasing quality of care and avoiding, insofar as it is possible, adverse medical incidents. We will never get treatment that is perfect; obviously everybody involved in the process is a human being, and human beings make errors. But we do know that there are currently occurring, in our hospitals in particular, preventable deaths, and a number of those would be associated with events which would equal negligence. To the extent that those preventable deaths occur, we need to improve the quality of the environment.

I note that Professor Jeff Richardson, the Director of Monash University’s Health Economics Unit, presented work at the health summit which was held here in Canberra. He looked at 1995 data and quantified it, showing that there were 470,000 adverse events, 18,000 deaths per annum and 50,000 people with a permanent disability as a result of quality issues in our medical sector. Of the 18,000 deaths, he assumed that 25 per cent—or 4,500—were preventable. On this basis, we have the equivalent of 13 jumbo jets crashing each year, each with 350 passengers. People might choose to argue about the merits of Professor Jeff Richardson’s figures. Clearly that will happen in an area like this, but I do not think anybody would assert that we are at the end of improving the quality environment and that we ought not to be making a more dedicated effort to do that. That flows into the medical negligence area, because if you do not have adverse incidents you do not have negligence claims.

I suggest a second policy that requires clear focus in order to change the environment in which we are working is focusing on open disclosure. This requires changing the practice patterns of providers such as hospitals or medical practitioners so that they do disclose errors. For parties who in the first instance might be seeking something as simple as an expression of regret or a factual statement about what has happened to their loved one, it enables that to occur. That in and of itself can prevent claims being filed for negligence. So we would stress with the Commonwealth the need to be looking at open disclosure policy as a way of reducing the risk of litigation.

I think that there is an unresolved issue about the appropriate claims structure for medical indemnity. We have, as a result of the flurry of activity post the UMP crisis, migrated the medical indemnity model from a discretionary medical defence organisation model to an insurance model. One will hit different views in the medical defence community about whether or not this was an appropriate change. But the impact of that change means that we have moved from offering doctors ‘claims incurred’ insurance—so that they know that they are covered for every event that occurs when they are in practice, whether or not it is notified while they are in practice—to ‘claims made’ insurance, which means that through paying their insurance policies they are only covered for claims actually notified during the period.
The migration to the ‘claims made’ model is what causes the IBNR tail. You did not have IBNR tails in this sense—you did not have the need to separately insure for IBNR tails—when you had ‘claims incurred’ policies. The advent of ‘claims made’ policies means that, when a doctor retires, ceases to practice, becomes medically incapacitated or even dies, they need ongoing protection because the insurance they paid for when they were in the work force will not give them cover for claims which are notified after they have moved out of the medical work force for whatever reason.

I think doctors are entitled to certainty that, if they retire or if they become medically incapacitated or permanently disabled, a claim will not rise out of the past and come and bite them. Equally, a patient is entitled to certainty that, if they have been adversely affected by a negligence incident and, within reasonable time of becoming so aware, they take action, but they did not have that knowledge until after the time that their doctor had left the medical work force, they are still entitled to make a claim. They have to have somewhere to go in those circumstances.

The risk is that, if we do not resolve the consequences from having moved to ‘claims made’ insurance, we will see doctors leave the medical work force, asset-strip themselves, give their assets to their partners or whatever and not fund an insurance policy for any claims that come up in that period. If a claim is then made, the patient would be without the ability to have recompense against an insurer and they would be suing an assetless doctor. This needs to be resolved from the point of view of doctors and patients. In earlier speeches that I have made on this matter, I have floated the idea that the Commonwealth needs the equivalent of an incorporated nominal defendant that would be the entity that you sue in those circumstances, and I trust that this matter is at the forefront of what the medical indemnity panel is seeking to resolve.

There are some in the medical defence community who would say that we could maintain or go back to the ‘claims incurred’ model. You will get different advice about that. That issue also needs to be worked through and to be on the table. But if we cannot move back to ‘claims incurred’ models then we need to be dealing with the logical consequence of that, which is the question of what happens to doctors and patients after leaving the medical work force.

I conclude by saying that the area that needs to be looked at to resolve this problem is the question of long-term care costs for the catastrophically injured. Currently, for those who are injured in medical negligence events, those costs are borne by the insurance system. Those who are injured in other circumstances end up with an inappropriate style of care—certainly not the sort of care that I believe we in this place ought to support. I trust that one of the things that are being looked at in this process is better models of care for the catastrophically injured. That would be good for the medical indemnity problem. It would also be good for the people involved.

Mr BAIRD (Cook) (4.58 p.m.)—The Medical Indemnity Amendment Bill 2003 and the Medical Indemnity (IBNR Indemnity) Contribution Amendment Bill 2003 form an important response to the crisis that developed following the provisional liquidation of United Medical Protection in 2002. The legislation specifically addresses the concerns of the medical profession and the members’ liability. I, like a number of my colleagues in this House, was approached by doctors in my electorate who were concerned about the significant increase in insurance that they were faced with. I am very glad to
see that we have this legislation before us, proposing a number of moves which can reduce the level of liability of doctors and, of course, avert the crisis that was threatening the operation, significantly, of specialists in this state, particularly those involved in orthopaedic surgery and other areas.

It was obviously a concern that the liabilities were such that continuing in their profession was in doubt. That particularly related to some of the older members of the profession—those over 65—who may have been considering retirement but who continued to work for two or three days a week. They were finding that the costs of insurance were significant and were debating whether they would continue on. Some did retire; now, when they see the various initiatives in place, they may wish to reconsider.

I certainly commend the minister on the measures that he has developed through this piece of legislation. In fact, if we look at the operation of UMP we see that it was not so long ago—on 21 December 1999—that UMP claimed to be in a strong financial position. The directors claimed that because of proactive, responsible financial planning over the past few years a levy call has been unnecessary. This claim was made on the basis that some members had suggested that UMP had significant unfunded and unaudited liabilities. The directors went on to say that for the year ending 30 June 1999, United’s balance sheet ‘shows gross assets of over $489 million’. They said: After allowing for liabilities that include adequate reserves for outstanding claims, we have a surplus of $149 million which is available for members’ IBNRs. So they were constantly reassuring the membership that UMP was in a sound financial position. However, the real case was something different.

One of the issues that confront the medical profession is the question of liability and the way in which damages have been awarded. Negligence cases have had very large damages attached to them. The more they escalated and the more the legal sector was involved in making claims, the greater the liability of those covering those damages, such as UMP and others, and the greater the vulnerability to the very situation we are talking about. The origin of these changes is in tort law reform. I am very pleased to see that action is being taken by the states, as it is the province of the states. Some states have moved further than others. In New South Wales there has been a significant effort to move on tort law reform. There have been some changes in workers compensation and now there are changes in medical claims. Obviously other states need to move in this area as well. In the meantime, a number of initiatives have been put forward to take the heat out of the situation in the interim.

The bill will put a moratorium, which was announced at the beginning of October, on the IBNR contributions. Most importantly, the moratorium places a capped limit of $1,000 a year on contribution payments for the next 18 months while a more equal and satisfactory outcome is devised. The moratorium will ensure that in the event of death a doctor’s estate will be exempt from liability in that year and any existing IBNR contributions will be refunded. Claims that are excessive, as we have seen, are being put on hold. No-one can complain about the interim arrangements.

The government has agreed to cover the liabilities for the claims that have not yet been lodged, that have been incurred but not reported—that is, the IBNR liabilities. When UMP became insolvent, the government assumed responsibility for the IBNR liability, which was estimated to be $460 million. However, the government considered it was
only fair that doctors should be required to contribute to the cost of this liability over a period of five to 10 years. I am sure all members of this House would agree that there has to be a contribution by the doctors. Doctors’ negligence, after all, is involved and their contribution is significant.

It was not until the doctors received their notification this year that it was seen that changes needed to be made. We recognise that the concerns of doctors are very real. Similarly, we recognise that a satisfactory system needs to be implemented in order for doctors to be able to continue to practise with confidence rather than leave the profession, which may have occurred. This bill is the latest in the measures proposed by the government to rectify the situation.

In my electorate, the number of doctors who are specialists and who are practising past the age of 65 is significant. I have had a number of visits from them in my own electorate. Far from forcing people to retire, we are committed to keeping these people in the workforce. Doctors who have to retire as a result of disability or permanent injury will be exempt from this levy. We have extended the high cost claims scheme to cover 50 per cent of claims between $500,000 and $20 million. Of course, we must keep in mind that the highest ever award for damages in Australia was less than $15 million. Compensation packages are in fact experiencing downward pressure as each state undertakes tort law reform.

The changes that have occurred show that the government are putting in a remedy to provide surety to the entire medical sector. We want the industry to have a proper understanding of the real issues and we want to improve the current system of compensation in conjunction with the various state governments. Most of what happened to UMP was because of excessive legal awards. The response we have had from various state and territory governments has been pleasing. Through prudential supervision, medical defence organisations—MDOs—will now be required to offer contracts to doctors. This will provide peace of mind to the medical fraternity to the extent that they know they have a certain cover to a certain limit specified in their contract. Previously, the cover was essentially limited by the capital reserve held by the MDO.

A special review committee chaired by the Minister for Health and Ageing and the Assistant Treasurer and consisting of professionals from medicine, law and finance is currently addressing the issue. It is expected that the committee will report to the Prime Minister on 10 December. The panel’s prime responsibilities are to ensure that arrangements made to medical indemnity are stable, transparent financially and understandable to all parties concerned; that the cover provided to doctors is comprehensive and affordable; that the medical profession is allowed to continue to practise to its full potential; and that the interests of all concerned parties are safeguarded.

Doctors will be provided with cover on any judgment or settlement that exceeds the doctor’s level of insurance cover. Of course, that is most significant. It is important to regain the confidence of doctors in this area and to ensure that they do not expect significantly increased liability insurance claims. The government must produce a medical indemnity system in which doctors have confidence and in which they will continue to practise. These measures must be adopted and implemented at the earliest possible opportunity.

Of paramount concern to the government is the commitment to ensure that all Australians have access to high quality, affordable health services. As the House is aware, last
week the government launched Medicare-Plus, a further $2.4 billion commitment to strengthen Medicare. These changes will have significant impact on out-of-pocket medical expenses, the number of doctors and nurses in the profession, the number of doctors for aged care, and bulk-billing. The community will be protected from high out-of-pocket medical expenses incurred outside hospital. That will have a large impact, and 12 million people will benefit from the provisions outlined. Concession card holders and families receiving family tax benefit category 1 will be covered for 80 per cent of the out-of-pocket costs for medical services provided outside hospital above $500 per individual or family per year. Four out of every five Australian families will be assisted by this arrangement. For the remaining eight million Australians, the government will provide medical costs of 80 per cent of their out-of-pocket costs over $1,000 per individual or family per year. By 2042, over half the population will be aged over 45 and over a third aged over 55. In my electorate of Cook, 18.5 per cent of the community are aged over 65. We currently have a life expectancy which is the third longest amongst developed nations behind Japan and Switzerland. These demographics alone identify the need for real legislative reform.

The new MedicarePlus will cover comprehensive medical checks for aged home care residents. Funds will be provided to GPs for services to residents of aged care homes who do not have or cannot access their regular doctor, including in an emergency or for after-hours care. We are committed to providing another 1,500 doctors in the community. This will free up GP time so that doctors can focus on the medical issues which are most appropriate to them. More doctors will be trained and more doctors will be encouraged to enter the profession, including overseas trained doctors and supervised junior doctors to work in areas of shortage. Doctors wishing to return to the profession will receive help from the government for retraining. More than 1,600 practice nurses will be supported by the government through grants to practices and new rebates for nurses to carry out medical services such as immunisations and wound management.

In terms of overall spending on health, we are concerned about the ageing demographic and we are addressing the issue. Over the last 10 years, we have gone from spending 8.5 per cent of GDP on the health portfolio to 9.3 per cent of GDP. In the last quarter, the Australian government spent $2.166 billion on Medicare payments. That is an increase of 2.4 per cent on the same period last year, and it is hardly the act of a government committed to dismantling the system, as some opposite have claimed.

The government want to ensure that Medicare and bulk-billing are retained and that they are structured appropriately. We want to ensure that an appropriate safety net is provided for those on concession cards and lower income levels and for families and the general community. MedicarePlus retains the government’s commitment to bulk-billing. Bulk-billing remains an important platform for this government’s health policy agenda. The government are committed to paying GPs an additional $5 for every bulk-billed medical service provided to Commonwealth concession card holders and to children aged under 16.

Medical professionals play an important part in the fabric of our nation. However, they must be given the latitude to move free of a socialised health system, and I am sure none of them want to be involved in that. It should not be compulsory for all doctors to bulk-bill all their patients. We believe that there should be freedom of choice. Bulk-billing remains at high levels in the commu-
nity. In fact, close to 70 per cent of GP services are provided to the patient at no cost. In my electorate this figure is 74 per cent. Doctors will be free to bulk-bill and set levels at their own discretion. But we must remember that since Medicare was introduced no government has compelled a doctor to bulk-bill.

Doctors are a vital and important part of our community. It is in the interests of all people that our doctors are covered and that they are free to practise as long as they are able to choose. The amendments to the Medical Indemnity (IBNR Indemnity) Contribution Amendment Bill 2003 are a welcome measure that allows a freedom of choice for both doctors and patients. It is a move towards better health for the people of this nation. We were confronted with the challenge of the increasing levels of IBNR cover for doctors. Costs for doctors were escalating due to the very significant awards being made by the courts. The states are moving towards tort law reform so there will be some capping of these major awards that have been given for damages and negligence. The government is moving to cover costs so that there is no charge greater than $1,000 over the following year.

The committee must report to the Prime Minister in two weeks and come up with recommendations and solutions for the longer term. Obviously, we need to find a workable solution that is acceptable to the doctors, that provides the right incentives for them, and that is not so punitive that they feel they need to leave the profession or have to struggle to meet their costs. None of us would want that situation to occur. They are a talented and professional part of our community that deserves to be recognised and rewarded appropriately. We recognise that they have suffered excessive costs for insurance cover. This issue is being addressed by this bill. It is all part of this government's package to address the nation's health care. The changes that are being made have been welcomed widely in the community. This legislation will add to the overall reforms being carried out by the minister. I commend the bill to the House.

Mr MURPHY (Lowe) (5.15 p.m.)—I rise this evening to support the Medical Indemnity (IBNR Indemnity) Contribution Amendment Bill 2003 and the Medical Indemnity Amendment Bill 2003. But I make the point at the outset that the threatened walkout of the doctors and the crisis negotiations with the AMA that followed have led the government to agree to a moratorium on the IBNR levy payments, an exceptional claims scheme and the creation of the Medical Indemnity Policy Review Panel to be chaired by the Minister for Health and Ageing. I understand that that panel will be reporting to the Prime Minister on 10 December, and it is expected that it will consult widely and look at what is financially sustainable and what is affordable to enable Australia's medical work force to provide care and continue to practise to its full potential and safeguard the interests of consumers and the community. We await the outcome of Mr Abbott's report with great interest, because this is a very serious matter.

I want to raise the fact that I was able to obtain a copy of the draft Bills Digest from the Department of the Parliamentary Library only this afternoon. Once again, this is not good enough. It is not the first time that I have spoken about being in this situation, because I did speak last month on the Migration Legislation Amendment (Migration Agents Integrity Measures) Bill 2003. Members will doubtlessly recall what I said on that occasion, so I will not go over it again. In the interest of not frustrating the democratic process, it is really unacceptable that all members of this House are not given a proper brief through the Bills Digest, which
is the lifeblood of members’ understanding of the complexities of the legislation that comes before the House on a day-to-day basis. The government is starting to become a serial offender in this regard, and I point to its failure on this occasion, with such an important piece of legislation, to properly brief all of us so that we can have a proper debate in the best interests of the nation. Although we have a moratorium in place at the moment there is bipartisan support for this bill because it is critical for our health system.

The draft Bills Digest that I saw only a few hours ago in my opinion refers correctly to the present medical indemnity insurance situation as a ‘crisis’, for that is exactly what it is. In my view, the government is doing all it can to deny and obfuscate a growing list of appalling abuses and neglect of government responsibility in this area. It is all right for the government to be obsessed with foreign policy and to be grandstanding on that but, at the same time, we are witnessing Australia’s most basic services falling to pieces because the government is in a state of denial, particularly in the critical portfolio of health. I point specifically to Medicare, and I notice that the previous speaker, the member for Cook—for whom I have a great deal of regard—was speaking rather positively about what the government is doing to preserve Medicare and bulk-billing. As you know, Mr Deputy Speaker Jenkins, from the wide-ranging debates and questions here in question time over the past few months, it is quite plain that the government is not really interested in preserving bulk-billing. We also have this other crisis, which is the subject of these bills we are dealing with tonight and which I want to focus on. As to the reason for this present crisis, the draft Bills Digest notes:

Historically, MDO’s—

that is, medical defence organisations such as United Medical Protection/UMP, Australian Medical Insurance Limited/AMIL—provided their members with ‘claims incurred’ cover. Under a ‘claims incurred’ policy, doctors were insured against injuries to patients brought about through conduct which took place during the term of the policy. The patient’s claim could be notified to the MDO at any time; i.e. during the term of the policy or once the policy has lapsed (for example, five years after the policy has lapsed).

The upshot of this is that there is what is known as a tail of non-incurred claims that have a six-year window in which to be filed from the date of the incident medical procedure. UMP/AMIL accounted for some 60 per cent of indemnities for medical practitioners until they fell into provisional liquidation, hence the crisis. Mr Deputy Speaker, like HIH, Qantas, Ansett, OneTel and other spectacular corporate collapses, who do you think is the lender of last resort for this sort of flagrant and incompetent management? Who does the government propose should fix the problem? That is a rhetorical question. It is the taxpayer. As the Bills Digest notes, yet again, it is the public who must act as a:

... guarantor for claims arising out of medical procedures provided by doctors covered by UMP/AMIL.

The government decides in these bills that it is the taxpayer who is to pay for and indemnify UMP for their incurred but not reported claims.

In this debate we must ask serious questions as to how this situation came about. How is it that there could be such a flagrant abrogation of responsibility? How could the government permit such flawed medical indemnity policies to be drafted in such generous terms so as to permit claimants to claim for up to five years after the date of the purported flawed medical procedure? Why is it that we are only now coming to a mop-up
operation with the crisis, and then only after the crisis has occurred?

For those in this House and the general public who do not understand the practical application of the medical indemnity crisis, I would like to read some correspondence that I have received. I would like to start with a letter dated 1 October 2003 from one of my constituents, a paediatric orthopaedic specialist surgeon practising at the Sydney Children’s Hospital. That letter is addressed to the Minister for Health and Ageing, and a copy of the letter has been sent to me by the specialist. When I last spoke some weeks ago with this specialist he had not had a response from the minister. Well, I hope he has had one by now. But, in any case, if he has not, I would like that followed up, because the least the minister can do is reply to this specialist. He writes:

Dear Mr Abbott,

I am a paediatric orthopaedic surgeon at Sydney Children’s Hospital, Randwick. As a direct result of the Federal Government IBNR tax, five of my colleagues are resigning from the hospital. This will leave me as the only remaining orthopaedic surgeon. Plainly, it will be impossible to provide adequate emergency cover for children with conditions such as life and limb threatening bone and joint infections, serious trauma and fractures. Further to this, I expect that essentially all elective orthopaedic surgery will be cancelled. Outpatient clinics will also have to be closed to new patients.

I understand that, at the Children’s Hospital, Westmead, at least three of the five orthopaedic surgeons have also tendered their resignations. In total, this equates to the loss of over 70% of the specialists in this discipline. The impact that this will have on the provision of services is profound.

The orthopaedic departments at both hospitals provide tertiary referral services to the State and beyond for a wide range of conditions. These include multiple and complex trauma, bone tumours, scoliosis and other spinal pathologies, various birth defects, congenital dislocation of the hip, cerebral palsy, spina bifida, limb deficiencies and many others. World class research and the education of medical students, junior doctors and surgeons in training are also carried out and most of this is unpaid. Those who work in this field do so for the technical challenges and the satisfaction and enjoyment that comes from treating children. Assuredly, it is not done for the money. It is certainly the least well recompensed area of orthopaedics. Indeed, there are no full time paediatric orthopaedic surgeons in private practice. All must subsidise their public paediatric practice by doing private adult orthopaedics.

With the exponential rise of medical indemnity costs, it has become increasingly difficult to sustain a viable paediatric practice. Included in this is the sting of a potential 21-year tail that paediatric patients may have before commencing legal action for medical negligence. The IBNR tax has been the final, and financially unsupportable, burden. My colleagues, one of whom has been in practice for over 30 years, feel that the only option is to leave children’s orthopaedics and pursue other areas; in order to pay for the UMP call, the levy and the inevitably increasing costs of practicing medicine and also to minimise exposure to the greater legal perils of paediatrics.

If this situation is allowed to mature, then the nation will have lost an irreplaceable resource. There are few surgeons who work in this specialty, and given the current environment, no incentive for others to entertain a future in it. The collective experience, wisdom and until recently, goodwill of those who reluctantly leave, cannot be let slip. I urge you to work towards a solution.

That is just one of my constituents. I am happy to make a copy of that available, because I think the minister should reply to this specialist. I will not name the specialist.

Another one wrote a brief letter on 1 October 2003 to the Chief Executive Officer of the Western Sydney Area Health Service, not to the minister, but a copy was sent to me and a copy was sent to the minister. The letter reads:
I am hereby giving notice that as of midnight 31 October 2003, I will be cancelling my insurance cover with United Medical Protection. As a result of this, I will no longer be registered as a medical practitioner and will cease clinical practice for all public and private patients.

It is with much regret that I have made this decision. The attitude of the Federal Government to the ongoing indemnity crisis lacks insight into the needs of patients and the requirements of medical practice. In the current climate, the clinical care of patients is untenable.

Unless there are major reforms to the indemnity problem, I simply cannot continue to provide the services that I have been trained to perform for the community.

And another doctor in my electorate sent an email on 13 November 2003 of which a drop copy was sent to me. It reads:

Mr Abbott,

I am one of the doctors who paid the IBNR levy before you decided to withdraw the notices. It is now over two months since I paid (4/9/03) and nearly a month since you sent me a letter saying we would be refunded. Phone calls today to the number in your letter and to the HIC both produce the same response. They have no idea when this is going to occur.

I am paying interest on a loan that I would not otherwise have to be because of the levy and I would like it back sooner rather than later if you don’t mind.

Can you please give me some indication when this will occur?

Mr Sidebottom—And?

Mr MURPHY—I am not going to wind up, member for Herbert. You are a friend of mine.

Mr Hardgrave—The member for paradise.

Mr MURPHY—Yes, the member for paradise, as the minister says. I would like to take the opportunity to again bring to the attention of the House the basic principle of environmental management that I have spoken about in this House before, known as the precautionary principle, because it is relevant.

Mr Sidebottom—What about media ownership? I would prefer to hear about that.

Mr MURPHY—I know the member for Braddon would like me to speak about the Broadcasting Services Amendment (Media Ownership) Bill 2002 [No. 2]. I hope to make a contribution to democracy at the end of the week, if that bill comes back into the House, because I realise that it is a very important bill for the future of our democracy. We will get to that, member for Braddon, and no doubt I will make an invaluable and lasting contribution to the debate when that bill comes back.

Mr Sidebottom—You will.

The DEPUTY SPEAKER (Ms Gambbaro)—I have to remind the member for Braddon that we are here for the medical indemnity bills. I ask the member for Lowe to come back to those bills.

Mr MURPHY—I am happy to come back to them. I want to say something about the precautionary principle in environmental law that I have spoken about previously, because it has application here. The principle is cited at section 6(2)(a) of the New South Wales Protection of the Environment Administration Act 1991, which states:

... if there are threats of serious or irreversible environmental damage, lack of full scientific cer-
tainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:

(i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and

(ii) an assessment of the risk-weighted consequences of various options ...

With medicine, as with other social, ecological and environmental concerns, policy must be directed towards prevention of harm rather than cure. It is always preferable to prevent harm or illness rather than to treat an ever increasing level of harm only after that harm has occurred. In this case, I support the shadow minister for health and member for Lalor, Julia Gillard, in condemning the government for doing too little on medical indemnity until it was too late. How often has this happened with this government? The medical indemnity blow-out was not something that could not be predicted. Actuaries and other experts should have predicted the medical indemnity cover necessary for claims. It is simply the case that this government allowed the situation to reach crisis point then collapse.

The precautionary principle compels action where there is non-negligible foreseeable harm. That is exactly the way in which we describe the situation with the medical indemnity crisis. This situation could have been avoided. Now doctors and other medical practitioners are burdened with a levy. That has resulted in potential mass walkouts by medical practitioners, who simply refuse to pay and refuse to be exposed to medical claims without the security of knowing whether they will be covered. This is the reason, I suspect, why the government is yet again ramming through this legislation, which we know is only a stopgap measure. The Minister for Health and Ageing does not want reasoned and damning debate on this topic, which will go down at the next election as one of the great policy failures of the government.

In her contribution, the shadow minister and member for Lalor highlighted the fact that the previous minister for health, Dr Wooldridge, by his own shameful admission did nothing about medical indemnity. That is why we are facing this crisis. Clearly, Senator Patterson could not handle the crisis. Now we have the new minister, Mr Abbott, handling it. We hope that he can get this back on track. We will await the outcome of his inquiry. Clearly, there is a need to increase the quality of patient care. Doctors are not perfect; they do make mistakes. There are preventable deaths occurring in hospitals, as previously highlighted by Professor Jeff Richardson, and we need to force an open disclosure policy to reduce litigation. It is no good sweeping under the carpet those tragic cases in hospitals. There is clearly a need to bring them out into the open. Maybe litigation would not occur, because family members would be happy to accept an apology or a clear explanation of some medical procedure that might not have gone as expected. Anyhow, the government is accountable. I am very interested to hear what the member for Herbert has to say—whether he gives an account of the stewardship and the watch of Dr Wooldridge, who made it quite plain that he did nothing in the whole six years that he was minister for health. He stands condemned for that. (Time expired)

Mr LINDSAY (Herbert) (5.35 p.m.)—I thank the member for Lowe for his kind words. I was surprised to hear the member for Lowe say in his speech on the Medical Indemnity Amendment Bill 2003 and the Medical Indemnity (IBNR Indemnity) Contribution Amendment Bill 2003 that this insurance crisis is all the government’s problem and that we have allowed it to happen.
Let us do a quick reality check on that. UMP was run by the doctors. If anyone was to know what the likely liabilities were going to be, it would have been the doctors themselves. I think there is a view out there that they did not charge the right premiums. To blame that on the government is spectacular.

I make the point that in medical procedures difficulties are always going to happen. That can be expressed in more colloquial language, which I do not wish to use in this parliament, but it is true. Doctors do not consciously make mistakes. In some cases it does not matter how good a doctor is; things happen that are beyond everybody’s control. As much as you explain it to the patient, I guess sometimes the patient does not want to hear that. Sometimes it is not expected that something will happen, but it happens—and it is always going to happen. I guess it is pretty hard for patients and doctors to know who is going to pick up the pieces after some tragic event occurs, and that has been exacerbated by the propensity these days for people to sue.

Another element in all of this debate leading up to these bills coming into the parliament has been the politics of medicine. The politics of medicine are often said to be more political than the politics of politics, and I think a number of people in all fields of endeavour who are associated with this would nod their heads and agree that the politics of medicine can be quite complicated, quite fierce, quite unreasonable, quite emotive, and so it goes on. I guess all members of parliament would have started to receive representations earlier in the year, and I was no exception. As it unfolded locally in my electorate, I was certainly very close to it and was feeding information continually to the government on behalf of the medical profession.

A whole series of things occurred leading up to this legislation. Back in about the middle of the year, doctors started writing to me. At that stage, they were asking for reform of state laws to assist in resolving the medical indemnity crisis. It was rather unfortunate that the Beattie state Labor government took so long to action a matter that the New South Wales Labor government actioned quite quickly. It was quite distressing for the doctors because they were asking for things—like a statute of limitations, constraints on compensation payments, the streamlined processing of claims, the requirement for structured settlements, improved reporting and risk management of MDOs, the removal of discretionary cover coverage in Queensland and compulsory medical indemnity coverage for health professionals. So doctors at that stage were seeking quite a range of things.

The whole issue was pretty well summed up by a notice that I saw in the Aitkenvale Family Health Centre on Ross River Road in Townsville, which said:

The insurance crisis facing us as general practitioners is unfortunately deepening. The recent legislation enacted by the Beattie government has unfortunately done little to change the litigious climate that currently exists. The Beattie government despite their protestations to the contrary and unlike their colleagues in NSW, took the soft option. They have failed to address statute of limitation issues, damages thresholds, capping of damages or mandatory structured settlements adequately. It appears that they were more intent on protecting lawyers and their civil liability practices than providing sustainable affordable medical practice in Queensland.

It was a very tough charge and one that was publicly there for all to see. The notice continued:

The upshot of this is that in addition to the already serious position of insurance there is not likely to be any improvement in medical liability cases and awards in the near future. This means
that premiums will continue to rise. UMP have
issued their renewal notices for this year with an
average 58% increase in premiums, this comes
when we are already paying a 50% “call” which
UMP required to prevent liquidation, and the
prospect of a further government levy, still being
negotiated, to cover the so-called tail insurance.
All of the medical insurance organisations ... are
predicting compounding annualised increases for
the foreseeable future. Our survival in general
practice is now seriously threatened.

It was quite a bleak notice for patients to see.
A number of things have unravelled. I at-
tended a rally of about 70 doctors. I do not
think they expected me to attend, but I would
not have missed it. It was a very sobering
meeting, but the doctors expressed their ap-
preciation that I did go and listen to what
was being said. They indicated that they
were preparing to strike—and perhaps a
number of other colleagues would have also
had doctors in their electorates threatening to
strike for a day—and the AMA in Queens-
land was certainly promoting that option.
The key thing that came through at the rally,
which was interesting, was that the doctors
had formed a view that they just wanted the
lawyers out of their surgeries. I can under-
stand that. I can understand the distress and
the threat they were feeling from the litiga-
tion they were continuing to face, even
though they had done nothing wrong what-
soever.

It reached a bit of a peak when, finally ,
one of the GPs, Dr Geoff Broadbent, went
into print in the Townsville Bulletin and said
that all doctors should refuse to treat lawyers
and politicians until the medical indemnity
crisis was solved. Goodness me! Didn’t that
light up the Townsville and Thuringowa
community. At the end of the day, after I had
spoken to Dr Broadbent, I think he regretted
what he had said because he then understood
that the government were trying to find a
way through this that would help doctors, as
we ultimately have.

Dr Broadbent’s call came with a stinging
rebuttal from a Townsville barrister, Laurie
Middleton. He simply called for a calm and
sensible debate over the medical indemnity
crisis, rather than pointing the finger of
blame at lawyers and politicians. Laurie
Middleton said that the law was not solely to
blame for the medical indemnity crisis, with
greedy and incompetent insurance compa-
nies and doctors who did not want to pay
their insurance premiums contributing to the
mess. That also lit up the Townsville Bulletin,
as you might imagine, with his claims that
insurance companies were incompetent and
that doctors did not want to pay their insur-
ance premiums. I made no comment on that,
but the public in Townsville and Thuringowa
certainly noted those comments.

I was distressed, however—and I told the
president of the AMA in Queensland this—
by the continual referral to the IBNR levy as
a tax. That was just mischievous and wrong.
I pointed out to her that the IBNR levy was
in fact tax deductible—so if it was tax de-
ductible how the hell could it be a tax, as
taxes are not tax deductible? She saw the
logic of that argument and probably took that
back to Brisbane, and I saw the AMA then
back off Australia wide from using the word
‘tax’. That was not through my efforts, but it
certainly was heard within the medical pro-
fession because it just simply was not a tax.

At the same time other sectors of the
economy were starting to get uneasy about
the government making efforts to try to solve
this medical indemnity problem for doctors.
The other sectors of the economy were say-
ing: ‘Look, why don’t you solve it for us?
Why don’t you pay our levies?’ They had a
fair point, and I think that was well made and
well heard. Senator Patterson, the then min-
ister for health, did a sterling job on this par-
ticular issue, which was finalised by the cur-
rent minister for health, the member for War-
ringah. I think that at the end of the day Bill
Glasson, in his leadership role with the AMA—Bill was a fierce advocate and I had not known him previously to be a fierce advocate, even though I have known him for a long time; I had considered him to be a fairly gentle sort of person—was not gentle on this issue but he made his points and certainly he, hand in hand with the government, thrashed the issue out, resulting in the legislation before the parliament today.

I am very pleased that the legislation that we are considering today has in fact made the doctors happy. It has given them certainty and it has strengthened their confidence so that they can get on with doing what they are really there to do, and that of course is to provide medical services to the Australian community. I congratulate the former and current health ministers on their efforts in finding a way through this very difficult problem. Life is not always easy. It certainly has not been easy in this case but now we have a great outcome that allows us to move on to other health issues, as the government has done. I certainly support the legislation.

Ms HALL (Shortland) (5.47 p.m.)—The member for Herbert really needs to look at this whole issue and see that it is not the fault of the Queensland government that we are faced with this catastrophic medical indemnity situation. Rather, it is due to the inaction of the federal government at a time when all the signals were that there was a major problem. I am very disappointed that the member would stoop to such a level and that the government will not take responsibility for the situation that we are in at the moment. Unfortunately, the doctors I have spoken to are still deeply concerned about the medical indemnity insurance crisis. They are appreciative of the fact that they do not have to pay the levy now but they are most concerned about what is going to happen in 18 months time.

I rise to support the Medical Indemnity Amendment Bill 2003 because we need to at least draw a line in the sand at this particular time. I cannot emphasise strongly enough the importance of resolving the issue of medical indemnity insurance. If this issue is not resolved, the whole health system of this country could collapse; it is of such importance. Doctors need to have certainty, patients need to have certainty and everybody needs to have faith in the system. The previous speaker congratulated the former and current health ministers. I do not think that those congratulations are in order. I really believe that this has been very badly handled by the government. It has actually been grossly mishandled. I feel that, if there is anything that points to the fact that the Howard government is incompetent, it is the handling of this issue and the general handling of the health system. It is of vital importance to the people that we represent in this House that they have certainty that if they get sick they can see a doctor and that they can afford to see a doctor. It was only when we reached the crisis stage of all those doctors in New South Wales resigning that the government decided to take this matter seriously. We on this side of the House are not opposed to the interim arrangements that are in place, but we really feel that a lot more needs to be done. It is a challenge that I hope the government can meet.

I would like to detail the history of this crisis that we are faced with. In November 2001—two years ago—UMP collapsed. When it collapsed, it had an estimated liability of $460 million. The government agreed to take responsibility for UMP’s IBNR liabilities but, in doing so, it signalled that it was going to pass them on directly to UMP members and former members through the now famous IBNR levy. The scheme of arrangement was passed into law by the Medical Indemnity Act 2002 and the Medical In-
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demnity (IBNR Indemnity) Contribution Act 2002. Whilst the liability was $460 million, the Howard government would recoup $580 million over 10 years from doctors. This was done to allow for the fact that the money it recouped should actually represent the present value of the $460 million. The calculations for this are certainly questionable. It is a credit to the minister that he is going back and actually looking at this.

The first batch of levies arrived with doctors just a few months ago and that triggered massive public resignations within the public hospital system. In the region that I represent in this parliament—that is, the Central Coast—11 doctors resigned. Those resignations were to take effect three months after the date they were given. In actual fact, some doctors have already removed themselves from the public hospital system. This has created a lot of problems for people living in an area where there is already a doctor shortage and where there is an elderly population with high medical needs. So the shortage of doctors and the fact that doctors are now charging more and are no longer working in the public system have already created a problem in the area that I represent in this parliament.

When these levy bills arrived, very little information from the government arrived with them. Doctors felt that the government had not been at all courteous to them and they did not understand how these levies had been calculated. They disputed the calculations, claiming that the IBNR liabilities were overestimated given recent tort law reform. That takes me back to the previous speaker, the member for Herbert, who addressed the issue of tort law reform. I would have to say that, if the state governments had not acted with tort law reform when they did, the situation would be a lot worse.

Mr Ciobo—We led the charge!

The DEPUTY SPEAKER (Ms Gambbaro)—The honourable member for Shortland has the call.

Ms HALL—In New South Wales the state government picked up the liability for medical indemnity insurance within public hospitals. This issue has created a great deal of angst within the community. Specialists objected to the high costs of the levy and doctors argued that the Howard government had no long-term solution to the medical indemnity crisis. It is interesting to hear the member for Moncrieff interjecting. I hope that when he makes his contribution to this House he admits that the government he is part of has failed the people of Australia, has not acted in their best interests and has certainly left doctors in the lurch wondering what is going to happen.

As recently as this afternoon, I was speaking to a constituent in my area who is a specialist. He told me that this government’s actions were not good enough and that three doctors who were working in private practice in my electorate had all left and gone to the public sector. Each of those doctors says that that is because of the crisis in medical indemnity insurance and the government’s failure to address it. They found that this government had been most destructive and obstructive in the way it had handled this matter. So I really believe that it does stand condemned to a large extent on its handling of this ever so important matter.

In October 2003, doctors’ discontent led to mass walkouts from public hospitals, with the vast majority of doctors in New South Wales threatening to walk out. It was only because of this that the new Minister for Health and Ageing had crisis negotiations with the AMA. That led to the government agreeing to a moratorium on the IBNR levy payments. I must say that that was welcomed. If that situation had been allowed to
continue then I think our health system would be in total chaos. But the review and the moratorium are not enough—we need action and we need the issue satisfied once and for all.

The health minister is on a panel that will report to the Prime Minister on 10 December. We on this side of the House will be watching that with great interest. This committee is supposed to have consulted widely with the community, but comments have been made to me that they do not think this has happened. They believe that consultation has been limited. That is both from the consumer side and from the doctors. That consultation was supposed to look at financial sustainability, transparency and comprehensibility for all parties. It was supposed to provide affordable, comprehensive and secure cover for doctors. That is important for every person in Australia because, if that cover is not available, it really does threaten our health services throughout the nation. By doing that, it was supposed to enable Australia’s medical workforce to provide care and continue to practice to its full potential, and safeguard the interests of consumers and the community.

I would like to just touch on an issue that is very dear to my heart and something that is impacting on my electorate at this very moment. Yesterday there were reports in the Newcastle Herald that Belmont Hospital— the hospital where I had my youngest child—has signalled that it is going to close the maternity ward. That hospital delivers 650 babies a year; it is situated in a growth area and it is a strong community based hospital. You might ask why this hospital is thinking of closing its maternity ward.

Mr Ciobo—Not enough funding.

Ms HALL—I can hear the member on my left showing total disregard for the people of the Shortland electorate—for the mothers who wish to have their children at Belmont Hospital—just as the government has constantly shown disregard for the people of Shortland, and that is reflected in the decline in the bulk-billing rate and the crisis that I am talking about now. The medical indemnity crisis has worsened in the area of anaesthetists and obstetricians in Australia. The shortages are leading to an end to the delivery of babies at Belmont Hospital; they are talking about having all deliveries at the John Hunter Hospital.

I thought it would be quite interesting to go through a few facts about what has happened in the area of gynaecology and obstetrics in Australia. A survey that was done in 2002 looked at the workforce. Doctors were asked who was likely to deliver babies in the next 10 years. In one year’s time only 66 per cent of those obstetricians will be delivering babies—that is a drop of one-third. In five years time the workforce will be down to 44 per cent, and in 10 years time it will be down to 24 per cent. That is a crisis facing Australia. That is a crisis that each and every member of this House should be concerned about.

In the Hunter there has been a drop of one-third in the number of obstetricians in one year and a drop of over half in five years. In 10 years time it looks as though only one-quarter of the obstetricians will be practising. It is like that throughout Australia. The retirement rate for obstetrician gynaecologists is something like 50 to 60 a year. The replacement rate is somewhere between 46 to 49 per year, and that leaves a gap of 10 or more obstetricians per year. The problem is Australia wide; it is not peculiar to Belmont Hospital.

Looking at the Hunter Valley obstetrics workforce, at the John Hunter Hospital in 2002 there was a loss of four doctors—that is, public sector obstetricians—who have ceased work, and another obstetrician will leave in 2004. There will be a net loss of six
people. At Belmont Hospital no obstetricians have left, but three have gone from the private sector and they are working solely through Belmont Hospital. That shows how important Belmont Hospital is and how it has the support of the community it services. At Maitland Hospital one obstetrician has left but has been replaced by one staff specialist. A total of four people practise at Maitland, but the mixture has changed from four private obstetricians to three, and one staff specialist. People are moving to the public sector because they fear the problems associated with medical indemnity insurance. Wyong Hospital, which services part of the Shortland electorate, is about to lose an obstetrician.

That shows that there is a decline in the workforce. There are problems with the number of anaesthetists at all these hospitals. The private sector is shrinking and the public sector is shrinking. There has been a net loss of 11 or 12 obstetrician gynaecologists between 2002 and 2004. That is a real concern to the people of the Hunter and to the people that I am representing in this place. The issue of anaesthetists is causing constant problems and it is one that must be dealt with. It can only be dealt with if the government really turns their minds to solving the problem of medical indemnity insurance, not just putting in place stopgap proposals like this. We wait and we look with interest on this side of the House to see what happens.

Finally I would like to return to the issue of Belmont Hospital and say that I can see absolutely no reason why the people of the Shortland electorate, the people of Eastlake Macquarie, should be disadvantaged by no longer being able to have their babies delivered at Belmont Hospital—a strong community hospital, a hospital that has the support of the whole community, a hospital that has a sound record of caring for and commitment to the community, a hospital that has three committed obstetricians that are prepared to work in that public system. At 6.30 p.m. on Thursday, 11 December a public meeting will be held at the Belmont Sportsman’s Club. People of the area will come together and we will be sending a strong message about how important Belmont Hospital is and how important it is to the people of the Hunter to be able to have their babies delivered there. My message to the government is: deal with this issue now and ensure that women in the future can deliver their babies with the security of knowing that an obstetrician will be there to look after them during their confinement. The government must act in Australia’s interest because if we do not have a sound medical indemnity insurance system in this country then our whole health system will be on the verge of collapse.

Mr CIOBO (Moncrieff) (6.07 p.m.)—You have to admire the barefaced hypocrisy of the Australian Labor Party. I will just pick up on the concluding comments of the member for Shortland. I heard her make a plea. She said: ‘My message to the Howard federal government is that they deal with this issue now.’ I scratch my head, because this is coming from the opposition which announced, as recently as today, that they would be working in conjunction with the Greens and the Democrats in the Senate to block the government’s response to this problem. We have opposition members saying, ‘We want the government to act and we want the government to act now.’ But forget their words because, in reality, what do they do? They put obstacles in our way on each and every occasion they get. Under our new MedicarePlus package we have provided an additional $2.4 billion to help overcome the kinds of problems that the member for Shortland has been talking about. But what do we get from the opposition? We get nothing but political opportunism, demonstrated by the fact that they will work to obstruct the very
kind of policy reform that is needed to make sure that we do deal with this problem in a timely way.

One of the principal concerns that I have with the whole debate about medical indemnity insurance is that so many people on the opposition benches have been willing to manipulate the truth to try to obtain politically opportunistic points against this government. Many members of the Australian Labor Party have feigned indignation at the fact that there is a medical indemnity crisis, as they call it; yet, at the same time as this government has moved to change it, they have (1) blocked it in the Senate and (2) engaged in the most horrendous scare campaign that I have seen for a long time. In fact, the Labor Party scare campaign on Medicare and the medical indemnity issue would have to be on a par with the kind of scare campaign they ran against the GST, when the member for Brand ran around saying, ‘The sky’s falling in.’

From my perspective, I fundamentally believe that the Australian people are awake to the Australian Labor Party. We know that the Australian people are awake to the Australian Labor Party because we continue to see the way in which the Labor Party fail to get any traction whatsoever when it comes to engaging the Australian people. You see it in the opinion polls, in letters to the editor and in the national mood, which reflects the fact that the Australian people do not want politics played with health. The Australian people do not want the opposition to kick and scream and pretend that there is this massive problem. What they want is a response, and that is the reason why the Howard government’s response is so far in front of what the opposition are offering up.

The fact is that this government have moved in a timely way to address concerns. This government have made sure that we have consulted broadly and widely. We have made sure that we have spoken not only with doctors but with specialists, patients and hospitals to make sure that our policy settings are informed settings that address the root causes of many of the problems that are befalling us today when it comes to the medical sector. This stands in stark contrast to an opposition that are hell-bent on making sure that, at the very least, they can improve Simon Crean’s failing leadership.

In my mind the Medical Indemnity Amendment Bill 2003 and the Medical Indemnity (IBNR Indemnity) Contribution Amendment Bill 2003 are just another concrete step and another demonstration of the way in which the Howard government and our Minister for Health and Ageing, the Hon. Tony Abbott, are making sure that we work in a cooperative way not only with the industry and stakeholders in the industry but with state governments as well. When this medical indemnity problem and the challenges that have befallen us as a result of the collapse of UMP first came on the radar, the government did move swiftly. One of the things that we did was to invest $460 million of taxpayer funds into the bailout of UMP. We did so because we knew that this was a problem that needed to be rectified. As part of our investment of $460 million of taxpayer funds into the assumption of IBNR liabilities that UMP had to pay, we indicated at the time that we would prevail upon doctors to make a contribution over the next 10 years—a collection of some of that money back off doctors—given that we were assuming the liability that belonged to UMP. As a consequence of that, there were some challenges—that the government noticed—one doctor received their IBNR contribution claims. This legislation today serves to ensure that we make some changes to the operation of the IBNR contribution.

In addition to that, the legislation also addresses the theoretical potential of the per-
sonal exposure of doctors to claims that exceed their insurance limit, which are referred to colloquially as ‘blue sky claims’. The legislation that is before us today builds upon the comprehensive response that the Howard government has already made to a lot of the concerns that are taking place in the medical insurance industry and, indeed, more broadly, in the medical fraternity.

As I mentioned at the outset, it has been a very real concern of mine that the Labor Party have engaged in political opportunistic attacks and a scare campaign on this issue. To reinforce the point, I turn to my own backyard, my constituency of Moncrieff on the Gold Coast, where state Labor members have been doing electorate wide mail-outs in their electorates—coincidentally in the lead-up to a state election campaign—promoting fear, concern and consternation in the community about Medicare. The question could be asked: why would a state Labor member be concerned about Medicare? Presumably that falls within the domain of the federal government. So why would a state Labor member be writing to all of his or her constituents about Medicare, if it were not for the fact that there is a coordinated and comprehensive scare campaign being waged on this issue by the Australian Labor Party?

Mr Sidebottom—Don’t they go to public hospitals?

The DEPUTY SPEAKER (Ms Gambbaro)—The member for Moncrieff has the call. The level of noise in the chamber is too high.

Mr CIOBO—An electorate wide mail-out—in this particular case, by the state Labor member for Mudgeeraba, Dianne Reilly—was done with full approval and in a way that Peter Beattie authorised either implicitly or explicitly because Peter Beattie and his Labor mates are operating in conjunction with the federal Labor Party to make sure that this scare campaign gains traction among the Australian community. But it simply is not doing so. In this instance, when the state Labor member Dianne Reilly had written to all of her constituents—a number of whom are my constituents as well—raising concerns about Medicare, I made sure that I replied swiftly, and I put on the record the facts about Medicare and about medical indemnity. In this debate, I seek to do the same thing.

Let us look at what has brought us to where we are today. We know that the liability insurance crisis has arisen because of a number of one-off factors. First and foremost, there was the collapse of HIH. With the collapse of the HIH Insurance Group, a number of unexpected challenges befell the reinsurance market and, indeed, the insurance market. In addition, there was widespread concern about some of the significant payouts that had been made in liability cases, not only against medical practitioners but more broadly in the community. I have spoken about this matter previously—most prominently, I guess, in my grievance debate speech on Australians’ growing litigiousness when it comes to suing for damages and seeking damages for matters that historically would not have been the cause of legal action.

What we now know is that that propensity to be litigious in these types of issues is becoming more common and more widespread, and all Australians are now paying the price of that increased propensity to sue. Coupled with the collapse of HIH and, in addition, the terrorist attacks—for example, the World Trade Centre attack on 11 September and the Bali bombings—this has led to a global insurance environment that has been very hostile towards modest premium increases. Quite to the contrary of that, what we now see is that many insurers and reinsurers are seeking significant premium increases to
provide for insurance against an environment in which they consider they have an increased exposure. These large insurance shocks have contributed to the problems which, as I said, are currently being experienced in the medical indemnity insurance market. Prior to government assistance, medical indemnity as an industry had not provisioned properly for future claims and was structured in such a way as to avoid prudential supervision—not in all cases but in the vast majority of cases and, most notably, with respect to UMP.

As a consequence of these various challenges that befell the medical indemnity insurance market, this government put together a comprehensive and timely response. We developed a package that addressed the impact of the problems that I have been speaking about, especially in terms of the viability of the medical indemnity industry and the affordability of medical indemnity premiums. The key measure in the package this government originally put together in response to the collapse of UMP and the wholesale increases in medical indemnity premiums was our agreement to take over the unfunded liabilities across the medical indemnity sector for claims that had been incurred but not yet lodged, otherwise known as IBNR. The government also undertook to meet half of all claims that exceed $2 million, through the High Cost Claims Scheme. On 22 October this year, the Howard government reduced the threshold for the High Cost Claims Scheme from $2 million to $500,000. At the same time, it also expanded the exemption categories for the IBNR contribution.

Another plank of this scheme was to provide further assistance, through the provision of subsidies, to doctors practising in high-risk areas of practice, to bring down their premium costs. The package that the government responded with was broader than the three limbs that I have just mentioned. However, in my view, these are the primary three limbs that underscore this government’s absolute commitment to the longevity, sustainability and, more importantly, affordability of the medical indemnity insurance market.

As I mentioned, the second of the bills that we are discussing today relates to the IBNR contribution scheme and some modifications that we are making to that scheme. It is a scheme that the Howard government turned its mind to following our $460 million bailout of UMP. So why did this take place? We know that, historically, medical defence organisations—MDOs—as well as state government funds and commercial insurers provide medical indemnity to health professionals such as doctors. MDOs are not-for-profit organisations. They are established for the benefit of their members, rather than for the financial benefit of shareholders. Also, MDOs are not insurers; they do not issue insurance contracts. Rather, they provide protection to their members in exchange for a subscription income for membership of the organisation.

There are seven major medical defence organisations in Australia: UMP, the Medical Defence Association of Victoria, the Medical Indemnity Protection Society, the Medical Defence Association of South Australia, the Medical Defence Association of Western Australia, the Medical Protection Society of Tasmania and Queensland Doctors Mutual Limited. Most of these MDOs relied heavily on reinsurance to protect their financial positions. From time to time, if a significant claim was brought against them, MDOs could raise additional capital under their current structural arrangements by charging increased subscriptions or by what is colloquially known as ‘making a call’ on their members for an additional amount of money. In this new threat environment insurers are
concerned about their liability and their exposure. Since 1999 four MDOs have been required to make a call on their members for additional funds.

In response to that, the Howard government introduced the Medical Indemnity (Prudential Supervision and Product Standards) Act 2003 to ensure that we brought MDOs under the supervision of the Australian Prudential Regulation Authority, APRA. Why did we do this? We did it because of the $460 million bailout of UMP. Because UMP was not under prudential supervision, we did not know beforehand that there had not been proper provisioning for future IBNRs. As a consequence, when it was realised that UMP needed to go into provisional liquidation because it could not meet its forward responsibilities for IBNRs, we thought to ourselves, ‘What we need to do is make sure that we bring these organisations under APRA supervision so that we can, hopefully, prevent this problem from ever occurring again.’ That is another example of the way in which we have made structural reform in the industry that should help to prevent these problems from occurring again.

That act also required that medical indemnity insurance be provided by insurers rather than mutual societies and that it be provided, as a consequence, as a contract of insurance. This is another comprehensive way in which we have achieved structural changes, systemic changes, that should ensure that we alleviate this problem in the future.

I turn to the particular bills we are discussing today. As I mentioned, as part of the government’s response to the medical indemnity challenges, we introduced the High Cost Claims Scheme. There were concerns raised that, with the introduction of the High Cost Claims Scheme, there could be situations in which the liabilities and the damages that were awarded against the doctor could exceed the maximum amount of their insurance. So the legislation that we are discussing today introduces the Exceptional Claims Scheme, which provides for that theoretical environment in which there could be significant damages awarded against the doctor. What the government has promised and what these bills introduce is a reaction to ensure that, should significant damages be awarded against a doctor on either one or multiple occasions, where the doctor’s limit of insurance is reached, the federal government will step in—Australian taxpayers will step in—and provide 100 per cent cover for that doctor and assume any liability that is over and above the level of insurance that is provided to that doctor.

It is worth bearing in mind that at this stage the highest ever award for medical negligence by an Australian court has been $9 million. As a consequence, this government has introduced a threshold of $15 million that applies from 1 January to 30 June 2003. This threshold means that the Exceptional Claims Scheme will cut in at $15 million, which is the amount of insurance that providers are making available in the marketplace for doctors to take. From 1 July onwards, that $15 million has been increased to $20 million, because malpractice insurers in most instances now provide $20 million or indeed $25 million of insurance coverage. So the Exceptional Claims Scheme operates such that, in the first instance, the doctor’s insurer will pay for any malpractice claim. Once that insurance limit is reached, the Exceptional Claims Scheme will kick in so that taxpayers—indeed, the government—will fund any additional exposure. This prevents any personal liability that might fall on doctors under so-called blue sky claims—an important safeguard for doctors, in an area where I know many doctors were concerned.

The other important aspect was IBNR contribution changes. When the original con-
tribution claims went out to doctors, they raised concerns, one of which was that they felt that the contribution levy may not have taken into account a decrease in likely claims brought against doctors because of torts law reform. The health minister, the Hon. Tony Abbott, has introduced in this legislation changes to make sure that, where doctors were paying the contribution, they will now have an 18-month moratorium. This is an important moratorium because it also provides an opportunity for a medical indemnity policy review committee to look at ways in which we can ensure that medical indemnity arrangements in Australia are financially sustainable, transparent and comprehensive for all parties, and affordable, comprehensive and secure in terms of their coverage for all doctors, and we can further enable Australia’s medical workforce to provide care and to continue to practise to its full potential. So it will provide these recommendations as a result of its review by 10 December this year.

All in all, these two bills represent a comprehensive response by this government to the medical indemnity concerns. They address in a very thorough way a lot of the concerns that doctors have raised. We have taken them on board; they have been incorporated into this legislation. Finally, I would emphasise to all Australians that the Labor Party is engaged in a scare campaign.

I find it quite illuminating in that it shows the sorts of pressures that are going on in this professional world. It pits one set of professionals—doctors—against another set of professionals—lawyers. Surprisingly, it makes very good television. It also highlights that medical indemnity insurance in Australia is a mess. The provision of indemnity insurance has been in crisis since early 2002, when United Medical Protection-Australasian Medical Insurance went into liquidation. Before May 2002, this medical defence organisation provided indemnity to approximately 60 per cent of medical practitioners nationally.

Historically, MDOs provided their members with ‘claims incurred’ cover. Under a claims incurred policy, doctors were insured against injuries to patients brought about through conduct that took place during the term of that policy. However, a patient’s claim could be notified at any time, either during the policy or after it had lapsed. If it was after, it was a claim that was incurred but not reported. UMP/AMIL had unfunded claims of this nature approximating $460 million. Three other companies were also in the red as at June 2002, but UMP was, of course, in the worst situation.

The government, who were trying to sort out the whole mess with Medicare as well, rushed to try to address the elements of the medical indemnity crisis by acting as guarantor for claims arising out of medical procedures provided by doctors covered by UMP/AMIL. They also covered the ‘incurred but not reported’ liability of doctors who were members of the MDO at 30 June where that liability was unfunded. The government also covered the high-cost claims—those exceed-
The company then put up the fees for medical indemnity and the government added a levy to get back their money, and the howls of protest were very loud. The government agreed to subsidise baby doctors, neurosurgeons and procedural GPs who undertook billable medical cases, but they also had to subsidise the levy for those who had retired or who were about to retire, those employed in public hospitals or those who had their private medical income returned to those hospitals. They also looked at covering claims over $20 million under the exceptionally high claims scheme, where a claim exceeded the limits of the capped amount of $20 million. This also put the whole industry under the Australian Prudential Regulation Authority for the first time and required policyholders to adopt risk management techniques—we are into risk management now; that is a good idea—which apparently had not happened before, although they had been recommended in various reports and many papers.

When United Medical Protection came out of liquidation a couple of weeks ago through those interventions, some in the government—and the previous speaker is one of them—thought that the crisis of indemnity was over as doctors could continue to insure through this company. But on Saturday a very worrying story appeared in the Australian Financial Review entitled ‘Exposed: a sickening situation with the doctors’ by Brian Toohey, which described how the government has not been able to solve the problem indefinitely. Doctors will still have to inject a lot more capital before their insurance scheme becomes viable and it is unlikely there will be any return of the $460 million to the taxpayer. Toohey also pointed out that UMP will not be the only company getting a taxpayer bailout. The question he raises is whether further structural reforms are needed. He points out that some areas of the medical profession would like to shift to a more radical no-fault scheme in which patients no longer have to prove negligence to receive compensation for medical injuries, although he says that negligent doctors would still face disciplinary tribunals.

Even with reform, it appears that there are still fears that policyholders will have to put more capital into the insuring bodies. Another increase in premiums, which many regard as being too high, is going to put people out of the industry. What happens if the doctors refuse to pay the levy that is supposed to recoup the $460 million of taxpayers’ money, even if it were provided as a rescue remedy to cover doctors that were becoming uninsured? Some doctors were threatening not to pay—and probably will not—and were considering resigning altogether, particularly the older ones, who are in the majority these days. This is going to lead to severe shortages of doctors in most of the specialist fields and put even more pressure on local GPs. This domino effect will also have the greatest impact in rural and isolated areas.

This is obviously going to be an ongoing problem until we can come up with some innovative solutions, and we have not done that with these bills. Perhaps we should revisit the report from a review carried out over five years from 1991 as a result of a government inquiry. The report gave rise to a paper entitled Compensation and professional indemnity in health care, written by Fiona Tito in 1995. In it there were strong, early warnings of the problems we are currently facing. It heralded the start of a rise in premiums and the growing claim amounts. As far as I know, few of the recommendations from that report have seen the light of day.
Other countries have been faced with this problem. The US seems to have dealt with it by pushing the costs onto consumers and thus pushing up the costs of health care to impossible levels. What of others? I have looked briefly at New Zealand and Sweden, which have adopted no-fault schemes. These schemes have a simple administration of streamlined adjudication pathways handling straightforward claims with expert panels reviewing more contentious cases, which is keeping the lawyers out. Both schemes function with little attorney involvement. Evidence on the administration costs suggests that no-fault schemes absorb drastically lower costs than their tort counterparts. These schemes have been operating in these countries for nearly 25 years. Other countries that have been using this type of scheme are Finland, Denmark and Norway.

Tort schemes seek to confine compensation to events in which negligence causes injury, whereas no-fault schemes offer compensation to a wider class of events. The Swedish example shows that basic eligibility for compensation is based on how avoidable an event is and the most rational basis to compensate, and this best facilitates a quality improvement in medicine. As Australia has a no-fault scheme operating for compulsory motor insurance, it would not be difficult to introduce such a scheme—as in the US—because the bones of it are already here and are tried, true and tested.

The Tito report briefly discusses that no-fault costs or strict liability should come from taxation revenue. But it argues that, if such a position were adopted without any contribution from those who currently pay for negligence cases, the effect would be to increase the proportion of the cost of negligence paid by the community and the injured person and to reduce the contribution to these costs met by those who are negligent. But by using community based funding schemes, the first and only call for all care needs and for primary income support would be more simply applied and available when the need is there—that is, close to the time a person becomes incapacitated.

One of the recommendations of the report relevant to this debate was that the government examine the potential for longer-term reform of compensation arrangements by removing payments for future care from lump sum payments under the tort scheme in exchange for a right to case-managed individual assistance for people—a bit of human intervention; think about the person; a ‘put the person back together’ approach. It is a report from the consumer’s perspective, and it is well worth revisiting as little has been done since that report, yet it holds many early warnings of our current predicament. But this report was not acted on—it goes back to 1995. There have been a lot of years for people to look at it and make policy changes in that time. Although we can blithely continue along the current line without considering the consequences later, I really believe we are building up problems down the track, and the government will be paying through the nose at every turn. As it is, we have no idea of what amounts we will be up for to top up the $460 million. I understand there are no costings in these bills and there is no indication from the minister of what the costs will be in the future. We presently have $7 billion, I think, in surplus. Maybe some of that is going to be spent to prop up more of these indemnity schemes.

I believe doctors want a new indemnity scheme in which the problems are addressed and the costs are not beyond everyone. We should be looking for a complete restructuring of the system. It is not just medical indemnity, of course. Another issue that has still not gone away is public liability. Judging from what I have read, many of the issues involved are similar and they may need
a similar approach to solve them. Of course, risk management is one of them. As with all things, this government seem to take the crisis approach and will not step back and work out a proper solution. Given the 18-month moratorium, I strongly suggest that they take a look at what is happening elsewhere and start putting some alternatives in place. It is obvious that the Howard government have grossly mishandled the medical indemnity issue, but it is important that we do not lose any more doctors at this stage. So we on this side of the House support this interim arrangement and hope that action is taken to improve the system forthwith. I think it is a failure of this government not to have done some costings on what this bill involves. I believe that that is an indictment of the government.

The major reforms of the tort laws that are occurring in the states are very important, and I think that they will help in the long-term to rectify these problems. There is a real need a look at a no-fault scheme, and it is something that this country should have done about five years ago. This will give us a scheme based on human need and not on some people winning the lottery and others probably going onto social security. On most occasions that never achieves the human outcome that we would like. We had a crisis coming, we had reports to that effect, and we had plenty of evidence that things were happening, but we failed. Therefore, the nation failed to see what was going to occur and, in that sense, it was the government’s responsibility, and the Howard government have failed us dismally. With these bills, they are trying to provide some rectification. The opposition will support this interim scheme, but some of us believe that this will not be the answer and that there will be many more bills and taxpayers’ dollars required to rectify the problem.

Mr MOSSFIELD (Greenway) (6.43 p.m.)—I rise to speak on the Medical Indemnity Amendment Bill 2003 and the Medical Indemnity (IBNR Indemnity) Contribution Amendment Bill 2003. I want to thank the member for Ryan for allowing me to speak next, so I can fulfil another commitment. As other speakers have been saying, these bills have come about because of the sheer incompetence of the government. No wonder the Prime Minister was forced to sack the previous Minister for Health and Ageing, Senator Patterson.

Mr Adams—A bandaid solution.

Mr MOSSFIELD—That is right. It is the new minister saying to the medical profession, ‘Take two aspirins and call me after the next election.’

Mr Adams—Well said.

Mr MOSSFIELD—That is what it is really about. Make no mistake, this is a problem that has been on the horizon for a number of years. The dark clouds formed years ago and the storm hit when United Medical Protection collapsed with liabilities of some $460 million. That was 18 months ago, in April 2002, and since then, while the storm has raged, very little has been done. The first bandaid solution included the IBNR levy and that resulted in a large number of doctors resigning from our public hospitals. The hospital in Blacktown in my electorate was one where many doctors expressed their intention to resign.

Discovering that their cure was worse than the ailment, the government did a double backflip with pike and announced there would be an 18-month moratorium on the levy while they worked out a real solution. This bill is a short, 18-month stopgap measure. While it has ensured that most doctors resume duties, it does not address the long-term problems associated with medical indemnity. Dr Bill Glasson of the AMA de-
scribed the proposed moratorium as an ‘olive branch with thorns’.

I believe that it is important to examine the timeline of events that has led us to this point in the debacle. On 29 April 2002, UMP collapsed. A day later, there was a joint statement from the Assistant Treasurer, Senator Coonan, and the then President of the AMA, Kerryn Phelps, which incorporated the government’s guarantee to cover claims between 29 April and 30 June—the first bandaid that gave doctors no long-term certainty. On 31 May came the second bandaid, when the Prime Minister announced that the guarantee would be extended until 31 December, again giving doctors no long-term solution or certainty. On 23 October 2002, the Prime Minister announced his third bandaid, again extending the guarantee to cover claims until 31 December 2003 and still not putting into place any permanent long-term solution. Further tinkering occurred a couple of times throughout this year, with nothing even remotely resembling a long-term solution that would give the industry any certainty. The government has tinkered around the edges and put stopgap measures in place but has not tackled the real problems or made the hard decisions that are necessary.

I would like to refer to some newspaper reports on this topic that demonstrate just how out of touch with reality this government is. An article on page 8 of the Australian Financial Review of Tuesday, 2 September reads:

... Mr Howard said the levy was an important part of the commonwealth rescue plan for doctors caught in the medical indemnity crisis.

He rejected suggestions that the extra cost would force doctors to quit. Exactly a month later, on 2 October, we awoke to the headline screaming ‘Children’s surgeons quit, more to follow’ in the Sydney Morning Herald. The article begins:

Eighteen orthopedic surgeons and obstetricians have quit public hospitals ... in the past week because of the Government’s medical indemnity charge. And doctors warned more would follow if the levy was not deferred.

Two days later, that number had risen to 72 specialists who had announced their intention to resign from New South Wales public hospitals. On 6 October the Daily Telegraph carried the banner headline ‘A “tidal wave” of doctors to resign’. This was followed up on 9 October with the headline ‘2000 doctors to walk out. System in meltdown’. So much for the Prime Minister’s rejection of suggestions that the levy would not force doctors to resign. How out of touch with reality can one Prime Minister be? Another Sydney Morning Herald article, this time from 4 October, under the headline ‘Doctors vote with their feet’, reads:

Abbott told ABC Radio he accepted the problem was acute.

He said:

It does need to be resolved quickly ...

The Minister for Health and Ageing admits the problem needs to be resolved quickly, but this has been brewing since the collapse of UMP in April last year. The minister said it needs to be resolved quickly, but the government has had 18 months to resolve it.

I would like to go back to an article by Brian Robins in the Sydney Morning Herald on 4 May 2002 regarding the collapse of UMP. It states:

This week, under intense pressure as the private health system ground to a halt, the Federal Government stitched together a package to keep doctors operating until mid-year, but this doesn’t resolve the problem for United’s doctors.

It was a bandaid then, there was another bandaid six months later, and there is yet another bandaid with these bills. If a doctor were to allow a gaping wound to fester for 18 months and only put a couple of band aids
on it I am sure his medical indemnity insurance premiums would rocket as a result.

The government has dropped the ball on this issue. When UMP collapsed it should have been looking for long-term solutions, not short quick fixes. We have watched this government fumble the health portfolio since the day it was elected. The Prime Minister has in the past made no bones about the fact that he wants to destroy Medicare. It is all there on the public record about what a rort Medicare is in the PM’s view and how he has always wanted to rip the guts out of it. We have watched as the states have been starved of money to run our public hospitals under increasingly meagre Commonwealth-state health agreements. The private health insurance rebate has become a financial monster that subsidised the private health insurance companies to the tune of $2.3 billion last year while ordinary Australian families are paying more and more for their premiums. In the health portfolio it has simply been one disaster after another, culminating in Senator Patterson’s recent sacking—even the Prime Minister could not protect her any longer.

The action—or, should I say, inaction—of the government on this issue of medical indemnity has brought the public hospital system to the brink of collapse. As with all things health related, the government’s policy will result in Australian families paying more and more for basic services. It is not just the Labor Party saying that; it is also the Assistant Treasurer, Senator Coonan, saying that. I quote from an article in the *Australian Financial Review* on 12 September, under the heading ‘Gloves off as surgeons object to levy’. In part the story reads:

... Assistant Treasurer Helen Coonan had confirmed the Australian Medical Association’s warnings that the IBNR levy would make essential health care more expensive for many Australians ...

Peter Woodruff, the Vice-President of the Royal Australasian College of Surgeons, in the same article said:
We want a stop to the Band-Aid solutions which are going to cost the government, surgeons and ultimately patients a lot of money without fixing the long-term problem ...
All the government is doing is plugging holes in what appears to be the sinking ships of medical indemnity organisations.
We need a sustainable solution in which doctors can have certainty about their medical indemnity. Unfortunately this bill is yet another bandaid that Dr Woodruff warned against. Nobody can deny that this is a very complex and complicated issue. The finger of blame for the current crisis can be pointed in a number of directions. We can blame UMP for not including the incurred but not reported liabilities in their accounting and not charging doctors appropriate premiums to cover that liability. We can blame the ambulance-chasing lawyers who have been advertising ‘no win, no fees’ and thereby generating more litigation. We can blame judges and juries for awarding ever increasing payouts for damages to claimants. We can blame the state governments for being slow to reform tort law. Some even say we can blame American television for their plethora of legal shows where there is always a good outcome for anybody who sues. And of course we can blame the federal government for sitting on their hands while the system crumbles around them.

It is a complicated set of problems, but that is precisely why the federal government must take a lead in seeking a solution and should have done so a long time ago. If this problem is not resolved adequately, the health of ordinary Australians will suffer. David Little, who is an orthopaedic surgeon at Westmead Hospital, wrote a piece for the *Sydney Morning Herald* on 9 October under the heading ‘Left untreated, the indemnity ...
system will cause more suffering’. It is a very interesting piece in which he points out many of the problems from his viewpoint, which is, after all, at the coalface. One quote in the article caught my attention. I believe it goes to the core of the argument. Dr Little says:

The way to reduce your risk is by not doing risky procedures.

It is not just the skyrocketing premiums that are driving doctors out of the hospital system. Dr Little goes on to expand on that statement:

Patient safety is at the heart of this crisis. As medicine advances, more risky things can be attempted. I perform leg lengthening operations for children born with a deformity. The complication rate is well documented to be more than 100 per cent, because many patients often get more than one complication. Most complications are reversible, although a small number suffer from permanent nerve, muscle or joint damage. The only way to reduce these risks is to deny the patient the procedure. Every child denied such intervention will continue to limp and then get arthritis in later life. I have much less risk of being sued if I ignore their plight than if I intervene.

That is a very important statement. It is a tough call. We have all heard the urban legends of doctors who stop at roadside accidents to help, only to be sued later, or, worse still, do not stop for fear of being sued. This is not the sort of society we should be aiming to produce. That is why the issue of medical indemnity must be solved.

Dr Little also makes some other very interesting points in his article explaining the mass resignations from our hospitals. He writes:

The Government’s introduction of the IBNR levy was clearly designed to support the indemnity industry, not to support the provision of health services. Such scant regard for the real issues has led doctors to act.

He finishes his article by again calling on the federal government to resolve the matter in a cooperative manner. He writes:

Inaction has led to widening havoc, and only committed and co-operative efforts of state and federal governments and the medical profession can fix this. The loss of trust between the parties must somehow be repaired first.

This is the nub of the problem. A quick fix, delaying any real action until after the next election, will not suffice. I would like to turn my comments to a couple of letters that I have received from local doctors. The first is from Dr Norman Blumenthal, an obstetrician and gynaecologist who is not a member of UMP and therefore is not subject to the IBNR levy. He is, however, concerned for his colleagues. Having received this letter from Dr Blumenthal, I had a meeting with him in which he expanded on his concerns. He said in his letter:

To add fuel to the fire, there has now been an IBNR levy imposed by the Government which is virtually the last straw to break the camel’s back.

It is an unfair levy imposed retrospectively on doctors, without them having the ability to retrospectively recoup these expenses from the patients or from medicare.

I have worked in the Blacktown area for about 20 years and can tell you that after having spoken to a number of my colleagues, there is a real threat to the medical community and there will be significant early retirements, not only from general practice but also from specialist practice. There are also fewer doctors coming through the training system because less and less people want to be involved with such a poor medical system.

That gives you some indication of the situation. As I said, Dr Blumenthal was not a member of the UMP, but as doctors around him resigned or retired he faced an increasing workload and the added stress that accompanied that.

The second letter, which in fact is addressed to the Prime Minister, is from Dr John Fox. I believe it has been sent to most
members of this House. He practices in Castle Hill, a suburb adjacent to my electorate. He would be in the member for Mitchell’s electorate. Dr Fox has trained and worked in the United States and sees the experiences there being repeated here in Australia. In part of his letter he says:

I can assure you with absolute authority that in the US because of indemnity anxiety, all of the doctors practise defensive medicine.

By definition, defensive medicine means that if a patient comes in with a little bit of an ache or a pain, the doctors will order blood tests, x-rays, ultrasounds all on the basis of practising protective “defensive medicine” and not because it is “good medicine”. Patients get a battery of medical tests just to make sure that the general practitioner or the emergency room physician or the specialist is not missing some extremely unlikely diagnosis. Patients love the attention, but these tests cost someone.

There you have it. Dr Fox goes on to say:

That is part of the reason why medicine costs the US Government budget approximately 13% of its gross national product and that is nearly twice the GNP ratio in this country and I can tell you with authority that the spending of more money does not necessarily translate into better medicine.

Dr Fox, like Dr Blumenthal, was not a member of UMP and therefore was not directly affected by having to pay the IBNR levy—which goes to show the depth of feeling across the medical profession regarding the indemnity crisis. So you have Dr Little saying that it would be easier not to treat a patient and to reduce the risk that way, and Dr Fox going in the other direction and saying that expensive and unnecessary tests to cover every conceivable yet unlikely circumstance blow out the costs even more. Whichever way it goes, it is a bad outcome. We need to fix this problem, not simply put another bandaid on it. I am pleased that the Labor Party have seen fit to support these bills, but we call on the Howard government to show some true leadership for once and to implement some long-term and sustainable solutions to this particular medical problem.

Mr JOHNSON (Ryan) (7.02 p.m.)—I am pleased to speak on the Medical Indemnity Amendment Bill 2003 and the Medical Indemnity (IBNR Indemnity) Contribution Amendment Bill 2003, which are before the parliament today. I am pleased to speak on the bills for a number of reasons, but above all because the amendments contained in these bills will have a positive impact on the Australian health system and will inject confidence into Australia’s medical indemnity insurance system. I take much pleasure in reporting to the people of Ryan, as their local member, that the Howard government is working hard to address the challenges of medical indemnity that we have in this country and especially to come up with workable solutions.

The federal government, under the stewardship of the recently appointed Minister for Health and Ageing, Tony Abbott, is making great strides in addressing the big questions surrounding medical indemnity—so much so that the minister has most appropriately received generous endorsement from the President of the Federal AMA, Dr Bill Glasson, and many of his colleagues. I want to take this opportunity at the outset to make the parliament aware of one of Dr Glasson’s remarks in relation to the new minister for health. This is what Dr Glasson had to say, following negotiations with the health minister:

The AMA finds it refreshing that the Government has displayed an energetic and sincere willingness to examine and repair the whole medical indemnity system so it can no longer haunt the medical profession and patients.

That is a very real acknowledgment from someone who is at the coalface in understanding this issue. He is paying tribute to the government when it should indeed be paid tribute.
Medical indemnity is a critical issue for all Australians because it affects the quality and delivery of medical services. We all want a comprehensive and robust health system that can respond to the needs of the Australian community. The instability that has been experienced in the health system with regard to medical indemnity is symptomatic of the international insurance crisis. We are all aware that since September 2001 global commerce, for a start, has been turned upside down and inside out because of the uncertainty and rising costs of insuring business activities and risk. Regrettably, this has flowed on to public indemnity in our own backyards and has affected everyday Australians in many ways.

In relation to medical indemnity specifically, the Howard government has worked exceptionally hard to respond to the community’s concerns and the effect of this crisis on our health system and the medical profession. As we all know, the industry suffered terribly after the collapse of HIH—not to mention the impact of substantial increases in the number of claims, massive costs payments against doctors and of course the abysmal failure of managers in insurance companies such as UMP to properly provide for future claims. Not surprisingly, the public has looked to the Howard government for leadership and workable solutions.

The government passed the Medical Indemnity Act in 2002 and, earlier this year, the Medical Indemnity (Prudential Supervision and Product Standards) Act 2003. The effect of those two pieces of legislation was initially to stabilise the medical indemnity sector and, very importantly, to bring certainty to the medical profession and to those medical specialists in particular who work very hard and who are very dedicated to their patients. To further strengthen this legislation and to respond to community concerns, the government has introduced the Medical Indemnity Amendment Bill 2003 and the Medical Indemnity (IBNR Indemnity) Contribution Amendment Bill 2003. The legislation currently before the House puts into effect agreements reached with the AMA in October and introduces an 18-month moratorium on IBNR contributions. During that time, contributions will be capped at $1,000 per year. The amendments also allow for the withdrawal of all current IBNR levy notices and refund existing payments. New levy notices will be issued after the review process is completed. The amendments address doctors’ concerns about the financial burden of the IBNR contribution and about the equity of how it was to be determined.

A new aspect of the legislation is the Exceptional Claims Scheme, which fully indemnifies doctors for the component of settlement or judgment amounts that exceed the doctor’s level of insurance cover. The Commonwealth government will pay the component amount that exceeds the insurance cover level. With this amendment, doctors can be confident that they can continue to practise with a strong medical indemnity regime to support them.

Following negotiations with the AMA undertaken in October, the minister announced a number of important measures to address industry and public concerns, and I want to refer to some of those in this speech. This included the formation of a policy review committee to begin quickly and to work towards solutions in a specified time frame. The policy review committee is due to report to the Prime Minister early next month, on 10 December 2003, and is in fact chaired by the minister for health himself. In addition, reflecting the importance of this committee and the mandate that it has, the Assistant Treasurer, the Hon. Senator Helen Coonan, sits on the committee, and two doctors, an insurance lawyer and an actuarial expert complete the committee’s makeup. So this is
a very important committee. It reflects the very serious approach of the government to this issue and our very strong determination to get to grips with this important issue facing the profession and of course the country generally.

The government also gave the undertaking that all current IBNR notices would be withdrawn and existing payments refunded, with new levy notices issued after the policy review process is completed. A number of exemptions from IBNR fees were also announced and undertaken by the government. These included exemptions for all doctors employed by public hospitals or where their private medical income is returned to these hospitals, exemptions for all doctors over 65 regardless of practice income, and exemptions for all doctors who retire early due to disability or permanent injury.

The High Cost Claims Scheme was also extended to cover 50 per cent of claims between $500,000 and $20 million. This means that the government will actually take up 50 per cent of the burden of high-cost claims between $500,000 and $20 million. The $20 million threshold will apply from 1 July 2003. I just remind the House that this is taxpayers’ money. I think the opposition especially sometimes need reminding that, when the federal government spends money, it is coming from the hard-earned taxes of people who live in my electorate of Ryan—in suburbs like The Gap, Toowong and Taringa—and of course other hardworking Australians up and down the length and breadth of this country. Accommodating for this amount of funds is entirely responsible and appropriate, given the critical importance of medical indemnity to the medical profession and, as I alluded to earlier, to the broad community. It is important to maintain the confidence of the Australian people in our health system, and this legislation certainly does that.

This new legislation will do much to strengthen the confidence of doctors themselves in the medical indemnity insurance system and the confidence of the public in the health system. It should be made clear that the minister’s negotiations and dealings with the AMA have been acknowledged by those who sometimes are the hardest to please, by those who rarely mince their words. At the outset of my speech, I quoted Dr Bill Glasson, and I want to take the opportunity to again quote Dr Glasson, because I think it is very important for the community to be aware that, when someone of his stature and rank speaks very positively about the minister or the government and the efforts of the government to come to a workable solution, it is very genuinely meant. So let me quote what the federal president of the AMA said of Tony Abbott’s commitment to making things happen. Dr Glasson said:

Tony Abbott has today shown a solid understanding of the problem and has displayed a strong commitment to finding a workable and sustainable solution for doctors, patients and the whole community.

I think the key word there is ‘sustainable’. This is all about finding something that will endure and make a difference. It is no good coming up with short-term solutions. This can make a very important difference. I think all members, including some from the opposition, would accept that the remarks of Dr Glasson reflect well on the minister’s tireless efforts and his commitment to obtaining a workable solution. The fact that the shadow minister and the previous speaker alluded to the opposition’s support for these bills also reflect that.

The government has responded seriously to the very real concerns of doctors about their ability to continue practising with a strong and viable medical indemnity insurance system standing behind them. No-one in this country—not one single Australian—
would question the tremendous contribution and the immense dedication the medical profession collectively makes to our community, and this government not only pays tribute to the work that doctors perform but indeed salutes the work ethic of doctors and the entire health industry throughout the country. We all know that doctors work very long hours. We all know that they are very dedicated to their profession, to the ethics and values of the profession and what they represent but, most importantly, to the health and wellbeing of their patients.

As a member of the federal parliament, as a member who represents the constituents in the electorate of Ryan, I want to take this opportunity to express a very sincere thanks to doctors, nurses and indeed all those in the medical and allied health profession who make a difference to our lives. For my part, with a brother who is in the medical profession—he is a neurosurgeon—and with a sister who has just gained acceptance into medical school, I can certainly assure the House and the voters of Ryan that I for one am made aware of the challenges facing the medical profession in terms of not only medical indemnity issues but also the broader issues facing the medical profession.

I stated at the outset that I was pleased to speak on these bills because of the positive impact of the proposed amendments. This is precisely what will transpire when the parliament passes these bills with the full support of the opposition. I know the people in my electorate of Ryan are very interested to know what the Howard Liberal government is doing on the health front, so it is important for me, as their local federal member, to report back to them on the activities and initiatives of the Howard government. This is just one example of the Howard government taking the ball up, as it were, to make things happen and to find workable and sustainable solutions.

Part of the long-term solution to this issue clearly lies in a major overhaul of the law of negligence that currently sees, at times, ridiculous amounts of money paid out to patients where the circumstances do not justify those massive payments. I want to stress that point: where the circumstances do not justify the massive payments. I do not want that to be taken out of context. No-one would begrudge a patient’s just and appropriate compensation when there has been absolute gross negligence on the part of a doctor or a specialist, but it is also important to get some balance. It is also important to recognise that the work of specialists, doctors and those in the medical profession is inherently risky. It is a risky craft, a risky skill, that they practise, and the specialists need the understanding and support of the community for the truly incredible work that they perform. So changes to tort law will minimise disproportionate sums awarded by the courts. These sums are paid for by the public through insurers, because when insurers have these claims put to them they just pass them on to the public. This becomes untenable at the end of the day.

It is important that all the state and territory governments make contributions on this issue. I acknowledge the very strong efforts of the state Labor governments throughout the country. This is a good example of how Labor governments and the federal coalition can work together in the interests of the people of Australia. On such a very important issue facing the country, with the lives of our fellow Australians perhaps at stake at times, it is important that we can show the Australian people that we can work together, and I certainly want to acknowledge the contribution and efforts of the state governments. No doubt much more can be done to make things happen quickly.

As for my home state of Queensland, I understand that the Queensland government
are also playing their part, but it is important
that the electorate is broadly made aware of
exactly what they are doing because, whilst
they are perhaps making some inroads into
tort law reform, I certainly have constituents
raising this issue with me. In fact, only sev-
eral weeks ago I had a retired justice of the
Queensland Supreme Court approach me at a
function to express his interest in being in-
volved in this because he felt that not enough
was being done. Whilst he did acknowledge
that things were happening in terms of the
state government’s part in this, the fact that
he approached me wanting to play a part in
the resolution of this very important issue
signals to me that perhaps much more can be
done much more quickly.

In conclusion, I want to compliment the
new health minister, the Hon. Tony Abbott,
on his outstanding leadership in the portfolio
that he has assumed responsibility for. To be
able to negotiate with a group such as the
AMA is no small thing and to have done it
successfully and to have earned the tributes
of that association’s federal president reflects
very strongly and very generously on the
skills of the health minister. So I want to
compliment the minister on his outstanding
leadership and his stewardship of the Health
portfolio and commend the bill to the par-
liament. I again encourage the opposition to
support the government on its other pieces of
legislation that are coming before the par-
liament before we break for Christmas.

Dr EMERSON (Rankin) (7.18 p.m.)—
The medical indemnity insurance crisis has
been going on for far too long and we wel-
come the fact that some measures have been
adopted by this government, through the
Medical Indemnity Amendment Bill 2003,
that may help alleviate it. But they are all
part of the mix that has created a crisis in our
health system, a crisis characterised by a
shortage of doctors and a slump in bulk-
billing. In my electorate of Rankin, the
slump in bulk-billing in the last three months
has been dramatic, and over the last 15
months it has gone from a slide to a collapse.
There is widespread concern about that, and
I can certainly understand the point of view
of GPs and specialists, wondering what is in
it in a financial sense for them, because they
work very hard and very long and they are
very committed people, very committed Aus-
tralians, performing what I think everyone
would agree is an indispensable service to
the community.

It is often too easy to blame doctors and
say that they are doing very well for them-
selves but when you consider the costs that
they incur, not only through their training but
also through the practice itself, and the
enormous hours that they work, you under-
stand their view that to be burdened by the
sorts of levies that were proposed by this
government was intolerable. Before the min-
ister’s announcement that there was going to
be at least temporary relief from the levy that
was to be applied, I was anticipating real
trouble at Logan hospital in my own elector-
ate because its specialists were, as I under-
stand it, looking seriously at withdrawing
from the whole profession, which would
have been a tragedy. We know that these are
highly trained specialists who then acquire
enormous skills through the practice of their
profession, and to lose these people from our
health system would have been nothing short
of a tragedy. So there is some welcome news
in this particular piece of legislation and we
certainly are pleased to see that there is at
least some relief and that, while the crisis in
medical indemnity insurance is still there, at
least it is not being given its full expression.
If it were, I fear that we would see wide-
spread resignations not only in Queensland
but right across the nation.

As I said in my remarks a moment ago,
this is one component of the enormous diffi-
culties that our health system is now experi-
encing. These difficulties are in very large part a creation of this government going back to 1987, when the current Prime Minister who was then opposition leader told the John Laws program, in the lead-up to the 1987 election, that he would ‘take a scalpel to Medicare’ and tear Medicare right apart. He described bulk-billing then as a rort. The truth of the matter is that the government preceding that, the Fraser government, had seven different health policies in seven years. They knew that what they wanted to do was to dismantle the then Medibank. They did that and went through seven different health policies in seven years and then the opposition that the now Prime Minister led seemed to have a different health policy each year in opposition, leading up to that statement by the Prime Minister that he would in fact take a scalpel to Medicare and tear it right apart.

He became wise after the event—the event being the 1987 election—and thereafter he did not renew his promise to take a scalpel to Medicare. But he has never believed in it. The government has never believed in Medicare and the truth of the matter is that, from the day this government was elected in March 1996, it began letting the Medicare system go, effectively dismantling it by stealth. It had at least wised up to the fact that the Australian community strongly supports Medicare, so it could not make public statements that it would take a scalpel to Medicare without bearing a very high political price.

So its tactic had been to allow Medicare to fall into disrepair and disrepute, hoping that the community would then join in its view that Medicare should go. That has not happened. The community has not joined the government in its view that Medicare should go. The community, in fact, has strengthened their resolve in relation to Medicare to the point of saying, ‘We want you to save Medicare.’ But they do know in their heart of hearts that this government will not save Medicare, because it has never been committed to it. Labor will save Medicare. Labor built Medicare, and only Labor will save Medicare.

We certainly see this bill as a very small amount of progress, but it does not in any way obviate the fact that Medicare and our public health system are in crisis and in urgent need of repair. The government’s so-called MedicarePlus package, which is more aptly described as ‘MedicareMinus’, will only result in a further decline in bulk-billing, an increase in out-of-pocket expenses and ultimately the destruction of Medicare. Madam Deputy Speaker, I say through you to the people of Australia that Labor built Medicare and only Labor will save Medicare.

Mr ABBOTT (Warringah—Minister for Health and Ageing) (7.24 p.m.)—in reply—In summing up this debate on the Medical Indemnity Amendment Bill 2003, I wish to thank all members who have spoken. I particularly wish to thank the shadow minister, the member for Lalor, whose contribution to the debate I was unfortunately unable to hear in person. I apologise to her for that. If it is any consolation to her, it was her work earlier today which caused me to be absent from the House so that I was not able to hear her contribution to this debate. It was her political effectiveness which caused me to be absent from the House, dealing with the question of what has happened in the Senate today with the government’s MedicarePlus package.

I want to thank everyone who has contributed, and I want to say that what has been in evidence today from all speakers is an appreciation of the importance of medical indemnity as an issue. Patients have to be confident that, if they are harmed through medical negligence, they have recourse. Doctors need to
be confident that, if they are sued, they have cover—hence, the importance of the medical indemnity insurance arrangements and of the legislation currently before the House.

There have been very significant changes over the years in the way medical indemnity insurance has operated. A couple of decades ago, the medical defence organisations operated as little more than doctors’ clubs. There were very few complaints of medical negligence and there were fewer settlements. The cost involved was modest. In fact, the main purpose of the medical defence organisations, it seems, was to represent doctors in matters before various professional tribunals to do with registration and so on rather than to pick up the tab for large negligence claims. In common with so many other areas of insurance and so many other areas of litigation, a great deal changed in the late eighties and through the nineties. The culture of litigation changed. There was more litigation, courts became more willing to make negligence awards, the risk of being sued for negligence increased and the quantum of damages increased. These organisations came under more and more pressure.

Competition in this area was not always as helpful as it might have been in other areas. What happened was that we moved from a situation where all doctors insured all doctors to a situation where, increasingly, each specialty insured its own members but no-one else. So, instead of seeing a situation where risk was shared, we had a situation where risk was increasingly concentrated. Eventually we had, in effect, obstetricians insuring obstetricians, orthopaedic surgeons insuring orthopaedic surgeons and neurosurgeons insuring neurosurgeons. We found ourselves with a system where GPs in New South Wales might, for argument’s sake, face a medical indemnity insurance premium of perhaps $4,000 a year, whereas obstetricians might face a medical indemnity insurance premium of $150,000 a year without any government subsidy and orthopaedic surgeons might face a medical indemnity insurance premium of close to $100,000 a year. Plainly, it was a very difficult situation for medical practitioners to face. As this House would know only too well, it all came to a head early last year when United Medical Protection, by far the largest medical defence organisation in Australia, went into provisional liquidation, in part as a result of the general difficulties of medical indemnity insurance and in part because of the particular pressure it was under due to the $60 million loss it suffered in the collapse of its reinsurer, HIH.

Since then, the government has moved swiftly to try to stabilise the situation and ensure that doctors, patients and taxpayers receive a fair deal. Successively, the government has provided guarantees to UMP; picked up the so-called tail liability of UMP; introduced subsidy arrangements for specialties with high insurance costs; introduced the exceptional claims scheme to cover claims in excess of $20 million; and introduced the high cost claims scheme, which has been successively extended to now cover half the cost of claims against doctors of half a million dollars plus. In total, the federal government is committing some $100 million a year under present arrangements to try to support medical indemnity insurance in Australia.

In order to recoup some of the costs, the government established a scheme under the legislation which we are now proposing to amend—a scheme which has been called, for want of a better word, the IBNR scheme; a scheme covering incurred but not reported liabilities. This scheme was negotiated in full consultation with the medical profession and enshrined in the act which we are now seeking to amend. I have to say that when IBNR notices started to go out there was a very
The hostile reaction from the medical profession—a reaction which had not been anticipated by the government, which had not been anticipated by the AMA and which had not been anticipated by the medical representatives and leaders of the profession, in consultation with whom, every step of the way, the original legislation had been drafted, the bill that we have before us tonight is designed to give effect to the arrangement which I negotiated with the medical profession at the beginning of October in company with Senator Coonan, the Assistant Treasurer, building on the good work that had earlier been done by my distinguished predecessor in this portfolio, Senator Patterson. The government agreed to put in place an 18-month moratorium on IBNR levies over $1,500 and to put in place a medical indemnity policy review panel to report to the government by 10 December. I am pleased to say that that panel is doing its work well and is proceeding extremely constructively. I am confident that the panel will present a range of feasible options to the government, any one of which will solve this problem for the long term.

I do have to say in passing to some of the members who have contributed to this debate that it is becoming increasingly apparent that medical indemnity insurance is sui generis. Medical indemnity insurance is not like general insurance. The particular stresses and strains of medical practice, the types of incidents which may arise from medical procedures that go wrong, the large number of small providers in the field, the reluctance of large insurers that can spread their risks and cross-subsidise, as it were, and the ferocious nature of competition between the large number of small medical indemnity insurers, suggests to me—and, I think, to the policy review panel—that we may well be witnessing a significant example of market failure.

This is a government which, as you know, believes very much in the market, but we also believe very much in solving problems when they arise. We do have a problem in medical indemnity insurance. This legislation is necessary to give effect to the moratorium arrangements which the government made with the medical profession at the beginning of October. I very much suspect that this is not the last time that we will be discussing medical indemnity insurance in this House, and I feel there is still some way to go before this matter is solved to the satisfaction of the medical profession, the protection of patients and the reasonable protection of the interests of taxpayers. Nevertheless, I commend the amendments to the House and I thank the opposition for agreeing to support them.

Question agreed to.

Bill read a second time.

Message from the Governor-General recommending appropriation announced.

Third Reading

Mr ABBOTT (Warringah—Minister for Health and Ageing) (7.35 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

MEDICAL INDEMNITY (IBNR INDEMNITY) CONTRIBUTION AMENDMENT BILL 2003

Second Reading

Debate resumed from 6 November, on motion by Mr Abbott:

That this bill be now read a second time.

Question agreed to.

Bill read a second time.

Message from the Governor-General recommending appropriation announced.
Mr ABBOTT (Warringah—Minister for Health and Ageing) (7.36 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 (IMPROVED PROTECTION FOR VICTORIAN WORKERS) BILL 2002

Second Reading
Debate resumed from 21 March 2002, on motion by Mr Abbott:
That this bill be now read a second time.

Dr EMERSON (Rankin) (7.37 p.m.)—I am pleased to indicate that the opposition in the House will support the Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002. The government’s most recent amendments to the bill put Labor in the unusual position of being able to support the passage of a Howard government workplace relations bill. When I was appointed to this position, when the current Minister for Health and Ageing was the Minister for Employment and Workplace Relations, I said that, if legislation were put forward by that minister, it would almost certainly be against the interests of working Australians and therefore, if it were against the interests of working Australians, we would oppose it.

Nevertheless, I indicated that in the event that the Howard government were to put forward a bill that was in the interests of working Australians—and in this case it is in the interests of disadvantaged workers in Victoria—we would look favourably at that. I am carrying through on that commitment today by indicating our support for this bill, but we will be moving a second reading amendment condemning the government for taking four years to agree to these urgent amendments and for seeking to undermine the effect of this bill through the actions of the Employment Advocate and through the ongoing pursuit of the Workplace Relations Amendment (Choice in Award Coverage) Bill 2002, which philosophically contradicts this bill and seeks to undermine it.

The bill signals the end of a decade of neglect of some of Australia’s most disadvantaged workers by conservative governments in Victoria and Canberra. Now, thanks to the determined efforts of the Victorian Bracks Labor government, the federal government has finally agreed to amend the Workplace Relations Act to assist these disadvantaged working Australians. I pay tribute to the Bracks government and, in particular, to Minister Rob Hulls for his diligence and dogged pursuit in this regard and to his predecessor, Monica Gould, who did that as well. As a result of their persistence, patience and doggedness, this bill has come to pass through this parliament.

How did we get to the point where we needed to consider legislation that deals with the plight of 400,000 disadvantaged workers in Victoria? What is the problem that this bill seeks to resolve? It all started in 1993 with the election of the Kennett government, which quite early on in its reign over Victoria—some would say a reign of terror—abolished Victorian state awards altogether. It was a dramatic move and one that was calculated to disadvantage workers in Victoria, and it certainly had that effect in respect of 400,000 workers, who remain disadvantaged to this day.

The system of awards that we have, both state and federal, is the foundation of fair terms and conditions of employment in this country. State and federal industrial relations systems traditionally work in parallel and complement each other, but the abolition of
Victoria’s awards and the whole industrial relations system in Victoria left a gaping hole in the protection of workers in that state. State awards provide fair conditions of employment through awards that are based on industry or occupation, and those awards apply to all employers within their scope in that state. These awards with across-the-board application are called common rule awards. For constitutional reasons, the federal system does not have common rule awards and is restricted to the resolution of interstate disputes. The Australian Industrial Relations Commission can make awards, but these awards are limited in their application to the employers named in them. So the constitutional device is to create an interstate dispute and then name employers in the awards that are then struck. I point out that there is an exception with respect to the territories, where the constitutional limitations do not apply and common rule awards can be made.

In respect of standard federal awards, it is up to trade unions to keep the relevant lists of employers up to date by applying to the commission to have non-award employers or state award employers bound by a federal award. It is quite difficult over time to keep these lists up to date, no matter how vigilant the union is. It is also a lengthy and costly process for a union to undertake. In all other states these gaps in the federal award system are filled by state awards, but, since Victoria has no state awards, more than 400,000 employees have no award minimum conditions to protect them. In 1996, when the Howard government was elected, these 400,000 workers were totally abandoned by the Victorian government, with the referral of the bulk of Victoria’s industrial relations powers to the Commonwealth.

Who are these 400,000 workers? They are amongst the lowest paid workers in Victoria. A disproportionate number of these workers earn the bare minimum wage. In fact, around 42 per cent of these workers earn the minimum wage, compared with 26 per cent of federal award workers. These employees are now entitled to only five substandard conditions contained in schedule 1A of the Workplace Relations Act. I will go through those five conditions.

The first condition is a minimum hourly rate of pay for the first 38 hours worked. This is the same rate of pay for work at nights, weekends or public holidays. It also has the Third World effect that employers are not required to pay employees at all for hours worked over and above 38 hours a week, and there is absolutely no restriction on the number of hours or the times of day that employees can be required to work. The second substandard condition is four weeks annual leave but with no annual leave loading. The third condition is five days sick leave, whereas the usual award standard is 10 to 15 days. The fourth of these substandard conditions is unpaid parental leave. The fifth condition is a period of notice for termination of employment but with no entitlement to severance pay if the employee is dismissed because of redundancy.

This means, for example, there is no bereavement leave at all. There is no entitlement to even one day off, not even as unpaid leave, if an employee’s spouse or child dies. That is pretty Third World. It also means that there is no limit on the number of hours or the times of day that an employee can be required to work. So the employer under these schedule 1A basic five protections, such as they are, can say, ‘You have to come to work three or four times today,’ or, ‘You have to come in at night,’ and the employee has no protection against that. It is absolutely at the whim of the employer.

In addition, this means no accident pay, no other types of leave, no allowances for work
related conditions or expenses and no dispute resolution processes. Not surprisingly, these poor minimum requirements are reflected in the actual payments and conditions received by these employees. Only six per cent of schedule 1A workplaces pay shift allowances, only 24 per cent pay higher rates for weekend work, only 35 per cent pay any annual leave loading at all, and only 41 per cent pay overtime rates. So it is pretty clear that these are substandard provisions. Of course, all of these entitlements would be standard in federal awards. So schedule 1A creates a dual system in Victoria: a substandard set of conditions for the 400,000 award-free workers and another set, with 20 allowable matters, for workers under federal awards.

In 2000 the Bracks government in Victoria undertook a review of this dual system and, not surprisingly, it found that the system was seriously flawed and needed fixing. The review took public submissions and uncovered some of the sad stories of these workers, whose vulnerable position was often exploited. I will now refer to some case studies from a Victorian government publication of October 2000 entitled _Voices from the workplace: submissions to the Victorian Industrial Relations Taskforce_. Ryan was a branch manager at a local computer store that trades seven days a week. He said:

> All staff are expected to work public holidays and, no matter what their qualifications, receive $5.00 per hour extra. There is no extra pay for Saturdays, Sundays, or for late night opening. As the Branch Manager I have all the usual responsibilities you would expect plus those of security, so when the burglar alarm goes off at 3am, I have to attend. I am not paid for this attendance. I asked for payment and received none.

> All staff are expected to open-up/cash-up and close in their own time.

Norman has worked for 10 years as a nursery hand in a wholesale nursery. He said:

> When I started work, there I was employed under the old state award system, with all the entitlements that went with it. In 1993 when the Kennett government introduced the workplace agreement, my boss told me I had to sign a schedule 1A agreement. I did and under that agreement I lost my penalty rates for weekend work, my R.D.O’s, my 17 1/2% loading and my rights as a worker.

> He went on to say:

> If I work a weekend day or public holiday, as I often do, I get a flat rate of pay for those days the same as a normal day.

> I only hope the system changes so we can get back what we are entitled to.

The unfairness of this dual system is patently obvious. It is unfair to workers, but I also point out that it is unfair to business. Perhaps that is the reason that the Howard government finally did move. Approximately half of Victoria’s small businesses—that is, those with fewer than 20 employees—are covered by federal awards. This is about 100,000 businesses. They compete with other businesses that are award-free. During the Victorian government’s review, employers were openly critical of this uneven playing field. Another submission to _Voices from the workplace_ was from the Mildura Fruit Company, supported by a number of other local employers, including Sunnycliff Orchards and Select Harvest. It said:

> Our company [Mildura Fruit Company] is respondent to the federal agriculture award. We operate in an extremely competitive environment under seasonal conditions. In this context, we support the view that there should be a floor to competition.

> It is extremely difficult to remain competitive while some companies operate outside of the federal award. These companies are not required to provide penalty rates, severance payments or award pay rates. This reduces their labour costs in a manner that imposes an unfair competitive ad-
vantage against those who wish to provide acceptable minimum conditions for employees.

Employer associations such as the Victorian Road Transport Association are also opposed to the dual system. These concerns from employers and employees form the basis of the Victorian Labor government’s opposition to the system they inherited from their conservative predecessors. The Bracks government set out to remedy the situation. From the time that it came to office in October 1999, the Bracks government was committed to fixing this unfair dual system. Its policy was to do so, if possible, by achieving changes to the federal Workplace Relations Act. But, if the Bracks government could not convince the federal government of the need for such changes, it was committed to establishing a state system to provide decent award conditions of employment for these 400,000 disadvantaged working Victorians.

The Bracks government repeatedly asked the federal government to amend the Workplace Relations Act. The then minister refused these requests. In desperation over the then minister’s refusal, the Bracks government then attempted to pass state legislation to address the issue. The legislation—the Fair Employment Bill—was blocked by the Howard government’s Liberal Party and National Party colleagues in Victoria’s upper house. Then a new federal workplace relations minister came along—the member for Menzies. The member for Menzies managed to do what the member for Warringah could not: he closed the deal. He reached agreement with the Victorian government about the amendments required to end a decade of blatant unfairness. In these negotiations the Victorian minister, Rob Hulls, was very firm and tough, and in the end the federal minister agreed to this request.

The result of the deal is this new set of amendments before us in the parliament. The new amendments take a big step—a welcome step—in allowing the Australian Industrial Relations Commission to make common rule awards in Victoria. This will allow unions to apply for existing federal awards to apply across the board in Victoria without the need to list each individual employer. Of course, we contend that there are still issues in this bill that could have been handled better. I will foreshadow a couple of them. The 12-month delay before common rule awards can apply is one, and the other that I refer to is the only very minimal improvements to the five conditions in schedule 1A. Both of these are disappointing, and we will be having more to say about these when this bill makes its way into the Senate.

But the bill does finally start to redress the injustice endured by these 400,000 workers. I welcome the agreement between the state
and federal governments that facilitated the development of these new amendments. But, true to form, the Howard government and in particular this Minister for Employment and Workplace Relations are doing one thing through the front door and another through the back door. The bona fides of the minister for workplace relations must be called into question by the existence of another workplace relations bill, which seeks to do almost the exact opposite of the bill before us here today. Senator Reg Withers said, many years ago, that consistency is the sign of a small mind. I do not think this government can be accused of consistency in this regard.

Mr Murphy—The toecutter!

Dr Emerson—He was indeed known as the toecutter. There is a massive inconsistency between the government’s willingness to pursue this bill’s passage through the parliament and, on the other hand, its insistence on continuing to pursue another bill which has quite the opposite effect. The bill today will ensure that as many Victorian employers are covered by federal awards as possible. But the other bill, which was debated in this House just three weeks ago—and the debate is not even completed—seeks to do the opposite. The Workplace Relations Amendment (Choice in Award Coverage) Bill 2002 would make it almost impossible for small business employers to become bound by federal awards. The glaring inconsistency—the one which Reg Withers would see but which this minister appears not to be able to see—is breathtaking. One increases award coverage and the other severely restricts future award coverage.

So what is going on? Does the minister for workplace relations believe broader award coverage is the way to go or does he not? Or is he completely unaware of the inconsistencies that even former senator Reg Withers would be able to see? I say that, to be true to the intent of his agreement with the Victorian minister about the ending of this unfair dual system, the minister for workplace relations must withdraw the choice in award coverage bill from this parliament and never let it rear its misnamed, ugly head again.

But, sadly, this is not the only sign from the minister that he is not fair dinkum about protecting Victorian workers. This government established the Office of the Employment Advocate. The Employment Advocate has a web site, which encourages Victorian employers to avoid any new award responsibilities by putting employees onto the notorious Australian workplace agreements. The web site says:

Recently, the Victorian Government announced its commitment to ensuring that all Victorian workplaces worked with the Federal Award system ...

Awards can be lengthy, confusing documents that are hard to read and interpret ...

It goes on to say that AWAs, once approved, replace the award. Once again the Howard government has been found out to be two-faced, mean and tricky. On the one hand it is saying to the 400,000 disadvantaged Victorian workers: ‘Good news! We’re putting through legislation that will end the disadvantage that you have endured since 1993—a decade now.’ On the other hand, the minister has his Office of the Employment Advocate posting on the web site ways of getting around these new award conditions by encouraging employers to sign their employees up to AWAs, the weakest form of agreement for any employee. This is a sneaky government, and this minister is demonstrating that he is two-faced, saying to these disadvantaged workers on the one hand, ‘We’re going to look after you,’ but on the other having the Office of the Employment Advocate going around the back, saying to employers that there is a way to avoid the very legislation
that the minister is putting through the parliament.

This bill, even with the amendments, is no act of generosity by the Howard government. They would be quite happy to see the current injustices continue. But they have been forced into making these concessions by the threat of the Victorian government re-establishing its own system, a threat that employers would not like to see carried out. It would be with considerable reluctance that the Victorian government would do this. But, given that it now has a majority in both houses, it is capable of doing it. Only through that capacity has it been able to secure sufficient bargaining power to be able to approach the current minister and indicate that if the current minister did not put through acceptable legislation then with considerable reluctance the Bracks government would re-establish the state award system. In a sense, the Victorian government had the federal government over a barrel on this one. It is only in those circumstances that the federal government has rolled forward with this legislation.

It is clear that, through its other actions, which I have just described, the Howard government is gritting its teeth and is only reluctantly providing these disadvantaged workers with award protection. Even when it agrees to do something positive after years of pleading and begging to do the right thing, the Howard government cannot help itself. It goes around the back and undermines its own commitments. We see this all over the place. Time will not allow me to go into great detail—even though I could—about how the government says one thing and does another around the back.

Nevertheless, Labor are pleased to support this bill. We applaud the end of an appalling situation of minimum conditions being applied for non-award workers in Victoria. It has been far too long in coming, but today is a happy day for 400,000 disadvantaged Victorian workers. It is a pretty good Christmas present to know that one day fairly soon they will be entitled to basic protections like bereavement leave and overtime rates of pay. But I call on the new minister to stand by his deal to fully support the full operation of these amendments and not to undermine them with other measures by going around the back or with other legislation he has in the parliament.

Apart from a piece of legislation related to SES workers who were engaged in firefighting, it is very difficult to remember this parliament, since the election of the Howard government, dealing with any workplace relations legislation that was in the interests of working Australians, in the interests of collective bargaining if employers chose to bargain collectively or in the interests of ensuring that there was a powerful, independent umpire to adjudicate and arbitrate when disputes could not be resolved by the parties.

By my count, this government has now put only the second piece of legislation since 1996 into the parliament with which we could agree. I do point out that there are still a number of matters on which we will be seeking further clarification as this bill makes its way to the Senate. But, you never know, stranger things have happened. Maybe the minister will turn over a new leaf. Maybe, buoyed by the fact that he is facilitating the passage of legislation that will end a decade of neglect and disadvantage for 400,000 Victorian workers, he will see the light. Maybe the minister will think, ‘Before Christmas I could do a few other things that would be to the advantage of working Australians.’

I can name a dozen things that he could do that would be to the advantage of working Australians. In fact, I could name a baker’s
dozen. In relation to the dirty dozen bills that are in and around this parliament that the minister has introduced—one of which is already a double dissolution trigger and another of which is heading that way—perhaps he could now say that it is time to give working Australians a bit of relief, that it is time to say ‘merry Christmas’ to working Australians and that the Howard government will not proceed with withdrawing the right of working Australians to take industrial action where it is absolutely necessary.

As one of the baker’s dirty dozen bills this minister has a piece of legislation that would effectively withdraw the right to take industrial action. It is targeted, as described in the second reading speech, directly at nurses, hospital workers, teachers and academics—some of the most respected people in this country. There are many other bills, all of which are designed to weaken the bargaining capacity of working Australians and to strip away the safety net that protects Australians’ working conditions and wages from falling through the floor. There are 13 of these bills in and around the parliament.

I call on this minister, who may have a small sense of Christmas spirit, to say, ‘Perhaps I can make a few other working Australians happy by not persisting with these dirty dozen bills and with the extra bill’—a bill which he has personally sponsored in this parliament. He inherited the dirty dozen, but this other bill is especially pernicious. It is arguably the most vicious bill that has been introduced into this parliament since the first wave of industrial relations changes in 1996. It would effectively allow any third party or any person who might be affected, actually or potentially, by industrial action to go to the commission and suspend the bargaining period. The minister is sponsoring that piece of legislation; he has introduced it.

He has also introduced the Building and Construction Industry—so-called—Improvement Bill, but that too is a bill that will weaken the capacity of working Australians employed in the building industry to bargain collectively to protect their wages and conditions. It certainly weakens the right of entry of safety experts from unions into workplaces in the building and construction industry—an industry which suffers, on average, one fatality a week.

So the dirty dozen bills plus the baker’s dozen bill—the 13th bill—puts working Australians in a position where effectively their rights to take industrial action have been removed. If you add to that the 14th bill, the Building and Construction Industry—so-called—Improvement Bill 2003, you have a litany of legislation that is against the interests of working Australians. But this bill is one that we can support in the House. Therefore, I move:

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

“while not declining to give the bill a second reading, the House condemns the Government for:

(1) taking four years to agree to these urgent amendments; and

(2) seeking to undermine the effect of this bill through the actions of the Employment Advocate and through the Workplace Relations Amendment (Choice in Award Coverage) Bill”.

The DEPUTY SPEAKER (Hon. D.G.H. Adams)—Is the amendment seconded?

Mr Murphy—I second the amendment.

Mr BILLSON (Dunkley) (8.07 p.m.)—We are saved by the bell. What a confused and confusing contribution from the member for Rankin. He was right to mention Christmas because his contribution was a little Santa Claus-esque. It was one of those things that you just hope are true. If you say it often
enough and if there are enough Christmas sales, you might believe it is true, but he really did miss the point. To emphasise that we were saved by the bell—to coin a phrase—we could have been dreaming if we had thought that the Labor Party were going to support sensible industrial relations legislation because they have a track record of not doing so. The notes I prepared for tonight’s speech focus on the high probability that the Labor Party would do what the Labor Party always do, and that is to stand in the way of things just for the heck of it. I must say I have some admiration for the member for Rankin. Although he hogs the ball on the rugby field, he has done a reasonable job in trying to sound supportive yet, at the same time, suggest in a Santa Claus-esque way that Rob Hulls is the sweetest little Christmas elf that you have ever seen and that, despite the fact that Labor do not oppose this legislation, there is still an Armageddon just around the new year.

I speak in support of Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002, not only for what it does but also for what it avoids. It avoids the prospect of a new industrial relations system from Minister Rob Hulls in Victoria, who is not known for his accommodating bedside manner when it comes to matters politic. We should be celebrating the avoidance of that. When parliament supports this legislation in the House of Representatives, we will be saving Victorians from the wrath of Rob Hulls—the creator of a new industrial relations system. We will be saving businesses from the futile, pointless, expensive and confounding effort of creating another industrial relations system when everybody is saying that a unitary system is the way to go. We will be saving Victorian workers, but it is not only the workers who have jobs that we will be saving. The difference between the Howard government and the Labor opposition is the Howard government’s outstanding record on supporting working men and women. In fact, this government is known as the worker’s friend. We are also trying to do something about those people who are not currently workers but would like to be.

There is a dual task in workplace relations: it is not only to accommodate and facilitate productive workplaces in the interests of the business and the employees but also to hold out the prospect and work assiduously towards making sure more people have the opportunity to work. That is the framework and the context of the discussion on this bill tonight. The Labor Party are now not going to object and oppose this legislation because the penny has dropped. How could they and on what grounds? You only have to look at the commentary—even the Bracks Labor government’s election material. Premier Bracks has tried to take credit for the benefits of federal industrial relations workplace relations policy. Let me quote the ALP platform chapter 10, entitled ‘Fairness and safety at work’. It states:

Under the Bracks government ... Confrontation has been replaced with a positive and productive industrial relations environment.

It has, because the Commonwealth is overseeing the vast majority of those arrangements and even Minister Hulls has said that the unitary system is the only way to go. So with that as a backdrop, what would Labor comrades in federal parliament possibly say to their Labor comrades in the state parliament in Victoria? Would they say: ‘It is wrong; the Bracks government is misleading itself and the Australian people, as it has on Scoresby tolls and things like that; it is actually not a good working environment’? Is that the option? Or is the federal scene going to say, ‘No, we want to impose on Victoria another workplace relations system with all the cost, complexity and futility of reregulat-
No, of course it cannot say that.

What you have seen today is an effort by the shadow spokesman, the member for Rankin, to try and make the Labor Party sound like it is in some kind of harmony with its state colleagues: on the one hand not opposing this legislation and on the other hand holding out the false belief that there is something evil in this package. To begin with, let me dispel both of those myths. The member for Rankin talked about Minister Hulls' eloquence, his accommodation and his collaborative nature in negotiations. That must be the Dougie Cameron definition of industrial relations negotiation. What nonsense. Hulls has gone around threatening the workers of Victoria, threatening the employees of Victoria, being belligerent—and the member for Rankin has fessed up. He said that there were threats. He said, 'The state had the Commonwealth over a barrel.' He said that it was clearly trying to pressure and force the issue—almost terrorism. Workplace relations terrorism has gone on in intergovernmental relations to force the Commonwealth government to do what Mr Hulls wanted. That does not really sound like negotiation at all, does it? This whole issue has come to a head because Minister Andrews recognised that there is only so much you can teach an old dog in the case of Minister Hulls. If that is the way he interacts, maybe there is a need for some push back to get a serious and sensible adult-to-adult conversation, rather than a dictatorial, belligerent, threatening, demanding and insisting Minister Hulls.

That is the backdrop, and it is a different backdrop from the one that the member for Rankin would have you believe. In discussing this bill tonight, we have arrived at an agreement because Minister Hulls was told he could not have all that he wanted. Threatening to damage the job prospects, the employment environment and businesses in Victoria is hardly the way to make sound public policy. Minister Andrews has said, 'If you want to go and rip the guts out of many of these businesses and deny Victorians the opportunity to work and to pursue improved living standards through their shared endeavours with their employers, that is not a good outcome. Why not canvass some other possibilities?' Tonight we are having a discussion about what has been agreed in canvassing those possibilities. It would be wrong for anybody listening to this debate to think that it was just a matter of Bracks thumping his fist on the table and sending out attack dog Hulls. The state government gave a bit away once it was reminded of the futility of its threat, and the fact that the legislation that it claimed it would introduce had some technical difficulties—it may have been unconstitutional. And it did not make a lot of progress on creating another industrial relations system either.

So in a sensible and sober manner, Minister Hulls and Minister Andrews agreed that the Hulls demand—the Hulls threat and the Hulls belligerence—that all contractors would become employees was not an option. It would not be something that the Commonwealth would accommodate, and there was little point going on about it because it is entirely inconsistent with the position of the Commonwealth. The Commonwealth rightly pushed back the request, the demand, the insistence—whatever you want to call it—from Minister Hulls that Commonwealth awards would automatically apply.

We think there is a place for businesses and industry and all those stakeholders, including employers and those that represent them, to go through an application process so that people know what is going on and can make their case. The shadow minister for
employment and workplace relations, the member for Rankin, from the Labor Party, was saying how bad it was that this whole change did not come in overnight—that a 12-month delay to allow all parties—interest groups, businesses, workers and their workplaces—to adjust and adapt to these changes was unreasonable. We think 12 months is okay. The point was put to Minister Hulls, the Victorian workplace relations minister, and he accepted that. But the killer punch was the stark reality, the unavoidable fact and glaring truth of the complete futility of reregulating the workplace relations system. I have not met anybody who thinks that is a good idea. In its election propaganda the Bracks Labor government does not think it is a good idea. Even the shadow minister in the federal Labor Party does not think that is a good idea. Certainly, the people who are supposed to work with the system do not think it is much of an idea either. So you end up with agreement on those key points.

To accommodate those things there is a need to incorporate coverage for those 350,000 Victorian workers in a framework that is not unfamiliar to most people. It is about carrying over the regime that operates in the Northern Territory and the ACT, where you have not seen industrial mayhem or the productive capacity of those jurisdictions come to a screaming halt. It is a measured, moderate and sensible proposition to embrace those 350,000 workers in a framework that currently exists and where there is some competence and experience. That is what this proposition seeks to do.

There are also some issues around making sure that there is genuine protection and that these bills do canvass and address the legitimate concerns of those 350,000 workers, including the possibility of exploitation of outworkers. We have rejected the proposition that outworkers and contractors should automatically become employees, but there is the safeguard of carrying over the pay rates under those common rule award conditions so that that exploitation does not occur. That is a sensible, appropriate, moderate response. It is not perfect, but in our view, and in the view of some of the interests in Victoria who had made submissions and campaigned against what the Bracks government were trying to implement, the Bracks government’s plans would have cost jobs in Victoria.

There is an argument that some of these changes may impose some new costs and some new restraints, but the debate tonight is about saying, ‘Maybe this isn’t the optimal system, but it is the least worst one.’ We are saving Victorian employers from a fate worse than tolls on Scoresby: an industrial relations system overseen by Minister Hulls. What a horrendous thought! It is hard to imagine something that would be worse than tolls on Scoresby, but the thought of reregulating the industrial relations system in Victoria and having Minister Hulls overseeing it sends shivers up your spine—there would be a need for some counselling if you thought too deeply about that. This bill does seek to address those areas where there are some genuine concerns, and it avoids what could only be described as two overlapping jurisdictions amounting to a Brackwards step! For that I thank my office, and particularly Suzan Westlake for her creativity in that regard.

The issues that are before us tonight concern what is actually in the bill. We have heard the history from the member for Rankin. We have heard about how in late 1992 the Victorian government moved to deregulate the industrial relations system, about the Employee Relations Act that was passed at that time, about the abolition of state awards around 1 March 1993, about the system being replaced with some minimum statutory terms and conditions, and about how those
arrangements were pretty much in place until late 1996, when everybody saw the light and believed that a unitary system was the way to go and the Victorian government referred to the Commonwealth the power to regulate most aspects of the industrial relations system in that state. We accepted that referral, and we have heard about those discussions—about how the minimum wage rate set by the AIRC as part of the safety net review of each case applied to Victorian workers. The referral went through, federal legislation was enacted and Victoria had the courage and foresight to move to a unitary system of industrial relations. It was a really positive outcome.

Now, though, we are seeing that there was the threat of a Hulls-imposed system that would spook the horses. The bill before us tonight seeks to guard against the worst possible outcome, which would be Premier Bracks and Minister Hulls carrying through with their threats. There would be no sense in reregulating the system: the national economy does not value it; the employers in Victoria would not value it; and, frankly, the outcomes for employees are dubious at best, when we would actually like to see a system that would create more employees in Victoria and give them the opportunity to improve their working conditions.

The great attack that was levelled on this bill by the member for Rankin, as encapsulated in his second reading amendment, was that it has taken too long to happen. But negotiations have been moving forward and, frankly, the criticism that we are hearing from the Labor Party is that it has taken four years to arrive at this. They are actually assaulting the Victorian parliament for not agreeing with the mindless ideology of the Labor Party. That is the criticism—

Mr Brendan O’Connor—It was your mob in the upper house, though.

Mr BILLSON—That another parliament exercising its good judgment thought what the Bracks government was trying to do was a dud idea is hardly a basis for being hostile towards this legislation. That is hardly a basis for criticism. Then, when the parliamentary scene in Victoria changed—much to my chagrin and the delight of the member for Burke—things changed and things moved forward. Since that time, the negotiations have been—

Mr Slipper—They moved forward?

Mr BILLSON—They moved Brackwards. Thank you for correcting me, Parliamentary Secretary to the Minister for Finance and Administration. Things happened—they were not all good things, but things were happening and the negotiations proceeded.

The second criticism is about a piece of legislation that was introduced into the parliament last year—the Workplace Relations Amendment (Choice in Award Coverage) Bill 2002—under which workplaces and employees could actually suggest that the award coverage to which they had been bound was not the most appropriate for their work circumstances. What a horrendous thought! What an absolutely appalling thought—that workers together, individually or through their representative organisations, or employers and workplaces and their representative associations might actually think the award they were fitted up to did not suit their workplace! What a horrendous thought that is! Here we have a legislative proposal that actually offers people the opportunity to canvass whether there is more appropriate award coverage. It is hardly an evil thought; it is about what award is most appropriate for those workplaces, employers and employees, yet you are hearing the Labor Party charging against that legislation as though it were
some evil Machiavellian plot that undermines the basis of this agreement.

Let us be clear on what the agreement is. The agreement embraces a couple of key principles, and one of those includes choice. The freedom to choose has been a concept embraced by the Hulls ministry, the Bracks government and also the Australian federal government. That is embodied in the agreement that we are discussing tonight. So if we accept freedom of choice, if we accept that award coverage is appropriate, if we provide a pathway for these workers to come in to an award arrangement upon application and after a 12-month implementation, that sounds like we have all the bases covered, unless you happen to be standing on the wrong base—if you happen to be fitted up to the wrong award. We are saying that there should be a pathway to adjust the coverage and find a more appropriate award. And that is the big attack point of the Labor Party in this debate. What a non-event! What a stark contradiction of the very principles embodied in the agreement between the Victorian government and the Australian government as reflected in this legislation.

My suggestion to the member for Rankin is: have a good look at the bill. It has hardly been slipped under any doors and it is hardly whispering around in the quiet parts of this parliament. It was introduced last year, so it is no great surprise. My understanding is that Minister Hulls in Victoria is thoroughly aware of this, knew what the situation was and did not object to it. But the mouthpiece for the Labor Party up here in the Australian parliament has tried to say that there is something horrendous about it when clearly there were no concerns raised.

Let us go further though. There is an attack on the Employment Advocate. That is pure, unbridled ideology running amok. What is the attack about? The attack is about choice. The attack from the Labor Party on the Employment Advocate is actually their anti-AWA posture, trying to find some nice way of saying they are against employees and employers having choice. Again, a principle embodied in the agreement between the Victorian government and the Australian government is to allow for pathways to AWAs and certified agreements. So again you have the Labor Party federally saying some evil is in this agreement—evil adopted and embraced by the state Labor government of Victoria—and railing against the very issues that are the key elements of the agreement.

The key elements of the agreement are AWAs, certified agreements, a pathway for higher income and better working conditions for employees—because they need to be, otherwise they are not approved and we go back to the award. People in the Labor Party like to forget that. They think that there is some alternative plot that has a whole different set of conditions, but the agreements have to pass the test of being at least as good as the deal covered by the principles. So what is that? We have a pathway for choice, a unitary system, an opportunity for better working conditions and more appropriate workplace arrangements for employees and employers, a pathway to higher wages and higher productivity, and freedom of choice—and the Labor Party is against it. Isn’t it a great country in which people can have such a bizarre, barking mad set of objections to something perfectly okay—yet people still take some notice of the Labor Party!

So I encourage members in this place to simply get on with the business at hand. I have had some assurance that those businesses—particularly those in the real estate industry—who have raised some concerns about their current AWAs and certified agreements will not be affected by these arrangements. Those agreements will carry
through. Existing agreements will continue to operate, so there is no crushing need to go and renegotiate those arrangements overnight. So there is even a safety arrangement there for negotiated conditions entered into in good faith that are currently in place, and that is appropriate. Let us just get on with it, Labor Party, and let us ditch these amendments, because they are pure nonsense. The bill represents a meaningful agreement. It is not ideal, but, gee, it beats the hell out of the other option, and that is Minister Hulls in Victoria creating a new industrial relations system. Thank goodness we are not going to be exposed to that! (Time expired)

Mr BRENDAN O'CONNOR (Burke) (8.27 p.m.)—I rise to make some comments on the Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002 and perhaps also respond to some of the comments, however confusing, made by the member for Dunkley. I will start on the member for Dunkley’s definition of AWAs, because he does need a lesson on what are Australian workplace agreements. He expressed the view that an Australian workplace agreement is in fact an agreement between an employer and an individual employee that would, if agreed upon, have to be not disadvantageous compared to the actual conditions of that employee.

If he actually knew anything about the Workplace Relations Act, of which I imagine he would know little or nothing, he would know that the definition of the no disadvantage test comparing the AWAs does not compare the AWA with actual rates or conditions of employment that are enjoyed by an individual employee but indeed compares it against the award. Anyone who has been an observer of industrial relations in this country in the last seven years would know that very few employees, whether they are unionised or not, are actually enjoying award conditions. Most of the actual rates, whether it is by virtue of being pursuant to an enterprise agreement or to common law contracts, are in fact above the minimum rates of an award. And why are they above the minimum rates of an award? Because this government is about wreaking the federal award system.

But we should not be churlish this evening. It is the case that, as the member for Rankin said, there might have been one occasion or possibly two in this term of the parliament on which I could rise and support in the main a bill introduced by the government. And I am very happy to be able to do that, because out of the 13 bills that have been introduced, and I think the member for Rankin referred to it, we could support in the main only the bill that went to making it allowable to provide leave for emergency workers to fight fires or floods—God forbid that we would allow them to do that! But the government conceded on that point, and of course we agreed with that bill. We also agree with the principles of this bill. I also make reference to the amendments moved by the shadow minister, because it is in fact the case that, whilst this bill is being agreed to by the Labor Party, this is a long time coming. This has been a very long time coming for those 400,000 Victorian workers who have been effectively award free as a result of the Bracks government but the Kennett government.

Let us remember what we are talking about. There were 400,000 vulnerable workers. Let us remember in historical terms the reasons why they were left vulnerable. In 1993 the Kennett government abolished the state system and threw the majority of the workers of Victoria who were employed under it off that system. What that meant was that if they left their jobs, once that legislation went through the two houses of the parliament of Victoria, they could not then go back onto any system unless unions or groups of workers found a way for the fed-
eral jurisdiction to cover them. I can recall the many low-paid workers in that state who had to find their way onto the federal award system, generally with the help of industrial organisations—yes, unions—just to protect the ordinary conditions of employment that they had enjoyed the day before the legislation was introduced and passed by the Kennett government.

Let us remember that the basis for this bill is to fix a problem that was perpetrated by the previous Victorian government—the Kennett government. As we know, that government was ideologically predisposed to hurting working people and working families, as is this government in most circumstances. So it is unusual but pleasing for me to be able to rise and support an industrial relations bill introduced by this government. I have been able to do that for two out of 13 bills. I am happy that I can do that, because it means that there must be some benefits, however qualified, being afforded to Australian workers. In this case it is 400,000 Victorian workers. So I am happy to rise on that point.

I can remember talking to child-care workers in 1996. They are some of the lowest paid professionals in the work force in this country, in which people undertake one of the most important tasks that could ever be afforded to anybody—that is, looking after our children, looking after the future of this country. I remember that they were concerned that, notwithstanding the fact that they were in one of the lowest paid occupations in Victoria, the Kennett government was after their conditions of employment. It was then determined that the majority of Victorian workers were able to get federal award coverage. I can recall some pretty extraordinary efforts by the then senior deputy president of the Industrial Relations Commission, Deputy President Riordan, and many other commissioners, to ensure that those workers would not be worse off, despite the Kennett government’s ideological hatred of those people. I can recall those child-care workers being quite concerned about the loss of their conditions of employment and the loss of their career path. Their incremental increases, however small, were to be removed if they did not get federal award coverage.

I can remember being involved in negotiating the outcome with the peak local government body to ensure that the state award that was abolished only weeks or months before was incorporated into what was then the Victorian Local Authorities Award, which covered most of the local government workers in Victoria. I can recall very vividly the effect that the Victorian government had upon those people and their families and the concern those people had, knowing that if they were to move from one child-care centre to the next they would lose their rates. They were vulnerable because they were going to be award free.

So let us not forget, notwithstanding the convoluted nonsense coming from the member for Dunkley, the concerns that those individuals had about that government. Let us also not forget the hundreds of thousands of people who demonstrated against that government. It was successful in another election, but the fact is that Kennett not so much walked off the political stage as fell off it in 1999. It was a big surprise. Many of those workers were in rural Victoria, as I recall. Whether they were in rural Victoria or metropolitan Melbourne, to treat with contempt the people who are the most important element of a productive society—the working people of the nation—was unforgivable. They did not forgive Jeff and they did not forget. Now he is consigned to history.

Let us remember that that is the basis upon which we are discussing this bill tonight. We are fixing a problem created by a
Liberal coalition government. I am happy to say that, at least in the main, for once the Howard government has managed to get it right in some areas in this bill. But I think that is something that we should not forget. Nor should we forget what this government allowed to apply to working people for four years. In effect, it allowed one flat hourly rate of pay for hours of work, no overtime that could be placed under an agreement, no weekend or shift rates and no pay at all for work after the first 38 hours worked. It provided only the most basic of conditions: four weeks annual leave, five days sick leave, notice for termination of employment and 12 months unpaid parental leave.

In effect it stripped the conditions of employment bare. Indeed, the schedule that was placed into the Workplace Relations Act 1996 gave the bare minimum. The member for Dunkley likes to use Christmas as a metaphor. They were acting as Scrooge that night, when they decided to give the bare minimum to those workers. That is the reality. So I suppose we had a situation where, up until today, up until the introduction of this bill into the House, this government pretty much treated those workers in the same way that the Kennett government treated them: with disdain, with contempt and with no sympathy whatsoever. That should never be forgotten.

What we have to do now is talk to the government about some other changes they might want to bring about in their legislation. I have been wondering why this bill was introduced today. I thought that perhaps it was because of the upper house majority that was created as a result of the election of the Bracks government for its second term. The federal government know that the Bracks government could introduce legislation to allow Victorian workers to be covered by a state award system, and that may be the pre-eminent reason why the new minister for workplace relations allowed this.

I also think it might be because this minister would like to distinguish himself from his predecessor because, as we know, when Minister Abbott, the previous minister for workplace relations, was in this role, he had no regard whatsoever for working people in Australia. So we have to ensure that now that the new minister has shown himself to be perhaps of a different character to the one who preceded him—and let us hope he is—he will actually look at some of the outrageous bills that have been introduced into this House which at their heart have attacked working people and working Australian families. That is what they have been about.

The member for Flinders will have an opportunity to say a few words before the adjournment tonight and, indeed, once this bill is brought back on, I will also hopefully speak more fully about this government’s efforts to introduce the bill that would provide for disputes not to be found between employers and unions if there are fewer than 20 employees. Whilst on the one hand the new minister for workplace relations wants to get a reasonably good headline and distinguish himself from his predecessor—that anti-worker attack dog—and also his predecessor’s predecessor, dare I say it, the fact is he could go a long way if he looked at some of those other bills that have been through this place and have been rejected in the Senate.

I call upon the minister, seeing he seems to be in a rather good mood because he has put up what I would have to say is one of the most generous things this government have done this term—in fact, it is probably the only thing they have done that you could almost describe as generous—to look at the bill with respect to preventing industrial disputes to be found and realise how unfair that
is. It is unfair not only to those employees who might be in small businesses who deserve to have a minimum base, a minimum award set of conditions—

Mr Hockey—Why don’t you do something about unfair dismissals if you really care about them?

Mr Hunt interjecting—

Mr BRENDAN O’CONNOR—I have the minister for tourism—and I am not sure what other titles he holds—and a few others making some comments. This minister for tourism used to say that Barney Cooney was the only Labor member in small business. Let me tell you that I had a BAS statement only last year.

Mr Hockey—No!

Mr BRENDAN O’CONNOR—It is true. I am involved in the tourist industry in Hepburn.

Mr Hockey—How?

The DEPUTY SPEAKER (Hon. D.G.H. Adams)—Order!

Mr BRENDAN O’CONNOR—I actually think it is a critical industry. If this minister wants us to talk about tourism, what we would like to see is what he is going to do. This is the interesting thing. The minister says we should help out the small businesses in tourism. Sure, we should do that. What about the Ansett workers? How is this government going to look after Ansett workers? It is not.

Mr Hockey interjecting—

The DEPUTY SPEAKER—Order! I ask the minister at the table to restrain himself.

Mr BRENDAN O’CONNOR—In the end, the government is not interested in looking after those people.

Mr Zahra—Mr Deputy Speaker, on a point of order: I feel compelled, reluctantly, to ask you to bring the minister at the table to some semblance of order at least to protect the dignity of the House.

The DEPUTY SPEAKER—Order! The honourable member for Burke.

Mr BRENDAN O’CONNOR—We can get distracted, and I suppose that may be the minister’s intention, but I think the fundamental issue is this: we have watched 13 bills be introduced into this House and this is one that we may agree upon because, as I said, the new minister wants to distinguish himself from his predecessor. And who would really want to be compared favourably or unfavourably with the former minister for workplace relations?

Ms Gillard—Or the former minister for tourism.

Mr BRENDAN O’CONNOR—Indeed. As we know, the former minister for workplace relations had no regard for working people, and nor did his predecessor, so I suppose there is a common thread. The Kennett government had only hate in their hearts when it came to Victorian workers. Indeed, Minister Abbott and Minister Reith were the same. Maybe this new minister is saying: ‘I don’t think this is a good thing. My predecessor jumped out of this portfolio.’ I have to say that Minister Abbott is not doing too well in his current portfolio either, but the fact is that he had to get out because he realised that, in time, people find that it is not Australian to constantly go after working Australian families. But I will not be entirely churlish tonight.

Honourable members—Ha, ha!

Mr BRENDAN O’CONNOR—Well, I had to make some comments because it is a contextual debate, but I am happy to embrace the goodwill of the minister—

Mr Hockey—Thank you.

Mr BRENDAN O’CONNOR—this new minister who has turned over a new leaf—
and I am not referring to the minister at the table. The minister has made the right decision here in supporting this—and indeed the member for Rankin said as much. It may be because the Labor Party now has the majority in the upper house in Victoria. It may be because he wants to separate himself from Tony Abbott’s behaviour. It may be because of more things than we know. It may be because of his heartfelt views about working people. I do not know. But I applaud his efforts in being a little different from the way in which this government has operated this term. I think he should now turn his mind to those 11 or 12 other bills that really are, at their heart, anti-worker and anti-Australian families. That is what this government has to turn its mind to and then we could really reach more agreements. I think that, if there were really an effort not to go after working people, we could find a way to cut through the disagreements we have.

I know a concern was raised about whether this bill would in fact cover all workers. Indeed, I know that there were concerns about outworkers being covered. I think that if there are any unintended deficiencies in the application of the bill then they have to be considered. I know that there are some concerns and I seriously ask the minister to have regard to them. If it is argued that there may indeed be some deficiencies in the application of the legislation should it be passed, he should look at that. I imagine that, given his efforts on this matter if on nothing else, perhaps he will do that.

In conclusion, I think we have to remember in the end why this bill is here. Notwithstanding the efforts by the new minister to make himself a little different from the attack dog, we have to remember that this is to fix a problem that was caused by the Kennett government when they tossed hundreds of thousands of workers off the award system. In the end Kennett lost his job, so I suppose there was a bit of revenge; it was the Victorian workers’ revenge against the former Premier. Indeed, he is now consigned to history and, as we now know, the Victorian Labor government, as it should, enjoys a majority in both houses of parliament. That is a good thing. Before too long I think we will find that the Labor Party will have a majority in this chamber and I am sure that Australian workers will sleep better at night when the minister is gone—he might be a shadow minister or a backbencher—and Labor is returned to its rightful place in government. (Time expired)

Mr HUNT (Flinders) (8.47 p.m.)—In rising to speak on the Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002, I want to take a leaf out of the book of points raised by the member for Burke and talk about context. There are two great contextual issues in terms of employment. The first is job creation and all of those elements which provide the conditions for actually creating jobs, elements that were never addressed by the member for Burke. The second issue which this bill addresses is protection for individual workers, and it is a right and fair thing to do. It is the job of any government when it strips away ideology to focus on those two elements in balance, creating the conditions for employment and job growth and then ensuring that those workers who are employed are protected and cared for adequately.

Before turning to the specific provisions of the bill, I want to address the broad contextual issue which our colleague the member for Burke failed to address: that workers in Hastings, Somerville, Rosebud, Kooweerup, Cowes, San Remo and Lang Lang first of all have to have a job. The single thing which most guarantees the chance for them to be employed is to give them a healthy and functioning economy. In that respect the Minister for Small Business and
Tourism has repeatedly pointed out to this House, and to the Australian community in general, that the single biggest impediment to employment growth in Australia is the prohibition effectively imposed on small businesses by the failure of the opposition, by the failure of the Labor Party, to pass the unfair dismissal laws and deal with the current unfair dismissal provisions and the proposals for reform and change. Why? Because approximately 50,000 jobs await creation. We know this empirically and anecdotally. I expect that each and every one of us in this House has had the same experience that I have had: in speaking to small business owners and other employers, you repeatedly come across the situation in which they say, ‘I would love to be able to employ an additional chef or an additional labourer or an additional cleaner’—

Ms Gillard—Or an additional winemaker at Tuck’s Ridge.

Mr HUNT—We will wait and see; I am sure he will retain his day job. More than that though, there is a desire by these small business operators to create jobs, yet they are prevented from doing so. So, in looking at the macroscene—in looking at the economy as a whole—I would urge the member for Lalor and the member for McMillan to actually cooperate with the Minister for Small Business and Tourism and deal with the government’s reform package for unfair dismissal laws.

The second thing which you can do for any employee is help with real wage growth. Real wage growth is a dirty term on the other side of the House. For a period in the opposition’s history it was a matter of pride that real wage growth was being suppressed. These are not words that are attributed to just anyone; these are words that were spoken with pride by the former Prime Minister on the floor of this House. The fact that those opposite were controlling real wage growth was seen as a point of pride, and that has changed. We have had significant real wage growth over the last seven years, something which has a distinct and practical effect on the lives of the very people that they purport to care for. So when you strip away ideology, job creation and real wage growth have more impact on the lives of workers in Somerville, Hastings, Cowes, Dromana, Rosebud and Kooweerup than anything else.

The next great issue is conditions for individual employees. This bill deals with the protection of individual workers. It effectively does two things. Firstly, it seeks to protect Victorian workers and to ensure that there is adequate care for them and it does so rightly and I am proud to be involved in the passage of such legislation. Secondly, it also helps to encourage job creation in small business by removing certain barriers. I want to deal with that briefly by looking at the background and importance of the bill, and some of the bill’s provisions. Looking at the background of the bill, it aims to specifically target Victorian workers who would not otherwise be covered, to ensure that they do have adequate protection. There are over two million Victorian wage and salary earners. The majority of these workers are employed under the federal award and under appropriate federal jurisdiction. However, over 600,000 are employed under Victorian jurisdiction.

This bill in that context serves three primary purposes. Firstly, it provides comprehensive protection of workers’ rights in Victoria by adjusting safety net entitlements in the current legislation. Secondly, it sets out specifically to improve the conditions of outworkers working in the textile, clothing and footwear industry in Victoria. This is a group of people who are vulnerable, who on many occasions come from ethnic backgrounds and who on many occasions are sub-
ject to exploitation. The protections that are offered in this bill are real, important and necessary. Thirdly, this legislation provides for the improvement of the role of inspectors to facilitate the operation of the provisions. So it provides the protections and the enforcement mechanisms. They are critical and important steps.

In looking at the importance of the bill and how it actually operates, what we see is that the bill effectively proceeds in four key steps. Firstly, it ensures that Victorian employees not protected by federal awards or federal agreements are nevertheless protected through a safety net of minimum conditions. The current legislation does provide a safety net protection, but it is in danger of being outdated by changing community standards and opinions. So what this does is extend the minimum coverage. That is an important step. Secondly, the bill grants further entitlements to employees in the form of minimum lengths of personal leave, particularly for carers and for bereavement. Again, these are important steps forward. Thirdly, the bill specifically improves workplace conditions for textile, clothing and footwear manufacturing outworkers. Currently, these employees, whilst receiving some protection, are nevertheless vulnerable. So, for people who, as I mentioned before, are from a variety of ethnic backgrounds and who in many cases work from home and have no protection, it extends an appropriate protection. The fourth specific step taken in this bill is to ensure the enforcement of these entitlements. In doing so—by empowering inspectors—it makes a great step forward.

In drawing to a conclusion, I want to return to where I started—that is, very simply, to say that you can do two things for employees. Firstly, you can create the conditions for employment growth and real wage growth. That has occurred under this government in an unprecedented way. Secondly, you can work to protect them. This bill adds in the Victorian context to the protections available to Victorian workers. However, I note in closing that, were the opposition to cooperate, take on board the proposals of the Minister for Employment and Workplace Relations and of the Minister for Small Business and Tourism and work on the unfair dismissal reform package, up to 50,000 extra Australians in small towns and communities throughout Victoria and Australia would have the potential to be employed. I urge the opposition not just to pass this bill but also to cooperate with the government on the broader package of reforms which ultimately is aimed at giving people jobs and a sense control over their own lives. That in turn is the most important and significant thing in giving them the capacity to have self-respect.

Mr ZAHRA (McMillan) (8.55 p.m.)—It is always fascinating to hear the Liberal Party talk about how many jobs are going to be created if only everyone would surrender their rights. They just pull figures out of the air. Today it is 50,000. It used to be 100,000. Who knows what it will be later on this evening! It could be 10,000. Tomorrow it could be 250,000. Who knows? Mr Deputy Speaker Adams, do you know why they do not know? Because it is not true. What they are saying in relation to this issue is not true and they are not to be believed.

The reason that we are here talking about the Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002 is because of the true agenda of the Liberal Party in relation to industrial relations. We are here because of what Jeff Kennett did in Victoria in 1993, when 400,000 Victorian workers were put out of the state industrial relations system that used to afford them some protection in relation to their basic rights and working conditions. That is why we are here today. The Liberal Party today, in bringing in this legislation, are sim-
ply correcting something which they themselves did in Victoria in 1993, when they put 400,000 workers out of a system that did provide them with some basic conditions, basic rights and some protection from abuses in the workplace by employers. When it comes to the Liberal Party, we always know what their true agenda is, not by what they say—

Mr Hockey—But by what we do!

Mr ZAHRA—but by what they do—exactly. We know what they do in the electorate of McMillan, because we have seen it time and time again. We try and foster a positive industrial relations culture in the Latrobe Valley and we have worked hard to create a positive environment for business in which we can have people working together to achieve mutual ends. But we have people who come into the area sometimes, like Yallourn Energy, who want to try and create conflict in the workplace. They want to create a circumstance in which an employer is taking action against employees with the support of the federal government in a way which is not conducive to a positive environment and a positive industrial relations climate.

We have seen these people at G&K O’Connor meatworks at Pakenham. We have seen an employer with a mad ideological agenda take action against its employees, which led to a lockout of 300-odd meat workers at Pakenham for more than nine months. This is the true agenda of the Liberal Party when it comes to industrial relations, so they can come in here and pretend that it is all about putting in place the environment in which employers can create these 100,000, 200,000 or 300,000 jobs, or whatever figure they come up with, or whatever figure they get from the Council of Small Business Organisations of Australia.

In truth, what they are really about is breaking down people’s wages and conditions and trying to put in place an industrial relations system which is not fair and which is all about trying to favour one group of people against another. Where is the national interest when it comes to the Liberal Party and when it comes to trying to have a fair industrial relations system which creates an environment in which people can achieve joint outcomes? I say that the Liberal Party are all about advantaging one side of the industrial relations debate, and that side is always the employer’s. They always want to encourage the worst elements of employers in our community.

We are fortunate that we have a lot of very good employers in the electoral district of McMillan, but we do have bad employers too. One of those bad employers is G&K O’Connor meatworks in Pakenham. We do not want to see that type of situation again in the electorate district of McMillan. We do not want to see a lockout. We do not want to see people out of their jobs for nine months because of actions supported by the federal government.

Debate interrupted.

ADJOURNMENT

The DEPUTY SPEAKER (Hon. I.R. Causley)—Order! It being 9.00 p.m., I propose the question:

That the House do now adjourn.

Australia Post: Services

Ms PLIBERSEK (Sydney) (9.00 p.m.)—I rise tonight to speak about the problems with Australia Post in my electorate of Sydney. Members would imagine that in an urban area, such as the central business district of Sydney, Australia Post would have got their mail delivery system right. In fact, they did get it right some time ago, but Australia Post management seem to have, in their con-
sistent way, ignored the needs of the workers, ignored the needs of the local businesses, and introduced significant staffing cuts and new equipment, with little or no training for staff, thereby ruining a system that was running in perfectly good order before.

Australia Post has introduced a new mail sorting system called V-frame. The Australia Post workers who came to see me twice on this issue explained that it is cumbersome, slow and cannot adequately deal with very large volumes of mail, only about 30 per cent of which can be automatically sorted. Of course, in the central business district you would have a much higher rate of large packages and large envelopes than you would in most other areas, and that certainly causes problems for the machinery. The workers who came to see me told me that there was little or no training for the new sorting system, no consultation with workers about the changes, no input sought from the postal delivery officers, and the knowledge and expertise gathered by workers over many years of delivering on the central business district route was totally ignored.

The old system just disappeared one night and the new system began operating the next morning. The frames were wrongly labelled and information about the system was not made available to workers, they tell me. What eventuated was a diabolical and chaotic situation. Workers were appalled by the changes, tried to cope for a week, were not heard by their bosses and went out on strike. Mr Deputy Speaker Causley, you might remember that the case went before the Australian Industrial Relations Commission. At the same time as introducing this new machinery, which has not sped up the processing of mail in the central business district, Australia Post condensed 81 full-time rounds to 41 full-time rounds and 20 part-time staff. That is a very substantial cut in the work force: you could say that the work force has been halved. The delivery officers are expected to maintain their 11 a.m. delivery standard, and this has just not been possible with the cuts to the number of staff. To try and maintain the 11 a.m. standard, I am told that many of the workers on casual contracts are working excessive amounts of overtime to try and keep up the standard while the number of full-time workers has been cut. The 11 o’clock standard, as I said, is not being met and at times mail is not delivered until 4 p.m. or 5 p.m.

I have been receiving many complaints from businesses in my electorate. In fact, I get phone calls to my office almost every day from people in the central business district complaining about Australia Post’s decline in service over recent months. One customer said:

I have been receiving my mail late again ... I rang Australia Post who ‘assured’ me that my mail was ‘important to Australia Post’ and they were ‘currently working with a new system’. I told him I had been hearing the same story for the last ten months ...

A businessman called my office and told my staff:

... after 10 months of appalling delays, where Australia Post keep blaming the workers using the new system, it is clear delays are a result of the system itself. It has been a failure! Management do not answer my letters, so please can you do something?

I have taken it upon myself to raise this issue in the House tonight. I think that everyone would understand that it is not just the businesses in the central business district that are suffering. They do need a reliable mail service and they do need it in the morning of the day rather than having it arrive at 4 p.m. or 5 p.m. Australia Post workers do not deserve to be treated with the contempt that has been shown to them by management in this instance.
Communications: Digital Radio

Mr BILLSON (Dunkley) (9.04 p.m.)—

Last week I was delighted to launch Broadcast Australia’s digital radio trials on behalf of the Minister for Communications, Information Technology and the Arts, the Hon. Daryl Williams. Radio has been such a big part of the communications scene in Australia for so many decades that it is difficult to imagine that anything could happen to alter the place it occupies in our lives. By and large, radio does for the listener in 2003 what it did for the listener in the 1960s, only with better sound quality, thanks to FM, and smaller, more portable equipment. Essentially, radio remains the communications technology we turn to when we need instant confirmation of breaking news or updates during an emergency. We listen to it while we do other things, most notably while we commute. More than 20 per cent of our radio listening is done in cars. We listen to radio for an average of two hours a day. It is a big part of our lives.

Digital technology promises a range of potential benefits for both listeners and broadcasters in Australia. For the radio listening public the potential benefits include better audio fidelity and the possibility of ancillary services. These might include images and texts about song titles, news updates, sport results, stock exchange information and even weather reports. Benefits for the commercial radio industry include greater advertising and sponsorship opportunities through text and images and the potential for subscription services. It seems that digital technology has the capacity to reshape just about every aspect of the way we communicate. It is already revolutionising the way we make films, how we watch television, how we conduct research and how we play games. Digital technology has the potential to transform Australian radio, but we do not yet know the extent of the changes and the improvements it offers.

Which of the available digital technologies will be most appropriate for our country? Of the many potential ‘extras’ digital technology can offer the radio listening public, which are the ones that will be embraced by the public? What role will Australians want radio to play in their lives in 2005 or 2010? These are just some of the big questions confronting the industry and regulators. Digital radio services are in their infancy around the world. A number of different systems and business models are being put to the test, and no country has yet achieved a successful commercial service.

One of the big issues facing Australia is: of the available technologies, which one would best suit our circumstances? The United States favours the ‘in band on channel’—IBOC—technology for free-to-air terrestrial digital radio. This system delivers a digital signal alongside an analog signal, allowing incumbent broadcasters to use their existing channels to deliver both analog and digital services.

The US is also moving ahead with subscription services. Two companies—Sirius and XM Radio—each deliver about 100 subscription channels via dedicated satellite networks. In the United Kingdom, Germany, Canada and parts of Asia, the Eureka 147 technology has the edge. Advocates believe its higher data-carrying potential greatly increases its capability to deliver innovative services that will differentiate digital radio from analog. A hybrid model using Eureka technology and the still largely untested Digital Radio Mondiale technology has also been suggested.

In considering the way for Australia, the government want to ensure that the implementation is in the public interest. We want to know that the technology would promote
the quality of services, particularly in regional areas. Spectrum is a valuable public resource that can be loaned but cannot be given away. Any implementation would need to take into account this fact. It is obvious that the kind of technology we choose will affect the implementation strategy that we put in place. Other factors include the types of services it is envisaged we will be offering and the type of spectrum used to deliver the digital service. These are matters that require careful consideration.

That is why trials like the one I launched in Melbourne last week are very important. They will contribute to the fact base which the government can use to make decisions on digital radio policy into the future. That is why the government, through the Australian Broadcasting Authority, has made spectrum available in the VHF band for these trials. The Broadcast Australia trials in Melbourne and the Commercial Radio Australia trials to be conducted in Sydney, and possibly also in Melbourne, involve the Eureka 147 digital technologies. The government has taken a very ecumenical approach to this, welcoming all comers to the trials. In fact, I am surprised that no telco has become involved at this stage to road test the return loop possibilities that digital radio offers.

It is important to bear in mind that these trials in no way lock us into any particular framework for the future or necessarily make any commitments about the availability of spectrum. The process of formulating future policy settings for digital radio will be an exhaustive one and will involve all those with an interest in what digital offers the Australian radio industry and radio community. We look forward to engaging with the industry and the regulators to work through these complex issues. I wish Broadcast Australia and its content partners—the ABC, SBS, Digital One, 3UZ and World Audio—the best of luck with their first foray into the digital future. (Time expired)

Business: Executive Remuneration

Mr JENKINS (Scullin) (9.09 p.m.)—Executive salaries continue to grow at a greater pace than the wages of ordinary working Australians. According to an AFR survey this month the remuneration of CEOs increased by 7.3 per cent, while according to the August 2003 Bureau of Statistics figures AWE grew by 6.1 per cent. There has been great interest in this in the media. Earlier this month the Age ran a supplement under the heading ‘Power salaries: a special report’. It was very interesting to look at the listing it had of executive salaries by company performance. I was intrigued to see that a number of companies saw their share prices decrease, yet exorbitant salaries and remuneration were given to their top executives. For instance, in AMP, where the share price has dropped by 68 per cent, the top five executives earned—as reported in the annual reports, under the new ASX rules—$6.1 million, $3.3 million, $3.2 million, $2.8 million and $2.1 million.

Often when these sorts of issues are raised in this way people say that this is about the politics of envy. It is not about the politics of envy; it is about the fact that ordinary Australians want to know how people can earn those great sums of money when the performance of the companies that they are running seems to be so paltry and pathetic. It is interesting that, when asked to justify these types of salaries, we get responses like that of Don Argus, the Chairman of BHP Billiton, when he was talking about the remuneration package of $6.5 million this year for the new chief executive, Chip Goodyear. He said:

He’s got to be on top of financial issues, legal issues, he’s got to have technical knowledge, and he’s got to be able to lead 38,000 people of mixed cultures in 30 countries around the world and relate to 316,000 shareholders ... To relate his
salary and his accountability back to a basic wage is a nonsense.

As the *Age* report went on to say:

But what about comparing what Goodyear earns with the Prime Minister? Or a High Court judge? Or the head of the Treasury?

When we get those sorts of comparisons, that sort of explanation pales. Of course these people lead great bureaucracies, but that cannot justify the types of remuneration packages that we see. Today we have received the annual report of NAB. It indicates that Frank Cicutto’s package has almost trebled. He now has a remuneration package worth $7.77 million. The report does the mathematics and suggests that the latest package is about 203 times the average weekly earnings. It means that Mr Cicutto earns $21,300 a day. What does that mean when we equate that with average earnings? Here is one man earning in one day what an average Australian earns in a year.

These sorts of things need to be looked at. In the past I have called upon the government to have a serious inquiry into why these types of remunerations should be justified. It has to go beyond self-regulation. There is no use in the Prime Minister, on occasions when he feels inclined to, suggesting that some of these remunerations are over the top. In May this year, when the Prime Minister was reflecting back on payout of the former BHP Billiton CEO, Brian Gilbertson, he said: ‘I think it is too much.’ In 2000, when the Prime Minister talked about the payment made to AMP’s George Trumbull, he said: ‘There’s no way you can defend an arrangement of that magnitude. No way at all.’ It needs leadership to be shown by the federal government. It needs action. It needs the sorts of measures that have been seen in other jurisdictions.

Why don’t we have a look at removing the corporate tax deductibility over a certain limit for executive salaries? Why don’t we ensure that there is proper and even more full disclosure to shareholders? If we are going to have a great shareholders’ democracy, why don’t we make sure that the decision-making processes of companies are transparent? And when we are talking about the remuneration of chief executive officers and executives of these companies, why don’t we make sure everything is revealed so that shareholders can have a comment on what it should be? It is not good enough to suggest that companies will self-regulate to make sure that these things are done in an appropriate way; it really requires the leadership of the Australian government. It really needs an inquiry.

(Time expired)

Small Business

Mr DUTTON (Dickson) (9.14 p.m.)—It is great to see the Minister for Small Business and Tourism in the chamber tonight, because I want to discuss an issue that is very important to all Australians but in particular to the people of Dickson. I want to outline the achievements of two highly successful small businesses which are based in my electorate of Dickson. Both of them, while only employing around 18 staff, enjoy million-dollar turnovers and unrivalled growth. They have both succeeded thanks to their own initiative and in part, I think, because of the policies that this government has implemented to support small businesses in Australia.

The first Dickson success story is that of Skaines Reeves and Jones—or SRJ. The partners are Shaun Reeves and Steven Jones, with Mr Jim Skaines having recently retired from the business. The partners pride themselves on being very different from traditional accounting firms. While they offer traditional services such as management accounting, business development, taxation accounting, auditing and insurance services,
they have set themselves apart by offering creative solutions for their clients to maximise profits, minimise tax and create wealth. SRJ employs 18 full-time staff and is based in the heart of my electorate at Strathpine. The company has grown rapidly in the past seven years and I understand that it has achieved revenue in the order of $2.4 million for the year 2002-03. Its revenue increased by a staggering 32 per cent during 2001-02, which is almost double the average growth achieved by BRW’s top 100 accounting firms. It is a great success story.

But I want to inform the House tonight of a second Dickson success story in the area of small business. Aleis International is also a local company, and it has found success in another sector altogether. Aleis was started from nothing by John Finlayson, who was a cattleman in the Gulf Country for 30 years, and his wife Dorothy. The company sells e-tags and internal pellets that allow cattle to be easily identified and tracked. The innovative technology can be used as part of the National Livestock Identification Scheme to allow authorities to track the sale and movement of cattle and to act quickly in cases of disease outbreaks.

The company employs around 18 staff, many of whom are local people. While Aleis started from nothing, it has the enviable record of a turnover that has doubled every year. Between July 1998 and now, the company had a turnover of $7.5 million. It now supplies products to customers all over the world, including in Botswana, Brazil, Brunei, Malaysia, Sweden, Vanuatu and Italy. The philosophy which the staff believe has made the company such a success is that John Finlayson insists upon every product that Aleis sells being of the highest quality. His aim, the staff tell me, is to develop and sell only products that work 100 per cent when they leave his company and continue to work at 100 per cent. John’s resolve was recently rewarded when the company won the agribusiness category at the Premier of Queensland’s Smart State Awards. I would like to take this opportunity to congratulate John, Dorothy and their entire team on such a great achievement.

So why are there such great success stories across Australia and, as I have highlighted tonight, in Dickson? I think it has a lot to do with the great achievements for small business by this government. The Howard government’s management of the economy has produced an environment that supports the growth of small businesses such as Aleis and SRJ. In particular, this government can be proud of the way that its sound economic management has resulted in historically low interest rates and continuing low inflation. It is important for small business to note the contrast: under Labor the interest bill on a typical $100,000 loan hit a massive $17,000 a year, or $1,416 per month, while under the Howard government the interest bill on the same $100,000 is about $6,000, or around $500 a month.

Sound management of the Australian economy allows businesspeople to get on with what they do best: running their businesses. To help small businesses to do this even better, our government has put in place a number of measures to simplify GST reporting and to support small business in a general sense. The government is committed to providing a range of resources to help small businesses to prosper. I congratulate the Minister for Small Business and Tourism, who is in the chamber tonight, for the continued support he has and for the support that he continues to show to all small businesses across Australia. (Time expired)

Telstra: Services

Mr BRENDAN O’CONNOR (Burke) (9.20 p.m.)—I rise tonight to talk about a big business called Telstra. There have been
some concerns in my electorate about the way that Telstra has handled some complaints. Only two weeks ago in this place, I raised the concerns of a single parent who had problems connecting a landline to her home in Woodend. She contacted my office and indicated that her son was quite often ill. She was concerned that it was taking more than one month for the landline to be connected. For those who do not know, Woodend is only a one-hour drive from Melbourne—hardly a remote part of this nation—but we had serious concerns about the way Telstra dealt with that problem. I do not complain about the people who are actually on the job there; their issue was that there were few resources to respond to her. Telstra responded in a limited way to mitigate the problem that she experienced. Eventually, after some weeks of complaints, they placed a mobile telephone in her home, knowing the danger she was in. My concern is that there were three weeks in which she was not in a position to have a landline, with a very sick child. We do not really have to be reminded of that issue too often.

Today I have again received correspondence from a constituent—a father who lives in my electorate. He has written on behalf of his daughter who lives in Romsey, which is in a rural part of my electorate and is only one hour and 20 minutes from the Melbourne CBD. In that letter, he is very concerned that she has not been able to be reconnected after a fault occurred as a result of an accident by a linesman, who actually put her telephone out of commission on 14 November. This woman has two children, one of whom is only weeks old. She is also suffering abdominal pains and was concerned that she would not be in a position to have any communication with either her family or medical practitioners if required. That is another community which is very close to Melbourne.

I raise this because of the concerns I have about the government’s intention to sell Telstra. But I also raise it against the backdrop of another situation. Recently, without notifying me or the state members of parliament, the Prime Minister entered my electorate with the member for McEwen—that interloper who decided to go there and make comments. The Prime Minister and the member for McEwen would not answer any questions about the problems associated with Telstra. The Prime Minister refused to answer questions that were directed specifically to him by the local media—the Sunbury/Macedon Ranges Leader and the Macedon Ranges Telegraph—which were trying to find out what they could do to assist the communities in that area that are suffering from the deficiencies of the Telstra system. In his letter to me, this father said:

The telephone service is not ‘Up to scratch’ as the Prime Minister put it. He is asking me to ask the Prime Minister this: if it is not up to scratch—if his daughter is not in a position to be connected online when she is ill and has two children under the age of four and if the woman I spoke to in Woodend could not be connected after three weeks—what is this government doing in relation to Telstra? The answer is: nothing. The government is doing nothing to assist ordinary people who live in an area that is only one hour’s drive from the CBD of Melbourne. That has to change.

If this government believes it is going to sell Telstra and, as a consequence, have the confidence of this nation, it has another think coming. I ask the Prime Minister to respond to these issues. I do so on behalf of the constituents in my electorate who have raised their concerns with me, who are only one hour’s drive from Melbourne, in the case of the constituent from Woodend, and a drive of one hour and 20 minutes away, in the case of the woman with two very young children.
from the community of Romsey. It is about
time this government took this issue seri-
ously and did not try to sell off a very impor-
tant public asset. (Time expired)

North Sydney Electorate: Hunters Hill

Tourism: Regional Australia

Mr HOCKEY (North Sydney—Minister for Small Business and Tourism) (9.25 p.m.)—It is not often that I get an opportu-
nity to participate in the adjournment debate,
but I did want to raise one issue that has been
of particular interest to my constituents. That
is the now resolved nonmerger between
Hunters Hill Council and Ryde City Council.
I recognise that there were attempts by the
state Labor government to try to merge two
communities that had no community of in-
terest. In that regard, it was an outstanding
effort from the local communities and appro-
priate community representatives. At a state
government level, there was Anthony Rob-
erts, the member for Lane Cove. It was a
commitment of mine to fight against any
proposals to close down Hunters Hill munici-
pality, which has its own unique quali-
ties.

It is also important to recognise that this is
not the first time that the state Labor gov-
ernment has tried to close down activity in
Hunters Hill. They did it before when they
were trying to close down and sell off Hunt-
ers Hill High School. We all fought that bat-
tle when the Carr Labor government decided
that it was far easier to sell a valuable asset
and close down a valuable part of the com-

I pay tribute to my predecessor who for a
considerable period of time represented
Hunters Hill in this place—that is, the mem-
ber for Bennelong, the current Prime Minis-
ter—who is obviously still very closely asso-
ciated with the interests of Hunters Hill, hav-
ing represented it for so long. Of course,
more recently I have been representing it in
this place. Together with the local commu-
nity, I will continue to fight against any at-
ttempts to try to close down the great sense of
partnership between the local community,
their local environment and of course the
community more generally in Hunters Hill.

I want to take the opportunity to say how
well received the tourism white paper has
been by the broader Australian community
and in particular by the very hardworking
and diligent operators in the tourism industry
right across the country. Tourism represents
nearly five per cent of the Australian econ-
omy—over 500,000 full-time jobs. But what
so many people have failed to recognise until
now is the contribution that it makes in re-
gional Australia. I note the two representa-
tives here on this side—the member for
Eden-Monaro and the member for Coran-
gamite—both represent regional electorates.
Both have taken me through their elector-
ates—as have you, Mr Deputy Speaker
Causley—pointing out important tourism
attractions and the significance of the jobs
that are created.

It was only recently in this place that I
heard a speech from the member for Eden-
Monaro about a caravan park in his elector-
ate that recently won an award. Grey nomad
travel is well recognised as one of the growth
areas of activity, and caravans are an amaz-

CHAMBER
understand some of them are manufactured in the member for Eden-Monaro’s electorate.

I want to place on the Hansard record that only one part of the country owns the Twelve Apostles, and that belongs to the member for Corangamite. There is a dispute between the member for Corangamite and the member for Wannon about exactly who owns that tourism icon. I want to say on the record here that I am siding with the member for Corangamite, because the member for Corangamite took me by the hand—literally!—along the Great Ocean Road and pointed out the electoral boundaries. It convinced me that not only is he a great advocate for tourism but he is a great representative of the Twelve Apostles.

The DEPUTY SPEAKER (Hon. I.R. Causley)—Order! It being 9.30 p.m., the debate is interrupted.

House adjourned at 9.30 p.m.

NOTICES

The following notice was given:

Mrs De-Anne Kelly 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 November 2003, namely: Security upgrade works at Parliament House loading dock.
The DEPUTY SPEAKER (Hon. B.C. Scott) took the chair at 4.30 p.m.

COMMITTEES

Economics, Finance and Public Administration Committee

Report

Debate resumed from 24 November, on motion by Mr Hawker:

That the House take note of the paper.

Mr COX (Kingston) (4.31 p.m.)—It is a pleasure to speak on the tabling of this report of the Economics, Finance and Public Administration Committee today. It represents an opportunity to rejuvenate a great Labor initiative of about 30 years ago when the Whitlam government first began giving general purpose financial assistance grants from the Commonwealth to local government. On that occasion it did so according to need, on the recommendations of the Commonwealth Grants Commission, and it did so directly from the Commonwealth to local government bodies. In that case, to deal with constitutional issues, the Commonwealth had local government set up regional organisations which made applications for grants that were then paid.

The system of providing those grants has changed somewhat over the years since then. In 1975 the Fraser coalition government adopted provision of financial assistance to local government as part of its new federalism policy, so it accepted what the previous Whitlam government had begun doing. Under Fraser, local government received a proportion of personal income tax collections, which gradually grew to two per cent of personal income tax collections by 1980-81. The allocation of grants, however, was changed to a combination of a minimum per capita grant and an equalisation. When the Hawke government came to office, that situation was in place, but in 1985-86 the Labor government decided to change the system of allocating assistance to local government. It increased the quantum of assistance to local government by two per cent plus the CPI but ended tax sharing. Instead, local government was given increases in line with Commonwealth financial assistance grants to the states with a real terms guarantee. That real terms guarantee turned out to be important because in the next few years Commonwealth assistance to the states fell, but the real terms guarantee maintained the value to local government of Commonwealth financial assistance grants.

The method of allocation for a time remained unchanged, but in 1986 the Labor government announced that it had accepted certain recommendations of the Self report. Those were: to distribute grants between the states on a strictly per capita basis—which is the situation today; local government grants commissions in each state were to distribute the grants on principles determined by that state; all local government bodies would receive a minimum grant—as is the case today; and provision would be made for remote Aboriginal communities to receive grants.

In 1991-92, when the Council of Australian Governments was established, one of the initiatives of the Hawke Labor government was to untie identified road grants to local government. They were added to financial assistance grants and distributed between the states at what have become historic shares that were set in 1992.
In 1995 the Keating government, following another review, adopted a set of national principles for the allocation of grants within states by local government grants commissions. That Labor government changed the basis for setting the pool for state grants to a real per capita guarantee—an initiative of former Treasurer Willis that I was involved in. At that time State government was also given a real per capita guarantee. So that was an improvement on the real terms guarantee. It was significant because it meant that grants kept pace not only with inflation and state grant levels but also with increases in population.

Then the Howard government was elected and at least its policies took a divergent track. In 2000 the coalition proposed that the states assume responsibility for providing financial assistance grants to local government. However, that policy was overturned by an agreement between the Prime Minister and Senator Lees, who was Leader of the Australian Democrats. The coalition government severed the link between grants to the states and grants to local government when it hypothecated Commonwealth GST receipts as payments to the states and, apart from a funding cut in 1996, the coalition government has maintained grants to local government in real per capita terms—the terms that were set by former Treasurer Willis in 1995. So to date the only significant change that the Howard government has made to local government funding arrangements has been to allow local government to claim input tax credits for the GST that it pays.

Why is local government funding important? One of the major trends in Australian society is geographical inequality; that is, the pattern of advantage and disadvantage is concentrated on a geographic basis. If we want an egalitarian society in Australia today we cannot afford to have life opportunities allocated by postcode. Local government has a major role to play in addressing equality. However, there are significant inequities between the needs of different communities and the resources available to them. Inner cities, fast growing outer metropolitan areas, regional, rural and remote communities all have different needs for physical services, social services and infrastructure. They also have different capacities to raise revenue and those who live within their boundaries have different capacities to pay. The purpose of Commonwealth general purpose financial assistance to local government is to help meet local needs at an affordable cost to local communities. The concept of fiscal equalisation by providing financial assistance grants on a needs basis according to the relative cost to each community of meeting those needs and each community’s capacity to pay is a fundamental principle on which our federation is based.

Because federal funding provides an average of about 20 per cent of local government revenues it is not possible to run a full fiscal equalisation model, as is the case with the states, which receive on average about half their revenue from federal grants. However, it is possible to achieve a much fairer and more effective allocation of local government funding. As of today, Labor are advancing a policy on funding local government that has been developed incorporating some of the principles involved in this inquiry. That commitment is that we will adopt a direct funding relationship from the Commonwealth to local government bodies, move towards a needs based national model of allocation and provide a real terms per capita guarantee to the total funding pool.

Labor has adopted the major recommendations of this report. It is a very beneficial report for my own state, which has been at a disadvantage when one considers needs based funding because of the allocation of general purpose financial assistance grants on a per capita basis to
the states. South Australia has some cost disadvantages and also, by comparison with other states, some revenue raising capacity disadvantages and it will therefore get a better share of this pool of funding.

South Australia has also suffered great detriment with its historically set share of local road funding. It receives only 5½ per cent of the available pool, which does not compare either with its population, the length of its roads or any other index which might be a determinant of need. The recommendation in the report to put untied local road money on a needs basis would correct for South Australia an enormous disadvantage.

There are basically four factors that distort the allocation of funding on a needs basis: the per capita allocation to the states; the minimum grant of 30 per cent of the per capita allocation—and this report recommends that minimum grants be phased out, which will obviously be a matter for significant debate; the inconsistencies between the equalisation models used by each of the states local government grants commissions—and obviously if it is a national initiative it ought to be allocated according to a national formula; and the local road component, which I have already mentioned, which has been allocated to the states according to a historic share that has been frozen since 1991-92.

Another issue in this report which I think is very important is the treatment of infrastructure. There was some suggestion from local government bodies that there be a national survey of their infrastructure needs and their maintenance. I thought that that was an inappropriate role for the Commonwealth. It has been my experience that, when you undertake those sorts of studies, the people who are offering the information will tell you how little infrastructure they have and how little maintenance they are able to do on it. If you are another tier of government, they will probably send you the bill for the difference between what they have, what they are doing and what they would like. If we are going to have a responsible role for local government, it is important that local government bodies come to grips with those issues themselves.

This report recommends that a national methodology be developed for local government bodies to assess their own infrastructure needs and their own progress in maintaining them, and that that information be one of the inputs to the Commonwealth Grants Commission in administering the needs based funding formula that is proposed here. The committee very wisely said that, if government bodies were not keeping up to the national standard in terms of their efforts on infrastructure, they should not be rewarded by the formula for perhaps diverting money from infrastructure maintenance to other recurrent purposes. I think that is a sound principle. The formula should not reward a lack of effort. The other issue that the formula would be able to deal with for the first time is the capacity of ratepayers in each local government body to pay. (Time expired)

Dr SOUTHCOTT (Boothby) (4.46 p.m.)—For me, there are two key recommendations in the cost shifting inquiry report which was tabled yesterday. The first and most important is recommendation 16, which prescribes a national model of funding that is consistent across each local government boundary. It proposes that the distribution of funds be done on the principle of equalisation and on the basis of need. It recommends funds to be paid directly to local government, that the funds should be untied and from one pool, that the new model should be phased in over the next three years and that this should be facilitated by the Commonwealth Grants Commission.
As members will know, this recommendation had the unanimous support of the committee, as did the whole report. The committee proposes keeping the general purpose pool and the identified road component of FAGs—financial assistance grants—untied and that they all be collapsed into the one pool.

The second key recommendation is recommendation 6, which proposes an intergovernmental agreement which recognises cost shifting. It allocates the revenue to local government from the relevant level of government, if there has been a devolution or devolution of responsibilities, to address state restrictions on local government revenue such as rate capping and also proposes local government impact statements for state and Commonwealth legislation which have an impact on local government.

I do urge the new minister, Senator Ian Campbell, to look very closely at those two recommendations, and I hope he will adopt them. I note that in his media release yesterday he welcomed the Hawker report and has announced that the Department of Local Government, Territories and Roads has established a local government task force. Its report will form the basis of a submission that the government will consider. That consideration is expected to take about four months. I would not like to see it taking any longer. I would like to see a prompt response to this report because there are a number of issues, especially in my home state of South Australia, which do require addressing urgently.

As the previous speaker, the member for Kingston, pointed out, South Australian councils received $80.5 million or 7.7 per cent of the general purpose grant in 2003-04, which was allocated on a per capita basis. But South Australian councils received only $25.5 million or 5.5 per cent of local road grants in 2003-04. This has been the case since 1991. The state has 7.7 per cent of the population and 10.9 per cent of Australia’s local road length. This is an inequitable situation. I saw recommendation 16 as being the best way to address the problems that we have in interstate distribution. It is an inequitable situation where 5½ per cent of local road grants goes to a state with 10.9 per cent of Australia’s local road length. The 1999 Premiers Conference looked at this issue, but there was no uniform view among the states and territories. So the Australian government gave $100 million or over eight per cent of the $1,200 million in the Roads to Recovery program to South Australia in recognition of what must be much closer to the state’s share. It also established the cost-shifting inquiry which reported yesterday.

I now turn to some of the history of why we have got to this position. The 5.5 per cent share of FAGs for local roads is the result of an agreement in 1986 between the South Australian government and the Australian government. This allowed the South Australian government to retain one-third of South Australia’s local road grants for the local roads it maintains. In 1991-92 this arrangement was retained when two-thirds of the grants became untied and were paid to councils as FAGs under the Local Government Financial Assistance Act. The remaining one-third went to the South Australian government as a state general purpose grant and was subsequently incorporated into the GST revenue.

During the period 1974-75 to 1997-98, the Commonwealth Grants Commission showed that state assistance as a proportion of local government revenue in South Australia fell from 10 per cent to five per cent. In 2000-01 the South Australian government provided only $1 million in grants to councils for spending on local roads. This compares with, for example, $63 million in Queensland and $62 million in Western Australia. Since then it has been cut
further so that the South Australian government provided only $700,000 in grants to councils for spending on local roads in 2002-03 and 2003-04. Also, from 1977-78 until 1990-91, the South Australian share of local road grants across the range of federal road programs ranged between 7½ to eight per cent. This was always the proportion. In 1991 it fell to 5.5 per cent and has remained there since. As I said before, the South Australian government provides $700,000 to councils for local roads and claims to fund a very modest 319 kilometres of roads, which it classifies as local roads in incorporated areas. The point I would like to make is that the South Australian state government could do much more.

In turning to the issues raised in the inquiry, as I said before, I urge the new minister to adopt recommendations 16 and 6. Significantly, I think recommendation 16 will in many ways address the problems of having a lower ratio of funding for road funding and of having the general purpose grant done on a per capita basis. This will have significant advantages for South Australia.

Lastly, I turn to the issue of the minimum grant. The major councils within my electorate are Mitcham Council, Marion Council, Holdfast Bay and part of Onkaparinga. For the established councils such as Mitcham and to an extent Marion and Holdfast Bay the abolition of the minimum grant was an important issue. They supported the retention of the minimum grant. In the end, I could see that on balance there were significant advantages for these councils in an equalisation model in that the increase that they should get in road funding and potentially in the general purpose grant would more than outweigh the abolition of the minimum grant. So it is not a full equalisation model but a partial equalisation model that we are proposing. It will have significant advantages. It will allocate funds directly from the Commonwealth to local government on the basis of the council’s need.

Mr SIDEBOTTOM (Braddon) (4.54 p.m.)—Like other members, I am very pleased to be able to speak on the tabling of the report of the House of Representatives Standing Committee on Economics, Finance and Public Administration entitled Rates and taxes: a fair share for responsible local government. I am very pleased to do that from a number of angles. First and foremost, I used to be in local government, albeit for a brief period, but I certainly appreciated the additional burdens, costs and expectations that were levelled at local government. The second interesting point that came to mind from a quick cursory glance at the report is that I thought it was going to be a state-bashing exercise in order to point the finger at the states and carry on the ideological battle that is taking place at the moment between the federal government and the states. I was very pleasantly pleased—I will not say surprised, looking at the calibre of the people on that committee—that the states came in for a little critical observation, and rightly so, as does the Commonwealth. In essence, it was a unanimous bipartisan report.

The third very important point about this report is that it highlights one of the most underrated but overused institutions and important agencies in our democracy and our communities: local government. It was interesting to note that there are about 721 of these local government organisations throughout our states and territories. It is a very important level of government and governance. It is as close as any level of government to the people. This report drives one little wedge into an argument about the future nature of our democracy and Constitution in Australia: the importance of regional governance and government in Australia and the question of whether we should change our Constitution and have a central government
dealing with regional governments and phase out state government roles. That is an interesting
and controversial point of view which has not been raised directly in this booklet. If some
of the recommendations are genuinely sought and put into practical effect based on the recom-
endations in Rates and taxes: a fair share for responsible local government, I think it
will advance that argument a little more as our democracy continues to mature and evolve.
But I am talking about constitutional change, and we all know what that means. The mecha-
nism required to bring that about would make this too hypothetical at the moment.

When I heard that this investigation was taking place, I was very interested in joining the
committee. When you look at the role and practices of local government and the issue of cost
shifting in particular, you can see it happening at all levels—directly, indirectly and by, some
would say, insidious means and by stealth. I have looked at some of the ways cost shifting has
occurred in local government. For instance, there is cost shifting through legislative reform.
This is happening not just at the state level—if you want to have a go at the states—but also at
the Commonwealth level, particularly with the introduction of legislative issues such as the
FBT and the GST. Taxes upon taxes are mentioned in the report and they are particularly re-
lated to the GST. Also, legislative changes by state governments to the vehicle and traffic
act—I am thinking about my own state—have made local government responsible for road-
side vending on state roads. Apart from a state going for a bucket of money, there is nothing
as quick as a state trying to offload a road onto local government and this has been very suc-
cessful in my state. I will give a little history. A little stretch of road coming from Braddon’s
Lookout, which is just above my beautiful village at Forth on the north-west coast, to the pub
at Forth—it does not go very far; it is about 500 metres—still belongs to the state and do you
think the local government will take that on? Not on your Nelly. The reason is that there is not
a fair shift of responsibility because the ongoing maintenance and costs are not covered. That
basically sums up what has been going on between the states and local government. The Forth
road from the Forth pub up to Braddon’s Lookout is exactly what has been going on between
states and local government.

There is cost shifting through the creation of new mandates. Let us face it, governments
mandate lots of things, particularly in relation to the environment, housing, roads and trans-
port, town limits, no-go areas, traffic and pedestrian lights, TV black spots—a great program
from the Commonwealth, and I am the first to support and promote it. Even that in itself says,
‘We will assist you to put up your translators, your transponders or whatever else you want to
call them but, unfortunately, local government, you’re the auspicing body because most local
governments are the only ones who can do this.’ They have the ongoing costs and, if you are
looking at, say, the outlay of $150,000 for a translator, set aside $40,000 a year for mainte-
nance. That is a mandated example of cost shifting—albeit for the most positive of reasons—
but local government is expected to take that up. That is one of these cost-shifting mecha-
nisms for taking on these extra tasks that come from the expectation of the community.

There is cost shifting through national and international agreements. We know many of the
national environmental protection measures and environment protection policies have a tre-
mendous impact on local government. These are part and parcel of our international agree-
ments. But who wears it in the end? Local government wears it in the end. Again, there is cost
shifting through short-term funding of projects and programs as there is an expectation by the
community that certain programs are presented by local government. In the end, that cost is
shifted over to local government, such as natural resource management, Coastwatch, Waterwatch, river works and weed management, recreation, the arts and culture, youth and community service programs. My favourite, the excellent Commonwealth TV black spots program, is another example. That is okay, but the ongoing funding does not exist.

There is cost shifting through the cessation of state and Commonwealth government activities. Examples at the local level include: inspection of certification of persons and businesses such as milk vendors; the increased role in the inspection of licensed premises—you do not need to watch *Faulty Towers* to see the increased load on local government, particularly in health inspections and standards—an increased demand on immunisation services provided by the state government but administered by the local government; pressure to install surveillance cameras as police presence is wound back; state road maintenance such as landslips; technical advice to the community such as agricultural land capacity and land stability; health care; community programs; transport; housing; and new services.

Local governments, as I mentioned earlier—take the TV black spots program—carry out auspicing roles and responsibilities. In the end, they take on the responsibility of maintaining these. We all know about national competition policy and the demands on states. Indeed, the states then pass these on to local government in a variety of areas. The state governments get the benefit of the national competition payments, but you will hear local governments continually asking the state governments to disburse those national competition policy moneys. Many would argue that that in fact does not occur or, if it does, it does not occur at a proportionate level of the expenditure of local government.

There is the shifting of non-performing assets to local government. We have examples of that on King Island where the Commonwealth was responsible for a lighthouse but when they tried to find the deeds to the ownership of the lighthouse and maintenance of it, the Commonwealth had not carried out maintenance for years. The Commonwealth threatened to abandon the lighthouse unless the local government effectively took up some moneys to maintain it and paint it. They only got enough to half paint it, and everybody knows the weathering pressures on a lighthouse. That is an example of the offloading of these assets and the state governments are part and parcel of this too. I have mentioned cost shifting through the cessation of state and Commonwealth government activities and on it goes.

There are environmental management obligations on local government and proportional funding is not ongoing for those. When all these pressures for cost shifting are added together, you find local government groaning under the burden of expectations of both state and Commonwealth governments—and of course local expectations. One of the great things about living in Australia is that we are able to travel, and when we go to other parts of Australia—admittedly most mainlanders are now travelling to Tasmania and seeing the excellent lifestyle that we have and putting greater pressure on our services and facilities—we see the provision of services, particularly in urban centres, so of course people have expectations. The members here who represent rural electorates well truly understand the demand that people rightfully make for good TV reception. I cannot think of another area—except for taxes—that gets people so upset. The pressure is on local governments to make applications for black spot program funding and then of course they have to deal with the ongoing maintenance and so on. That is just an example of the problems they have.
I was very pleased to find that the committee has recommended that there should be a major summit where the three levels of government could meet to determine—rationally, carefully, cooperatively and responsibly—the particular roles of government and an equitable way of funding these roles and the provision of services. It is the only responsible thing to do; it is the only commonsense thing to do. Isn’t it remarkable that every 10 years we have a recommendation that says, ‘Let us have a summit to determine what our roles and functions will be, and let us have a summit to determine what funding mechanisms we should use’?

One of the things that clearly comes through in this report, particularly in chapter 7, the way forward in terms of the framework for cooperation on regional development, is that funding should be direct in many instances and that there should be an equalisation mechanism so that communities rightfully expected to carry out particular services have the ability to be funded for those services. We need to equalise, because they have a lesser ability to raise funds in terms of rates, fees and charges, and that should be taken into account. I think it will lead more and more to the development of regional governments and take the burden off state governments in terms of distribution.

But one of the sensible recommendations—amongst many—in the report is that local government must be responsible for auditing its services and its infrastructure. If there is funding for particular things the local government must clearly indicate where it is spent. If you look at the Roads to Recovery program of this government, for whatever the motivation, the local governments have seized upon it because it is an absolutely vital area to most of them, particularly rural and remote ones, and the incredible expenditure and demands on them for the maintenance of roads. I think that program is a good one. We could possibly argue that it could be better targeted, but it is the type of program indeed that people are looking for, and the Commonwealth has every right to make sure that those moneys are properly spent.

I congratulate the committee on its recommendations. I would like also to congratulate my local councils—there are nine that make up the Mersey-Lyell or Cradle Coast region. They have together funded and founded the Cradle Coast Authority, which I think is a novel authority in terms of coordinating regional development for my area in particular. They are entering into specific partnerships, both with the Commonwealth government and the state government, for the distribution of funds and for them to be an advisory body in developing programs that have been determined by the region as a whole rather than by individual councils. I think that certainly is the way of the future—a way that is recommended in this report, particularly with reference to partnership agreements in recommendation 14. Congratulations to all involved.

Ms GAMBARO (Petrie) (5.10 p.m.)—I am very pleased to be speaking to Rates and taxes: a fair share for responsible local government, the report of an inquiry by the House of Representatives Standing Committee on Economics, Finance and Public Administration. Cost shifting is not a new phenomenon. I am sure that any day now some archaeologist is going to unearth a tomb painting, buried in an ancient pyramid, of long-dead Egyptians, probably circulating around 1000 BC. It will show in exquisite side-face detail the Pharaoh’s laden grain barge getting progressively lighter as it is rowed down the Nile by three levels of sweating galley slaves, all rowing out of tandem. The closer the trireme gets towards the royal granary and the mouths of hungry subjects, the lighter its cargo becomes.
Three men in a boat may seem comic but there is an old saying: ‘Two’s company; three’s a crowd’. Nowhere is this more evident than in the workings of a system where three separate and autonomous levels of government coexist. In that situation, ‘three’s a crowd’ takes on a new and highly challenging significance for those at the lowest level of the administrative pyramid in Australian government: local government.

As the committee inquiry reported, the states are now shifting costs onto local government of between $500 million and $1 billion per year. That is not so much a cost shift as a tectonic shift, which is costing the Australian community around $20 billion a year. As many previous speakers have said, it is hurting local communities, which are having to foot the bill. And it is hurting Australia as a whole as the system groans under the weight of duplication and constant delivery breakdown. The government’s response to this is framed in part of the title of this report: ‘a fair share for responsible local government’. It would be unrealistic to think that any machine welded together out of three quite distinct sets of engines, steering wheels, nuts and bolts, one on top of the other, is ever going to run completely smoothly. It would need constant oiling; but, with most of that oil coming from just one can, that oiling will be far from efficient.

The federal government has poured generous amounts of oil into communities, increasing its spending on local roads under FAGs by $80 million over five years to $445 million in 2002–03. In addition, it has made $1.2 billion available to local government for roads over five years to 30 June 2005 under the Roads to Recovery program. Only this morning, at a Queensland local government breakfast, I was again reminded: ‘Roads to Recovery is one of the most successful programs that the federal government has ever implemented, and could you please, please make sure it continues as long as possible.’ The member for Braddon is indicating that he agrees with this.

Cost shifting, in its simplest form, is the most predictable tendency for this oil to disappear on the way down, either pooling in the middle or leaking out of hidden cracks and crevices before it reaches the lowest cogs and flywheels that should be spreading it. And that is what happens; it happens vertically and horizontally. Each level of government in this three-tiered machine also engages in cost shifting in one form or another. Interestingly enough, it appears to have become even worse since the changes to local government acts were passed by the various states. The findings of our report make this clear. The figures revealed in this report are deeply disturbing. No efficient system can afford cost shifts from state to local government of $500 million to $1 billion a year. The system cannot afford to have vital services eroded from local communities, as is happening under current cost-shifting practices. Health is a prime example. How many times have we heard of state health authorities moving more and more services away from rural and remote councils and those councils having to pay to bring doctors to their areas.

It also occurs in some federal areas of responsibility—for example, airports. When we travelled around the country listening to submissions, we heard that more and more smaller areas are having to maintain airports. I find this an absolutely crazy situation. No local community should have to maintain an airport, which is essentially a federal government responsibility, and that is something that really needs to be looked at. The honourable member for Braddon comes from Tasmania; four councils in Tasmania have taken over ownership of par-
ticular airports, two of them are municipalities, and they have been subjected to increasing costs.

I agreed with the previous speaker, the member for Braddon, when he spoke about amalgamations and councils providing more and more services as a group. He spoke of the Cradle coast as a fine example of efficient use of resources, with councils in the area pooling their resources and coming together as one. While I am on my feet I will talk about the Moreton Bay coast and country area of my electorate, where the four councils there have come together to promote economic tourism and other benefits for the region. I believe that really is the way we need to go. As I mentioned earlier, some councils are increasing their spending on health. They are having to house doctors and are finding that they have to provide travel and pay salaries for medical workers, nurses and dentists. They need to do this because, without those resources, their communities simply will not survive.

Our study also found other, more worrying techniques of cost shifting. One of the worst is revenue denial. One cannot deny that this occurs with state governments. They fail or decline to raise statutory fees, fines or charges and employ things such as rate capping, as has happened in New South Wales. This is a negative cost shifting. It is a highly efficient revenue inhibitor that basically disadvantages local governments through a kind of sleight-of-hand and really is something that needs to be looked at further. It is happening at a time where the state governments are enjoying a huge GST windfall from that federal oil can that I mentioned earlier.

Our committee laboured long and hard to address these and other issues associated with cost shifting. Amongst the most urgent findings and recommendations is the need for a new funding equalisation principle and the need for more transparency, less duplication and much more equitable and individualised measurements of a community’s ability to pay. This was particularly important in country areas of Australia where there is a huge disparity between urban and regional councils and communities. A community in the middle of Melbourne or Sydney cannot be considered the funding equivalent of a very remote community in the far north of Queensland or Western Australia or the Northern Territory.

I strongly urge the states to support the inquiry’s central recommendation for a summit on intergovernmental relations to be hosted by COAG in 2005. Other recommendations include the extension of the powers of the Australian National Audit Office to examine the expenditure of federal specific purpose payments to the states, and through them to local government; closer monitoring of the management of specific purpose payments to safeguard against further cost shifting by the states; a tripartite intergovernmental agreement that will extend the federal Treasurer’s powers from the state to include local government; and better local and state government coordination in infrastructure management.

Finally, I would say that I support the committee’s fundamental objective, which is to make the machine work better, as I mentioned earlier, at all levels and thereby deliver more and much more efficiently to the people of Australia. I would at this time also congratulate the secretariat and I see there are members of the secretariat sitting here. I thank them for their fine work. I would particularly acknowledge Susan Cardell and Vanessa Crimmins and thank them for all they have done, their dedication and their efficient work in the secretariat. They certainly have helped us to provide a very detailed report that I am sure will not sit on a shelf; it will be used actively and proactively. I know that the local government minister is already
working on a plan for his department to start implementing some of these recommendations. I commend the report to the House.

Mr ALBANESE (Grayndler) (5.19 p.m.)—I am very pleased to rise, as a member of the House of Representatives Standing Committee on Economics, Finance and Public Administration, to speak to the report *Rates and taxes: a fair share for responsible local government*. It is appropriate that this report be handed down this week, because the Australian Local Government Association is holding its national conference in Canberra. Indeed, the participants are a reminder of how diverse local government is.

There are 721 local government areas around Australia; they are very diverse. In this committee’s deliberations, members travelled the length and breadth of Australia to meet with large and small councils and with urban and regional councils, and that diversity came through. I do not think I will ever forget the hearing at Alice Springs, where first we heard a submission from Tennant Creek. This is largely an Indigenous community; people are literally struggling to get fresh water and basic survival services. Immediately after that, on the same day, we heard from Mosman Council in Sydney. They were complaining about the terror of the premium property tax, which kicks in at a land value—before a brick is put on it—of about $1.8 million for each block of land. The representatives from Mosman did not see any irony in them complaining about how tough it was for them immediately following the representatives from Tennant Creek, but all members of the committee certainly saw that was Australia in all its diversity. This was one of the challenges that this committee faced when dealing with local government and its relations to state and federal governments. It certainly cannot be viewed in a homogenous way.

One of the points made in many of the submissions to the committee was the need for constitutional recognition of local government. One of the reasons why states and territories have so much power and influence over local government is that local government is not recognised. There was a referendum in the 1980s to give constitutional recognition to local government. My friend and mentor, Tom Uren, when he was Minister for Local Government and Administrative Services in the Hawke government, campaigned strongly for that referendum. Unfortunately the Neanderthals on the other side, particularly Peter Reith, opposed that referendum and ensured that we did not get that progress. Then again, the same people opposed the republic referendum. Watching the World Cup Rugby on Saturday night, I thought how humiliating it would have been to have *God Save the Queen* sung twice before the game. That is what the people over there would have as progress. I was in the toilet on Saturday night where I heard English supporters sing a very raucous version of a song. The punch line—expletives removed—was ‘get the stars off our flag’.

We need to remember that progress is quite hard. With regard to the different spheres of government and responsibilities, getting solutions is a challenge which this committee have attempted—and which I think we have done our best to find. The reason why recommendation 17 suggests a national summit convened by COAG is in recognition that you are not going to get the sort of broad change that is necessary simply through the committee process. We looked at the way in which local government functions have increased. They are due to a number of factors: devolution—one area of government has given local government responsibility for new functions; raising the bar—essentially the standard at which local government services must be offered has increased and that, therefore, has led to increased costs; cost
shifting, which can occur in two ways, including where one area of government stops providing a service and local government steps in to provide it; increased community expectation—the demand in the community for increased services; and policy choice—local government does make choices to go into particular areas and expand the areas in which it provides support.

Areas of cost shifting occur when there is a withdrawal or a reduction of financial support once a program has been established. Numerous examples were given of where there might have been a joint state-local government activity or a Commonwealth-local government activity; that activity became vital to a local community, and then the other sphere of government—or perhaps the private sector—withdraw support, thus leaving the local government area picking up the full costs. Assets can be transferred without appropriate funding support; airports were given as one example of that. There is also often a requirement to provide concessions and rebates, without compensation payments. For example, many institutions such as churches are exempt from rates and that reduces the tax base of the local government area. Increased bureaucratic requirements can also lead to increased costs for local government, as can a failure to provide for indexation of fees and charges for services prescribed under state legislation or regulation.

It is also the case—and I think this came out particularly at the Perth hearing—that we need to acknowledge that it is not all the fault of the Commonwealth and the states. In some cases the very nature of local government being very close to community opinion can mean that there is political pressure upon local government to provide services that really they have no business providing. An example of that, which we heard about at the Perth hearing, is the provision of police and community security. We had a number of submissions about it, and we hear all the time that Australia is a far more dangerous place than it has ever been before, whereas all the facts tell us that that is simply not the case—that in fact crime by and large is not increasing in our community but has decreased. But candidates running for local government find it politically opportunistic to campaign on these programs and, because it is difficult for them to say no, we actually have examples of local government providing services which, in my view, are not their business.

That is another example, in my view, of the need for council amalgamations in New South Wales. Many of the local government areas are simply too small, including those in my area in the inner west of Sydney. The Mayor of Ashfield has been quite courageous in stating the obvious about Ashfield, Burwood and Strathfield councils covering such a small geographical area. I have four local government areas in my electorate which covers 27 square kilometres. I believe we need to build capacity by having councils that are of an appropriate size. But council amalgamations by and large have been resisted. We had the example of the formation of Canada Bay Council from Concord and Drummoyne. The people resisted it and ran on anti-amalgamation platforms. But, once it was formed, they all wanted to be mayor, of course; they all wanted to run for the positions. Opportunistic statements have come from right across the political spectrum.

There have been meetings opposing council amalgamations in New South Wales. It is very easy to appeal to the lowest common denominator: fear of a loss of local identity. For example, in King Street, Newtown, one side of the road is in South Sydney and therefore does not
have bins and the other side of the road is in Marrickville. But the Greens oppose amalgamation and oppose fixing up King Street and putting it in the one council boundary locally.

Mr Organ—No, we do not.

Mr ALBANESE—The member for Cunningham has a more enlightened view than the local councillors. They do that for opportunistic purposes and that is just one example. The report also goes into the declining state of infrastructure in the nation. That chapter is very important. It talks about infrastructure not just in terms of roads but also in terms of our social capital—our community based organisations.

There are recommendations in there and statements—4.75 and 4.76—where the committee has unanimously declared that it considers that judicious use of borrowing may assist local government to meet some of its financial needs if such borrowing is accompanied by increased revenues to enable the debt to be serviced. That is a sensible statement.

I conclude by drawing attention to and coming back to the last recommendation, which is recommendation 17. It recommends COAG host a summit in 2005 on intergovernmental relations. It is very sensible that the three tiers of government should actually sit down and talk about who does what. The ideal in Australia would be a two-tier system of government. That would make sense: a regional form of government. But the truth is that it is highly unlikely that that will occur in my lifetime. Given that is the case, let us have a rational debate about what the role of each level of government is.

Local government plays a particularly important role. It is closest to the people. It is able to respond directly to people’s needs. It allows for democratic participation, which enriches the democratic life of the nation. I believe that the federal parliament and we on this committee have taken local government’s role very seriously.

To that end, I want to congratulate in particular the chair of the committee, the member for Wannon, David Hawker. He does an outstanding job as chair of the committee, along with the member for Chisholm, Anna Burke, who is the deputy chair. We hear a lot about disagreements in parliament. It took us three or four days to finalise this report but it is a unanimous report. It is a consensus report. It is parliament working at its best. There is not enough recognition out there, in what is a fairly cynical community, of the good work that parliamentary committees such as this committee, which I have been on since 1996, can do. I sincerely hope David Hawker remains the chair of that committee. Well, I hope he gets to be the deputy chair at some stage because I hope we swap sides. But David does a very good job, as does Anna. They in particular, if you look at the attendances, really bore the weight of the work on that committee and that should be acknowledged.

I want to also acknowledge the work of the committee secretariat, and in particular the work of Susan Cardell and Vanessa Crimmins. They did a lot of outstanding work. There was a lot of travel to regional Australia during the conduct of this inquiry. I believe that this report is a positive contribution, one which has already been well received by the local government community. I sincerely hope that the recommendations lead to action, because otherwise that work will have been wasted. I commend the report to the House.

Mr NAI RN (Eden-Monaro) (5.34 p.m.)—I rise today to also support the report by the House of Representatives Standing Committee on Economics, Finance and Public Administration entitled Rates and taxes: a fair share for responsible local government. I will start off
where the member for Grayndler almost finished, by talking about the good work that is done in the parliament and in the committees. It is one of the constant frustrations, I guess, of members of parliament that out there in voter land they think that parliament equals question time, which occurs for an hour or so each day. Meanwhile, some great work is being done at a committee level.

When you look at some of the good policy that is around—and it does not matter which government you talk about—coming from either side of politics, a lot of it starts in the committee process. It starts through an inquiry. An inquiry takes place and more often than not all sides of politics—I should use 'all' rather than 'both' with the member for Cunningham sitting opposite—get together and nut out something, compromising a little bit here or there to come up with a final result. There is no better example of that than this particular inquiry and the way this committee worked. I was very pleased to be part of the committee and the inquiry.

I got to most of the hearings and visits. I missed a couple but I was, along with the member for Cunningham, chasing bushfires during part of that period as well. It was a difficult time and I did miss a very small number of those hearings. But I really worked hard to get to as many of them as I could because it was such an important inquiry. Each member of parliament, with numerous local government jurisdictions in their electorates, clearly had an interest.

I have eight local government areas within my federal electorate. Many of those participated in the inquiry and provided submissions. Eurobodalla Shire, Bega Valley Shire and Cooma-Monaro Shire all put in submissions to the inquiry. In addition, Eurabodalla, Bega Valley, Bombala and Yarralumla participated in one of the hearings that was held down in Moruya. Certainly I found the evidence of those various councils extremely useful in the overall context because there are huge differences—and I think this is one of the things that has come out of this report—in local government between the states.

That is why this report, over and above the recommendations in it, will be extremely useful as a reference guide. It has accessed information from all around Australia. Each state has a local government act. That is how local government exists; there is no local government act at the federal level in that sense. The creation of local government is done at a state level. But they all then apply it differently. Their acts are different and the way in which local government is treated is very different. That in itself was a challenge for the committee because various things that were working well in one state did not even exist in another state, so to speak. We had to find a way in which to come up with recommendations that can be applicable right across the nation. This is particularly a role for the federal government—to take a leadership role in this. Our recommendations allow that now to occur. In the recommendations there is that element of leadership from the federal government, so we can get state and local government together and nut out some agreements so that we know who should be doing what and who is paying for what.

Some of the big differences I noticed between states were some of the funding aspects. In particular, local government in New South Wales is restricted quite substantially because of rate capping, which does not exist in other states. Philosophically, I have a problem with that because if you have a democracy where people stand for election and they stand for election on a particular platform then they should be able to be tested against that. If a local council and local councillors propose to increase rates by a certain amount and to put charges in at a
certain level in order to provide certain services then that should be able to be tested democ-
ratically.

That effectively is not happening in New South Wales because councils are forced to do all
sorts of interesting accounting exercises because of this rate capping that the state govern-
ment puts on them. They can theoretically go to the state government and ask for an allowance for
one year to go over the rate pegging for specific things. But history shows that that is a very
difficult exercise and becomes a very political exercise in the process as well. It works against
those councils substantially. One of the councils in my electorate—Bombala Council—made
a comment in talking about rate pegging. They said:

Without a mechanism for recouping the forgone revenue over the longer term a degree of flexibility has
been removed. This has a larger impact in the rural areas as rate increases cannot be put through cycles
matching the good and poor agricultural seasons.

I guess that is a good indication of the difficulties of rate pegging.

The real root of the problem is that a lot of councils, for various reasons, had kept rates
down at a certain level and when rate pegging was put in it was then applied to probably too
too low a level. The difference between that council and other councils has therefore become
greater and greater as things have gone on. When you compare the rate pegging with, for in-
stance, the fire levy—something that was of great interest to me in the other committee—and
the increase that occurred there, things get out of whack. In New South Wales, for example,
the average annual increase in the fire brigade levy between 1993-94 and 2002-03 was 6.9 per
cent per annum, whereas rate capping was limited to 2.6 per cent. So councils were being hit
with those additional fire levies but effectively the rates that they were able to put up could
only go up by a much smaller amount.

As an illustration, Eurobodalla Shire Council have commented that the council is paying
$100,000 more in levies to the fire brigade and rural fire service while its rate revenues have
increased by only $30,000 due to the rate cap. So they are the hard, cold facts. They have only
been able to put up $30,000 of the $100,000 that they have been hit with for fire levies. That
is one particular aspect where recommendations have been made that ought to be looked at,
but it requires some political will at the New South Wales government level to make those
changes. If they are so keen on democracy, then they should let the councils go out there and
argue their case to their constituents. There is an election in March next year for local gov-
ernment, so let the state government have democracy operating properly.

One of the other examples that I will pick up on from one of my councils concerns infra-
structure. One of the problems that councils are having is that they will be offered funding
that they have to match to set up certain things—to put in place particular infrastructure or a
particular service. But, more often than not, that funding—and it happens to come from both
federal and state governments but primarily from state governments—to set things up then
disappears after a period of time and the council is left holding the project and having to fund
the full cost. It all looks wonderful in the first place. Governments say, ‘We’re giving this
council so much money to do this,’ but the council then gets into strife a couple of years later.

Consequently, some councils are saying, ‘We’re going to have to knock back money,’
which sounds ridiculous. That was one of the things that the Bega Valley Shire Council said.
In talking about this issue with respect to infrastructure grants, they said:
We basically said as a council, ‘It is fine to get the funding for some new infrastructure—a new toilet block or a new boardwalk or whatever—being matched fifty-fifty, but do we really need that or are we better using that $100,000 or $200,000, or whatever the matching figure is, to do something that the community really needs, like fixing the roads or upgrading some old timber bridges?’ We made a conscious decision to reduce the matching grant funding and use it for only stuff we really need rather than stuff that looks nice and maybe has a nice community feel.

So that is an example of how councils are being put into that particular circumstance—a difficult circumstance—where it is tempting to say, ‘It would be nice to have that nice new thing,’ but at the end of the day it could mean that they cannot put money into much needed maintenance as well. As a consequence of that, they make difficult decisions.

We have tried as a committee to put forward some recommendations to overcome those difficulties, to look at some of the funding formulas. I think there is scope for some specific programs and formulas that can be applied to funding between the federal government and local government—for Roads to Recovery, for instance. Everywhere we went, people said what a great program it was, not only because it was additional money to fix local roads—and, yes, that is right—but overwhelmingly, no matter where we were in Australia, because the actual model worked brilliantly. It was easy to comply with the bureaucracy in administering that program.

So I think there is great scope for that. We have not been prescriptive about that in this report, in saying it should be done with particular programs; we have just said that it is an excellent program. There will be many opportunities, I would think, in the future where that could be applied equally as well so that it can work directly. It was a way of getting taxpayers’ funds right there on the ground, where they were needed, with virtually no loss even in administration, particularly with the money not going through the state government but going directly to local government. It is a great formula, and we have had scope there for that as well.

I was pleased to be part of the committee and that report. It is an excellent result. We worked well as a committee, as we always seem to in that committee in the various things we have done, which is terrific. It is very pleasing to be part of this sort of process. As the member for Grayndler said, and I will support him strongly, there was great leadership shown by the member for Wannon and by the deputy chair, the member for Chisholm. We had superb backup from the secretariat, particularly from Susan Cardell and Vanessa Crimmins. Vanessa, having come from the department and knowing a fair bit about local government issues, was of great benefit to the committee as a whole. The whole team worked really well together. I very strongly recommend not only to the House but also to all people who have an interest in local government the report as a resource document and particularly the recommendations, which we would like to see implemented as soon as possible. We always try to do that. I am sure the report will be looked at very closely by government.

Mr ORGAN (Cunningham) (5.47 p.m.)—As a member of the House who was not a member of the committee, I welcome the opportunity to speak to Rates and taxes: a fair share for responsible local government, the report of the House of Representatives Standing Committee on Economics, Finance and Public Administration. This is an important document which the Greens welcome, and its 18 recommendations demand a speedy, considered response from the government. This report is a watershed in the way we look at the level of government which
is closest to all of us—local government—for it has had its roles and functions greatly expanded over the years and is now in a situation where there is no doubt it is doing it tough.

As the President of the Australian Local Government Association, Councillor Mike Montgomery, said just yesterday, this report is a solid start to resolving the financial crisis facing local government—and, as we have heard from previous speakers, that financial crisis, at its heart, is the result of cost shifting. In his capacity as chair of the committee, the member for Wannon told the House yesterday that all levels of government have engaged in cost shifting in some form or another and that state governments are responsible for cost shifts of between $500 million and $1 billion a year.

In my own state of New South Wales, state funding of local government fell from 14.8 per cent in 1975 to 7.1 per cent in 1998, down a massive 7.7 per cent, whilst over the same period user-pays fees charged by councils almost doubled, from 13.4 per cent to 24.7 per cent of total revenue. It is clear, therefore, that state governments are increasingly pulling back from their responsibilities in the local government sector and, in return, that local governments are being forced to get a greater percentage of their revenue from ratepayers and residents. A disturbing picture is revealed through this report of the effects of the changing funding regimes for local governments, with infrastructure deteriorating and services diminishing. Announcements of ‘quality improvements’ and ‘efficiency savings’ by local government are now recognised in the community as just another way of presenting budget cuts, job losses and service retraction.

Long-held agreements and arrangements are falling by the wayside. For example, in 1939 New South Wales local councillors entered into an agreement to provide library services that were to be funded 50 per cent by councils and 50 per cent by the state government. As a former archivist and research librarian, I am very much aware of the important role libraries play in our society, especially the local library, which is used by a wide cross-section of the community, from primary school students through to businesspeople and the elderly. Yet today councils meet 93 per cent of library services costs, costs which are spiralling due to the new electronic information environment and Internet based research. It is no longer just a matter of councils budgeting for staff and books; money must be found for computers, online databases, infrastructure upgrades and training in these new technologies. Our very support for the concept of a knowledge nation is under threat if council libraries should disappear.

As the Rates and taxes report reveals, a decade of aggressive cost-shifting has resulted not only in a reduction of funds provided to local government but also in steep increases in fees charged to local councils for services provided by state government entities. One example is EnergyAustralia, one of the New South Wales state government’s most profitable utilities. EnergyAustralia now charges councils for the assessment of customer complaints about public lighting and for the preparation of designs and quotations for improvement to public lighting infrastructure. EnergyAustralia’s infrastructure has been allowed to deteriorate over many years, and now councils are expected to foot the bill for design upgrades. The same applies to transport. Private enterprise in Wollongong may provide the buses, but councils are now expected to provide the bus shelters, signage and furniture for bus stops, road pavement and concrete embankments. They even have to clean up the oil and diesel spill from defective buses. I could go on.
At the same time as increasing charges to local government, the state government has stymied the ability of councils to generate revenue by pegging rates—the main source of revenue for local government. This might be an electorally popular move on the part of the state government, but it cripples local councils—and we have heard similar comments from previous speakers. Nothing highlights the hypocrisy of the state governments and their Jekyll and Hyde relationship with local government more than rate-pegging increases that fail to keep up with increases in state government charges. In 2002-03, for example, the New South Wales state government permitted a maximum rate increase of 3.3 per cent. Yet, as the report shows, in the same year it obliged councils to increase payments to the New South Wales Fire Brigade by 13.3 per cent. In some years, rate-pegging limits have not even met the consumer price index increases, and they have consistently fallen short due to increased costs being foisted upon local government. The result has been an ever increasing gap between the services councils are expected to provide to their residents and the revenue options open to councils to provide those services.

Those who suffer are not the state or federal governments but the members of local communities, who watch as libraries are closed, aged care services are withdrawn and parks and public spaces deteriorate or are sold off as councils frantically endeavour to find the funds to provide the basic services. Such a situation has happened in the Illawarra. It is unsustainable and has led to financial crises among many local councils and a deterioration in the quality of life for local residents. The old mantra of sticking to the basics such as curbing and guttering is being heard more frequently as the community looks around at deteriorating infrastructure and new priorities in council services. The decades of state government shifting responsibility for services to local government, while increasing the fees and charges imposed on councils and depriving them of an adequate revenue base, must stop. Hopefully, many of the recommendations in this report will be adopted by the federal government with this specific end in mind.

But it is not just the state governments which are involved in cost shifting. The federal government needs to improve its act as well. It needs to better manage its allocation of funds to local government—and I welcome the recommendations in the report which aim to address this specific issue. The peak local government body which covers my own electorate of Cunningham, the Illawarra Region of Councils—IROC—made a number of pertinent points in their submission to the inquiry. They noted that the Illawarra Region of Councils currently delivers three Commonwealth regional programs and a further three state programs, employing a total of 14 staff. It might not sound like much, but it is significant. Numerous additional projects and brokerage funds are managed by these programs or by IROC core staff for the Commonwealth and the state. Of greater significance is the key role of many IROC staff in the region’s strategic priorities. The services provided include community programs, environmental planning and management, cultural planning and management, and integrated regional, urban and transport planning. Interestingly, the delivery of all of these programs has also been increasingly constrained by cost shifting on the part of the federal government and by a degree of political favouritism in the allocation of grants.

IROC pointed, for example, to the failure of funded programs to include annual performance based, or even award based, salary increases for staff in contracted budget allocations and to the lack of recognition of the costs involved in retaining, or more often losing, trained
staff, vehicle and infrastructure leases and accommodation rentals, for programs constantly under review or subject to last-minute contract renewals. This lack of certainty can be very expensive and must aggregate at the national level. IROC also highlighted a lack of allowances in grant funding for redundancy payments payable to ‘contract’ staff when a long-term program is terminated.

Those are just some of the very real concerns facing the people at the coalface, where federal moneys hit the ground via local government. Small wonder then that councils are crying poor, for they are poor. And that is having a major knock-on effect via the drive to amalgamation in the name of so-called greater efficiency. This is very evident in my state of New South Wales and it is not a road I would choose to go down. Indeed, there have been quite determined moves in my electorate of Cunningham to de-amalgamate—in other words, to make councils smaller so they better serve the needs of local communities while still sharing major infrastructure and service provision areas.

This is evident from a serious resident push for a return to the pre-1948 days of Bulli Shire Council, and the formation of a new local government body to look after the interests of residents in the northern Illawarra, taking control away from the large, centralised, and ‘city-centric’ Wollongong City Council. There is a widely held view that bigger is not necessarily better, and that small can be beautiful with regard to local governments. This is a view partly reflected in the committee’s report by the recognition of the need to get rid of duplication and to make better use of limited federal funds.

Honourable members would do well to read Michael McGirr’s impassioned article in today’s Sydney Morning Herald about his local government body, the shire of Gunning on the Southern Tablelands. Gunning Shire Council is under threat of merger with seven other councils to form two super councils, one based in Queanbeyan and the other in Goulburn. McGirr says:

Under the proposal, part of Gunning Shire will go to one and part to the other. Gunning Shire will no longer exist.

And that is a long way!

But it is not all doom and gloom in local government, as the same people who identify various problems have also provided some of the solutions that have been taken up in the report before us. For example, the Illawarra Region of Councils said in closing their submission to the committee:

IROC is a successful model of regional co-operation, partly because it was resourced and supported in its infancy by Commonwealth processes, and partly because it has successful and committed members who undertake a diverse portfolio of local government activity. It achieves efficiencies for its members and delivers results for State and Commonwealth governments.

I am sure that many councils throughout Australia would similarly view the importance of their role, for the services that councils provide are many and varied. As we know, local government provides both core and in-kind support supplemented by fee-for-service charges—libraries, roads, rubbish collection, swimming pools, lifesavers, public toilets, development control et cetera.
IROC pointed out that they would benefit from national coordination of regional initiatives, increased recognition, and easier access to Commonwealth processes and funding. They are obviously seeking a closer relationship with the federal government, and the Commonwealth would benefit from more frequent use of the diverse and accountable frameworks that only local government can offer, both locally and regionally. I am therefore pleased to see that the Rates and taxes report makes a number of recommendations which address these specific issues, and I look forward to its recommendations receiving the government’s early attention.

In closing, I would like to note that this report is especially timely, as the National General Assembly of Local Government is meeting in Canberra as we speak. Yesterday I met with councillors Carolyn Griffiths and Trevor Mott from Wollongong City Council, and I was informed that there was a lot of concern over the future of federal funding for the Roads to Recovery program, which has proven to be so successful.

A headline in today’s Sydney Daily Telegraph proclaims that ‘Councils face losing control of their destiny’, with moves by the New South Wales Labor government to have more control over council boundaries and governance. In this somewhat volatile environment, I hope that the many worthy recommendations in the Rates and taxes report—which I believe has the best interests of local government and ordinary Australians at heart—see their way through to implementation, and that politics does not become the overriding instrument in setting the agenda within the local government sector.

Local government has enough problems in protecting local environments and maintaining the quality of life of ratepayers and residents. Local government above all needs financial security and stability, and I hope that the federal government is truly committed to this goal. The Rates and taxes report sets out a possible way forward, and I look forward to discussing its recommendations with my constituents over the coming weeks. I congratulate the committee on its preparation of the report.

Mr KING (Wentworth) (6.00 p.m.)—The inquiry into local government and cost shifting, which has just concluded, has resulted in one of the most important reports that has been submitted by the House of Representatives Standing Committee on Economics, Finance and Public Administration, at least since I joined that committee. As a former Mayor of Woollahra in the electorate of Wentworth, which I now have the honour to represent, and as a councillor and chair of several council committees, having been involved in several local ratepayer and other action committees and groups and having advocated a bigger role for the Liberal Party in local government affairs in New South Wales, I am a great believer in local government and its role in the three levels of government in this country. This report is indeed very significant, and I consider it an honour to have participated in this inquiry.

The committee was very ably led by its chair, David Hawker, the member for Wannon. We went right around Australia. I remember visiting, in particular, Barraba, which is said to have the lowest per capita income of any part of Australia in the most recent census and which is near where I was born, Bingara, which is only some 50 kilometres away. So it was of great interest to me to hear the views of those involved in local government in that part of Australia as well as in the remote areas and in the big cities and to read the various submissions and hear the evidence.

It seems to me that there are three critical outcomes of this report that need to be addressed. Firstly, the time has come for a complete revamp and review of the relationships that the
Commonwealth and the states have with local government. One of the reasons for that is that since 1996, when the Howard government was first elected, a fundamental dysfunction in respect of Commonwealth-state relations has been resolved—namely, vertical fiscal imbalance, which had plagued Commonwealth-state relations at least since the Second World War. That has been resolved by the A New Tax System, through levying the goods and services tax and referring those revenues to state governments. So it can never be said fairly by any state administration that they do not have the wherewithal to address their basic responsibilities and that, ultimately, it is a decision for the Commonwealth.

That vertical fiscal imbalance having been addressed, it seems to me that, in the same way, the imbalance between what has been happening to local government and the Commonwealth needs to be addressed. That is why this report is very timely and why its substance is of great importance for the future administration of the Commonwealth as a whole and, most particularly, for ensuring that amenity in local areas and the quality of the lives of people who reside in those areas is improved and addressed, that no part of the country is left behind and that an equitable financial relationship is established between the third tier of government and the state and federal governments.

The first recommendation sets out to address that by proposing that there be set in place a federal-state intergovernmental agreement clarifying and specifying the roles, limits and boundaries of the three levels of government. That is important, as is the third recommendation, which proposes that this House recognise local government as an integral level of government of Australia. I have to say to some extent that looks a bit like tokenism, and the fact that two previous referenda on this topic have failed suggests that the real question to be faced by legislators with respect to local government is not one of recognition—even though those involved in local government think it is—but rather one of addressing the core issue which is at the heart of this report: the proper financing and proper responsibilities of local government. It is the cost-shifting issue that is the key to the resolution, it seems to me, of both the problem of recognition, which recommendation 3 is all about, and the structural flaw, which is at the heart of this report.

Recommendation 8 calls for the Minister for Finance and Administration to issue a direction to all federal agencies to ensure that negotiated and future federal-state specific purpose payments describe clear federal government objectives and measured outcomes. There are also other proposals specifically in relation to the FAGs arrangements and a proposal that a body along the lines of the UK IDeA to address capacity building be established. It seems to me that if those measures are adopted, as they ought to be as a result of the intergovernmental agreement referred to in the first recommendation and the subsequent agreements that would follow from that, then the sorts of outcomes that we are all looking for—and which were at the heart of the proposal brought forward by the minister—will be addressed.

As I put in a motion to the House this week there is a basic problem of infrastructure reform in this country at the moment. It is not just a question of addressing the problem of the rural areas specifically in relation to water and the myriad issues that concern that great national problem—not only in the country but also in the city. In our cities, where most Australians live, there is also a real problem with respect to infrastructure reform, stretching from basic issues such as roads, public transport systems and alternative transport systems to infra-
structure issues such as the ageing of infrastructure—sewerage, drainage and so on—that need to be addressed now. That is the second reason why this report is particularly timely.

I am pleased that the report seeks to address that basic infrastructure question in the way that it does in recommendation 9. It seems to me that the idea of tied specific grants directly from the Commonwealth to local government or, alternatively, general purpose grants which come with a covenant to the states so that infrastructure questions of the type that I have referred to are addressed in the longer term is the way forward. I know that there are some people who argue that untied money is what is required by local government and that people on the ground can make these decisions. But the evidence that came before us suggested that that leads to inequities. That means that the basic infrastructure questions, which the Commonwealth through its leadership is best able to address in terms of national issues, would not otherwise be addressed.

The measures for capacity building and the measures for funding of local government that are set out in the other recommendations are the way forward, it would seem to me. The COAG summit in 2005 on intergovernmental relations, if pursued as a result of the intergovernmental agreement that is referred to in recommendation 1, will establish a comprehensive program that is meaningful and effective.

At the end of the day, this report is about addressing inequities—the fact that over the last 20 or 30 years local government has been required to do much more than ever before. Some shires and councils are even delivering security services now. Some are delivering fire services, and others are not. Some of them are being asked to deliver family benefits and family services. So the scope of the work of local government has increased dramatically. If that is to continue and if local government is not to crumble under the weight of these added responsibilities, proper financing and a dedicated role model are needed; otherwise, we are putting off, as it were, the evil day.

This is a very important report. I commend the staff who prepared it. I thank those who made contributions by way of a submission and I particularly thank those who turned up to give evidence. Finally, I thank our chair, the member for Wannon, who did a sterling job, along with the deputy chair, the member for Chisholm, who also worked very hard on this inquiry to get such an important outcome. I also want to commend the opposition for taking a couple of deep breaths and addressing some of the issues. The spirit of the outcome is going to be supported by both sides of politics, because that is how important this issue is. It illustrates that there is a general understanding at all levels of politics in this country that the issue of cost shifting is real and that governments at all levels must address it. I think that state governments in particular are at fault and have been for about the last 20 to 25 years, but the Commonwealth government also has had some involvement in the problem. In conclusion, I hope that this report is acted upon by government and I look forward to supporting the outcomes through this parliament and through the work of the government.

Ms BURKE (Chisholm) (6.12 p.m.)—I rise today to also welcome the Standing Committee on Economics, Finance and Public Administration report into cost shifting onto local government and to further the remarks I made in the House. At the outset I want to read into Hansard what is I think a rather remarkable thing that the chair of the committee, David Hawker, the member for Wannon, and I have just witnessed at the 2003 National General Assembly of Local Government. It is the 10th anniversary of the assembly. The chair of the committee
made a very fine presentation about our report at that hearing and then answered some very
difficult questions, I thought, exceptionally well. They were fairly tough questions, but I think
he did the committee proud. At the end of that presentation the assembly moved an urgency
motion, which I would now like to read into Hansard:

That the 2003 National General Assembly of Local Government:

1. Congratulates the Chairman, Deputy Chairman and Members of the House of Representatives
   Economics, Finance and Public Administration Committee on the bipartisan support in the Federal
   Parliament and the conduct of their Inquiry into Cost Shifting onto Local Government;

2. Applauds the Committee’s finding that cost-shifting is imposing a serious financial burden on
   Local Government;

3. Supports the recommendations that call for:
   a. formal recognition of local government by resolution of the House of Representatives;
   b. a COAG summit on intergovernmental relations in 2005, and
   c. an intergovernmental agreement between the three spheres of government on the roles and
      responsibilities of Local Government and funding sources to meet those responsibilities;

4. Notes that some recommendations are complex and will require further analysis, but that Local
   Government is committed to working collaboratively with the Australian, State and Territory
   Governments to fix cost shifting and the inadequate funding of councils in a timely manner.

That motion has just been moved at the National General Assembly of Local Government. I
do not think that in my five years in this parliament, which is short compared to some, I have
seen a report welcomed and endorsed so unanimously, particularly by the body that is the re-
cipient of the report and on which the findings will have the most impact. That was very
heartening for all members of the committee, and I did want to record that in Hansard.

The other remarkable thing about this report is that—while yes, it is bipartisan—it has been
welcomed by the minister and the shadow minister and both sides of the parliament have en-
dorsed it and stated that they are committed to working towards the resolutions in it. I want
emphasise that, because I have never been involved in something that has raised expectations
as greatly as this report has. Again, having been at the local government’s national assembly, I
think it would be traumatic, to say the least, if the government were to walk away from this
report without a response—and it could be either side of the parliament in government post
the election; of course, I am hoping it will be us. There has been far too much work put into
this report. There have been far too many expectations and far too much hope pinned on it for
something not to happen. I want to emphasise that we do not want to see this report—like a
lot of others which I have been involved with—sit on a shelf and not responded to. That
would just be too tragic. I think it would destroy the faith that local governments have placed
in the federal government to deliver on some of the issues that they raised with us.

At the outset I will say a very big thank you to the members of the secretariat, who are
really the driving force behind all committees. Anybody in this place who works on commit-
tees knows that that is the case. I want to thank Susan Cardell and Vanessa Crimmins for the
amazing amount of work they put into the report. I also want to place on the record my thanks
to Ryan Crowley, Katie Hobson and particularly Richard Webb from the Library who did
much of the research and historical background that went into this report. This is a phenome-
nally thick report; there were over 400 submissions and there was a lot of detail to go into. If

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anybody gets a chance to read the report, chapter 6 has a fine historical line about the funding that goes to local government. Richard from the Library, who is a terrific resource, wrote that.

Ryan and Katie had the terrific job of getting us on and off planes. At times we were very unhappy with them getting us on and off planes, particularly the day in Tamworth when we were meant to be somewhere else. We ended up on six very small planes that were getting smaller. When I asked Ryan, who was looking out the window, where the tarmac was, he replied, ‘It is the grass verge down there.’ That day I figured I really did hate the secretariat a lot because they were taking me to far-flung places that I did not want to go to. We were going into Barraba at that stage and we were running very late, not because of anything we did—

Mr Barresi—The poor people of Barraba!

Ms BURKE—The people of Barraba were delightful. There were about six or seven councils represented there, members of which had driven some phenomenal miles to meet with us. The day we went to Longreach the CEO of the Diamantina shire told us that he had driven for seven hours to meet with our committee—but it was okay because his wife needed a haircut. That spoke volumes to me about the importance of this inquiry and the importance that local government was placing on the committee to listen to them. I will be honest, on some occasions I did not want to listen to what was being told to me, and some local councils did not want to listen to what I was telling them. But at least there was a full and frank exchange of views, and it was fairly entertaining at some stages.

My favourite hearing, I have to admit, was in Perth where the CEO of the Shire of Yalgoo managed to get the word ‘shagging’ recorded in the Hansard. He is probably the only man in the history of this parliament to do that. He gave us a fascinating insight into local government when he said that local government in Yalgoo is the last man standing: federal departments have gone, state departments have gone and the local government is the only one there. I would like to read from his presentation at the hearing. I think it sums up a lot of the problems that people were expressing to the committee. Mr Olsen, the CEO of the Shire of Yalgoo—anyone who can still tell me where it is, congratulations—says:

The problem with specific purpose grants is that they fall into programs that are usually designed by someone somewhere else, largely in Canberra or Perth, many of whom probably could not point to Yalgoo on the map. Occasionally, a program comes along that we take advantage of and when it fulfils our needs it is really wonderful—a lot of the time it does not. For example, we have a small community in the southern end of our shire, Payne’s Find, which has very poor water. The supply for the water has been there for 90 years; the plant is at the end of its economic life and the water is rich in faecal coliforms and also in arsenic. There is a community water program, which I was told on inquiring about it that it is meant primarily for farming communities and not for mining communities. The majority of people there are very small miners; it is not a big company. Presumably whoever designed the program thought that arsenic was better for miners than for farmers. That is the sort of problem that we face.

So I think that was the sum total of what we saw time and time again. The programs were there but they were not designed specifically for the people receiving them. Time and time again we heard that program delivery is wonderful but in particularly small regional remote communities—I think 80 per cent of Yalgoo’s population is Indigenous—it is not specific to them. We kept hearing that local government is about local expectations. I took exception to this. If anybody wants to go through the transcripts, I said that a lot of what local council is
about is about managing those expectations; that they are the ones who know those expectations. General purpose funding is the way to go for most of these councils so that they can use that funding on the ground for themselves. But it should come with strings attached. One of the distressing things about the inquiry was discovering that money goes into a large pot, whereas the federal sphere of government actually have no way of accounting for that money. I find that quite distressing, so the report does say, ‘Yes, here is a radical new form of funding model, but that funding model must have an appropriate acquittal mechanism so that we can actually audit that process.’

In yesterday’s Herald Sun, there was an article called The age gap grows. It talked about a report that ALGA commissioned and just handed down and, again, it highlights the issues we were finding across the countryside. I would like to quote from Kate Jones’s report. She says:

The growing generation gap between the city and the country will put councils under a huge financial burden, a report has found.

Alga president, Mike Montgomery said the ageing balance was a financial threat to country councils.

“We will be faced with sharply increasing demand for human services, growing pressure to provide more sustainable age-related infrastructure, such as aged care facilities and community amendments,” Councillor Montgomery said.

“And there will be a restricted ability to raise revenue through rates and users charges.”

We also found that communities are providing more and more human services. They have moved from the traditional rates, roads and rubbish and have gone into human services, predominantly in aged care. In my state of Victoria, councils are the major providers of home and community care packages. The financial shift from both state and federal government onto local councils is becoming a huge impost upon them. We need to find ways forward to resolve these problems.

As I said in my address to the House when we tabled the report, it seems a bit absurd that the report’s major findings—considering we were talking about cost shifting—concern developing a new, and I would say radical, form of funding. But that is where the evidence led us. That is where we have gone. We have not ignored cost shifting. We have put in parameters that hopefully will ensure that cost shifting is a thing of the past, because we cannot afford the duplication and we cannot afford the waste; nor can we afford communities saying no to funding because they know in three years time that someone will pull the pin and they will be left carrying the can. Local government is fairly averse to saying, ‘Yes, we’ll take on a road safety officer,’ having the position funded for three years and then saying to the community, ‘We’re terribly sorry. We’re now getting rid of the road safety officer.’ What happens then is that they bear the cost, and they cannot continue to do it. But councils need to get smarter. They need to take more responsibility. Just because your community says, ‘Let’s do something,’ does not mean they have to do it.

I was mortified to hear at one of our hearings—and I will not name names—that a council had bought a private school. They had purchased a private school. I have now been told subsequent to the hearing that they have purchased another private school, because the community was up in arms that this private school was going under. That is commercial reality; I am terribly sorry. But the good people of this community put so much pressure on the council that they have now bought two private schools that are not functioning. They are not making
money. They are losing council money. I would not say it is the council’s responsibility to run private schools but the community expected it, so the council did it.

In another place I was again taken aback to be told, ‘We had to roll SBS out to everybody in the town, because everybody in metropolitan areas has got SBS.’ Did you actually do an analysis of who would be watching SBS in your predominantly Anglo-Saxon community? Did you do an analysis of the take-up rate? Did you do an analysis of cost sharing? ‘No, we just decided everybody should have it, and so we went and purchased it at a massive expense to the local council.’ So I think councils need to take more responsibility for the actions they take.

We heard a lot about infrastructure rundown. This is true, and it needs to be addressed. The report makes some significant recommendations in that area. But, again, councils sometimes make choices to let infrastructure run down. Having a nice community festa is a wonderful thing, but not at the expense of your drains going down the tube or roads not being sealed or graded. It is difficult; it is hard.

Some of these costing choices are not glamorous because people do not see them, but they certainly see them when their drains and sewerage areas are blocked up to kingdom come and everyone is crying foul at the council for not spending money. We are all working off a finite financial resource, but we must find the means of doing it.

Again I would like to quote from some of the committee’s transcript. Councillor Chong, the Mayor of Whitehorse, one of the municipalities in my electorate, said at the introduction to the Boxhill hearing:

Past state and Commonwealth governments of both political persuasions are responsible for this. that is cost shifting—
Significantly for local government, the damaging effect of cost shifting has been to make councils a service delivery arm of other spheres of government. In so doing, it has reduced the discretionary capacity of local government to fund local priorities and has placed impediments to a council’s ability to get on with the business of community capacity building and developing its local community.
I think that is true. In some respects, councils are buying into funding rounds and saying, ‘We will now run a drug/alcohol program because we think we can do it, or we can do that because funding is offered.’ That is not the way to go. We heard from very brave council CEOs who have now rejected funding and particularly in-kind funding. They say, ‘We will give you $100,000 if you are prepared to match $100,000.’ It is all nice and good, as one councillor said on record, to have a beautiful functioning and attractive toilet block but, if it is not what the community needs, then why should we go there? The money could be better used elsewhere.

I recommend the report to the House. I hope everybody reads and digests it. We have raised an enormous number of expectations through the good offices of our country. Local government is a genuine arm of government and we have recognised that. We have said to them: ‘You are not some add-on or some second-rate group of individuals; you are performing a specific role of government.’ I hope some deliberate and genuine action is taken in respect of this committee inquiry. I recommend the report to the House and place on record my thanks to the chair, David Hawker, for all the excellent work he has done in ensuring that we have a

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Mr Neville(Hinkler)(6.27 p.m.)—The main objective of the inquiry of the House of Representatives Standing Committee on Economics, Finance and Public Administration has been to investigate the serious problems of cost shifting onto local government and to provide some solutions so that that particular sphere of government is appropriately, effectively and efficiently financed so that it can continue to serve the community.

I commend the members for Wannon and Chisholm for their excellent report entitled *Rates and taxes: a fair share for responsible local government*. This report has long been required. What I liked about the report was the obvious air of bipartisanship, which is excellent, and that it does not make 40 or 50 recommendations which advocate more reports. This report makes 18 recommendations, many of which are very hard hitting.

The committee has put on the record its disappointment at the lack of input from state governments, one of the seminal areas that we should be looking at. I am not surprised that the Queensland government has failed to make a substantial contribution to the debate. There is no doubt that our local government authorities are carrying a greater load in providing services to the general population. It goes well beyond the traditional local government areas of spending on roads, water, sewerage, rates, parks, gardens, theatres, halls, libraries, sporting facilities, showgrounds and public health—all the things that we have generally associated with local government—and gets into areas of health, aged care, transaction centres, TV, mobile towers, community policy development, social services, tourism and, in some areas, even community policing. It is a very diverse field.

The member for Chisholm made a very good point: some of these things have been thrust on local government but some have been accepted in a voluntary way. I think councils need to take a step back and look at the areas in which they are expert and make sure they do those well first—the old dictum of stick to your netting so to speak. By anyone’s standards local government’s responsibilities represent a serious and significant undertaking which directly affects the social, economic, environmental and cultural life of 20 million Australians—in my case 3½ million Queenslanders. Councils large and small play a vital role in contributing to the lifestyle of their communities and maintaining the level of service expected by ratepayers.

Sadly, though, whether it be tick inspection services or health services, it would seem that our local councils are bearing a greater brunt of the shifty fiscal practices of many of the state governments—and I include my own state government amongst those. For example, these practices, although not cost shifting as such, are part of the rigmarole that the Queensland government has been going on with for the past year or so. One of the best examples of this is the Beattie government’s attempt to offload to local councils the responsibility for collecting $88 per head ambulance levy. This move was vehemently opposed by the Local Government Association of Queensland, and quite rightly so. To the credit of the local government authorities throughout the state, which objected to the state government’s blatant actions, they raised merry hell and managed to have the decision overturned. In the face of damning headlines, Mr Beattie soon backed down, although his Treasurer, Terry Mackenroth, contended that there was no doubt that using local government rate systems was the most efficient way to collect community ambulance cover. I say to Mr Mackenroth that I for one credit our councils with being more than a collection agency for higher authorities and a mere conduit for carrying out
the policies of state and federal governments; they are a tier of government in their own right and need to be respected as such.

In the end the Beattie government capitulated on the collection of this unfair, unequitable and wholly unpopular levy. But, just as capriciously as it had tried to pass this on to local government, it passed the responsibility on to the state’s electricity providers, with residents having to pay an extra $22 per quarter on their electricity bills. The desperation of the Queensland government to pocket this extra revenue has been demonstrated against by angry residents, who simply refuse to pay the levy and thus face having their power cut off.

But what is more concerning is the ethos behind the whole implementation of the levy to keep the Queensland Ambulance Service afloat. This service was once financed partly by the state government and partly by ambulance committees. It is now down to the average Joe in the street to fund this service over and above the taxes and charges he already pays. The ambulance levy is expected to raise $110 million in the first year of operation. This in effect is a shift of the cost from the state government back to the public.

But at least our local councils have managed to win the argument that they are not merely a collecting agency for an increasingly remote state government. It is quite telling that the LGAQ, in its own submission to the inquiry, estimated that the overall financial impact of devolved discretionary and compliance requirements from other levels of government amounted to $80 million per annum in outlays. With $33 million being received in revenue from grants, fees and charges, this cost shift was estimated to be about $47 million, which is a lot of money. When you divide that by 150 councils, it is a lot of money that filters down to ratepayers.

This cost shifting onto local government authorities is not solely down to state governments, but the findings of the inquiry point to the majority of incidents occurring between these two levels of government. The major areas of cost shifting reported were the withdrawal or reduction of financial services or support once a program is established, thereby leaving local government with the choice of continuing the program or suffering the political odium of cancelling the service; the transfer of assets without appropriate funding support; the requirement to provide concessions and rebates without compensation payments—a typical example is a seniors card, where the state government say, ‘The council will give you 10 per cent off this and that,’ but no compensation comes back to the council; increased regulatory and compliance requirements; and failure to provide for indexation of fees and charges for services prescribed under state legislation or regulation. I am quite aware that these practices are taking place within my own electorate and the electorates of most members who are in this chamber today.

One specific sphere which seems to be slipping from the hands of the Queensland government into the lap of local governments is the provision of health services. I am all too familiar with this in my own electorate. The Discovery Coast Health Service at Agnes Water, which is midway between Bundaberg and Gladstone, obtained a Commonwealth funding outlay of $2 million to be spread over three years. This was made available by the then minister, the Hon. Michael Wooldridge, in the form of recurrent expenditure. An approach was made to the state government just to provide the headquarters for this particular organisation, and my state colleague the member for Burnett announced in parliament that a $600,000 health centre would be provided.
This did not occur for some time, so I went to see the member for Burnett. I said, ‘What’s happening about the health centre? A $600,000 health centre would be marvellous.’ He said, ‘There’s a bit of a problem there,’ and I said, ‘What’s that?’ He said, ‘We are going to build a $600,000 health centre, but we were hoping you would put in $500,000 from the Regional Solutions Program.’ So when the state government failed to deliver on this promise of $600,000, the federal government had to provide another $165,000 towards the capital costs of purchasing leased premises. Although there were some budgeted rent savings from these leased premises being purchased, it meant a notional capital outlay of $200,000 to the Miriam Vale Shire Council.

Miriam Vale Shire is the fastest growing mainland shire in Queensland, as identified in the 2001 census. It has a relatively small ratepayer base but a rapidly expanding coastal strip in and around the twin boom towns of Agnes Water and Seventeen Seventy. Miriam Vale Shire is already struggling to provide core services like water and roads to its ratepayers, and there have been growing pains in the form of annual rate rises. However, the Miriam Vale Shire is shouldering, in addition to the money given to it by the Commonwealth, a further $250,000 a year to keep the Discovery Coast Health Service running. Bear in mind that that is in addition to the capital outlay of about $200,000, which was the shortfall from the state government not providing the centre. I have also been told—and I have not been able to verify this—that the Bundaberg District Health Service, which as a state government instrumentality is supposed to cover this area, not only does not provide the services but actually charges the Discovery Coast Health Service for the services that it does provide. There is no question that the council and the local residents value the service and see it as a high priority for the community. But, in the words of the local CEO Lindsay Thomas, the Queensland government has contributed sweet BA to the centre and its ongoing costs.

Another case in point is the provision of tick inspection services, which are within the domain of the Department of Primary Industries. In its wisdom, the Beattie government is in the process of transferring the responsibility, plus the cost of collecting the fees, to accredited commercial operators. The user-pays service is now being phased in and will be fully operational by 2004, with the promise of more flexible and wide-ranging services to property owners. Somehow I doubt that. I envisage that a system which relies heavily on local government authorities will have to fund additional staff and will come at a massive cost to the user. What will happen in many areas is that, where there are no local providers, vets or other people in animal husbandry, the local shire council will have to provide that service.

I fail to see any justification for this cost shifting by the Queensland government, but I suppose fiscal responsibility has never been a strong suit of the ALP in Queensland. Let us not forget that the state government has delivered its third successive deficit budget to Queensland. In his lead-up comments to the release of this year’s state budget, Treasurer Terry Mackenroth sounded very confident about providing more support for health, education, disability services and the like, but instead he brought down an operating deficit of $350 million. I find that difficult to comprehend considering that between 2000 and 2004 Queensland will receive around $20 billion in GST revenue from the Commonwealth. For 2003-04 alone, Queensland is due to receive around $6.2 billion in GST revenue, which is $197 million more than the state would have received under the old formula.
To sum up, let me quote from some of the responses in this very excellent report. They include the idea that subsidy levels should be commensurate with the level of responsibility devolved to local government in meeting the requirements of other levels of government. Another quote is that ‘state road funding along the lines of Roads to Recovery would be appropriate. Current levels of road expenditure do not meet the depreciation expense of roads’. And most tellingly—and I end on this point—‘abandon the states and have the money directly from federal government to local government’. Sadly, therein may be the only solution.

Mr BRENDAN O’CONNOR (Burke) (6.42 p.m.)—I also rise to commend the House of Representatives Standing Committee on Economics, Finance and Public Administration and this report in the main. I think, as many speakers have already indicated, a significant amount of effort was put in by the members of the committee, and therefore it should be acknowledged. I think members on both sides would agree that this report was long overdue. It is a significant effort and will assist us to work out what is a rather complex problem—namely, cost shifting. I want to add a number of things to the discussion on this report today. I certainly was not privy to all of the evidence before the committee members, and I have certainly not had the time to delve into the depth of the evidence provided. But I do agree in the main that the recommendations make some sense.

Local government is the tier of government closest to the people. Local government provides very important services, and our elected representatives in that tier of government are subject, one might argue, to the demands of their constituents in a way in which state and federal members would sometimes not fully understand, given how close local members are to their body politic—their constituent base. There are reasons why, historically, there have sometimes been administrative problems with local government. Local government by its very nature does not have the wherewithal to undertake certain financial and administrative procedures. Of course, that is mitigated when there are mergers, and there are indeed larger organisations with more professional application to these matters.

Whilst I commend much of the report, I do think it is important to note that cost shifting is a complex matter. There is no simple solution to it. Each state is different. The creature of local government in each state is formed differently, and municipalities in each state provide different services and operate in different ways. I come from Victoria. I have a longstanding historical involvement with local government, having worked for the Australian Services Union and, before that, the Municipal Employees Union and having been very much involved in the funding arrangements from Commonwealth to local government and from Commonwealth to state to local government. Those things therefore matter to me. They matter to me because I quite often represented working people, employees of council, who were providing on the ground services. Their livelihood and employment conditions were directly affected by funding from other tiers of government. So I am mindful of the need to resolve this issue.

One might argue that it would be easier to resolve these issues if we had a two-tiered system. From time to time the old chestnut is brought out about the abolition of one tier—but not the federal tier. Clearly, most would argue that in an ideal world, if you were to look at removing one of the tiers of government, it would be the state tier. But the fact is that that is not likely to occur in my lifetime—or even well beyond that, if ever—so we do have to resolve the problem.
I make the point that there are differences in each state. For example, in Victoria the home and community care workers, the HACC employees if you like, are employed directly by local municipalities. That is the only state, I think, in which that takes place. Therefore, Victoria has about 8,000 to 10,000 people—employed directly by councils—looking after up to 100,000 recipients of aged care services. That is not the case in any other state. For example, Commonwealth HACC funding provided to municipalities in any state outside of Victoria does not go to local government. Therefore, I think there has to be some concession that the state government of Victoria, of whichever political persuasion, has a greater responsibility, at least in that area, when it is dealing with local government. Indeed, the Commonwealth government, again regardless of the political persuasion of those in government at the time, has to be more cognisant of the fact that local government in Victoria provides more social community services than does local government in any other state.

I know that councils that have been asked to undertake responsibility for aged care services in Victoria, or indeed family day care services, are not always provided with sufficient funds to comply with federal awards. To deliver the services to the community they are compelled to work under a federal award system—indeed, now they have no choice but to work under a federal award system in Victoria—but the Commonwealth has not always provided the funding under the relevant award for those many thousands of employees. Of course, that means that the council has to do one of two things: find extra money to undertake what is effectively the responsibility of the Commonwealth, not the state, or reduce the services provided in the municipalities. I raise that example as an indication that it is not one size fits all when it comes to cost shifting from the Commonwealth to the states; there are variations to the theme. I also think it is important to note that, whilst there may well be a windfall to the states from the GST arrangements, that certainly will not be the case for about four years. It is important to put those things on the record this evening.

Finally, I note that I only had a good look at this report today. I have gone through most of the recommendations. I find that the committee has exhaustively looked at the broad areas of this crucial issue of cost shifting, and I think in the main the recommendations are wise and correct. But it is important to note that the Commonwealth has to also look at the way in which it operates. It is not just a matter of states shifting costs onto local government. In certain circumstances it can be the other tier of government doing that. Therefore, we should be mindful of that when we are deliberating on this matter. I congratulate the committee, and indeed the secretariat of that committee, for the fine effort they have put in, because overall it has been a fantastic report.

Mr Price—What about the chair?

Mr BRENDAN O’CONNOR—I should, in particular, also congratulate you, Mr Deputy Speaker Hawker, for your fine efforts in steering this committee through many days of evidence. I congratulate you personally.

Debate (on motion by Mrs Gash) adjourned.

Procedure Committee

Report

Debate resumed from 13 October, on motion by Mrs May:

That the House take note of the paper.

MAIN COMMITTEE
Mr PRICE (Chifley) (6.52 p.m.)—This is a report that proposes to fundamentally change the way the House deals with the budget, the budget debates and the estimates. It is called the *House estimates*. I think it is a win for the government because it will guarantee that a motion that the House approve the budget will get the budget appropriations through the House earlier than would otherwise be the case. It is a win for members because they will have a far greater role in the budget and estimates than they have hitherto had. This will occur in two ways. Firstly, the detail stage will be guaranteed and timetabled, and opportunities for members to contribute will be there. None of those things currently occur. Moreover, the debate will be much more extensive. Secondly, an estimates committee type process is again proposed for the House. It is not a new idea. The Fraser government had an estimates process and House estimates committees. It did not sustain them in the long run, but I think this set of proposals is better framed.

Mr Deputy Speaker Hawker, I could say to you that, with the Procedure Committee having consulted widely, having spoken with committee secretaries, having spoken with committee chairs and having published its report, it is desperately disappointing that no-one but the members of the committee are speaking on this report. But I think that would be grossly unfair, because the public at large just have no understanding of the time pressures on members when parliament is sitting. We are increasingly trying to do more in less time whilst we are down here in Canberra, so it does not come as a surprise to me. I do not think it is a reflection on the report, nor should we say it is disappointing that only members of the committee are speaking to this report.

I am glad that I have the opportunity, which I did not have in the four minutes the selection committee allocated to the opposition when presenting the report, to make special mention of the honourable member for Mackellar. It is true that she deserves much of the credit for the committee taking up this issue and presenting the report and I commend her for her efforts. That in no way detracts from other members of the committee. Again, I can say that this is a bipartisan report of the Procedure Committee.

I have to put my cards on the table and say that I have long held the view that members of the House miss out because we are not involved in an estimates process the way senators are. We miss out because we do not get to know the minutiae of portfolios. We do not have the opportunity for members who have special interests, like the member for Burke present here, to actually pursue those with the top officials of the departments—relentlessly, as he would. It is a great deficiency and burden that members have. We are rectifying it.

But let me not be overly optimistic about these things. It is true to say—and you would be aware of this, Deputy Speaker Hawker—that when the Howard government came to power and the parliamentary departments were cut back by some $10 million that the area in the Department of the House of Representatives that received the most severe cutbacks was the committee system. You, as a distinguished chairman of committees—I think you have well and truly earned that title—would know that the secretariats servicing the different committees are utterly stretched.

At the end of the day we pretend that, as members of the committee, we can make up for any shortfall or deficit. That is wrong. A committee of the House of Representatives or a joint committees serviced by the Department of the House of Representatives is very much dependent on the skill, expertise and dedication of the secretariat. If you start cutting back as
savagely as was done in 1996, you run some risks. I believe that, with the addition of three committees in this parliament with not one extra staff member being employed, we are pushing people beyond endurance.

One of the critical recommendations in this report is to require the Clerk to undertake a review of the staffing and the resources of the House committees and the joint committees serviced by the Department of the House of Representatives. It is subject to that review that we would seek to have that additional workload and I presume resources, both financial and human, added to committees so that they will be able to undertake it.

Secondly, I would to say that, in trying to meet this deficit that I referred to earlier in relation to members of the House of Representatives, I have always thought it might be an attractive proposition to join with our Senate colleagues—without wanting to destroy the Senate estimates process or indeed outnumber them or change in any way their current structure. That would afford members of the House the same opportunity to serve and seek the same information that senators have. I have to say that in the process of the report it became quite clear that it would be significantly difficult, if not an impossibility, to overcome the concerns of the Senate in it wishing to preserve its current prerogatives. I have, if you like, had to back down and have backed off from that particular suggestion. The appendices to the report are very interesting, and I particularly draw members’ attention to current appendix B. This details how the budget appropriation bill went through the parliament and the Main Committee, and how we might do that in relation to implementing the recommendations of this particular report.

The honourable member for Mackellar had the view that if we were only subjecting House ministers to scrutiny—and that is what is proposed—then that would substitute for the Senate’s scrutiny of House ministers and their departments. Deputy Speaker Hawker, you will appreciate there is a long-standing convention that House ministers will be represented by their Senate colleagues, and I am sure that can be uncomfortable at times for the relevant House ministers. I do not believe that scrutiny will happen but, even if it does not, the report and its recommendations are still very important.

In the detail stage of the debate, Recommendation 2 suggests:

… the Selection Committee be responsible for arranging the timetable and order of business for the consideration in detail stage …

But in doing so, the Selection Committee will need to consult with the Leader of the House on the availability of ministers. There will be a timetable published in the Notice Paper that lists the times and the ministers. In particular, if there is no minister present or there are no members wishing to speak in the detail stage then the debate is collapsed. We have one of the government whips in the Main Committee right now, the member for Gilmore, and I am sure the whips on both sides will ensure that people are available to take advantage of that detail stage.

Recommendation 3 suggests:

… that the standing orders provide that if the Chair notes that no Minister is present to respond to matters raised during the consideration of the estimates—
that is the detail stage—
the Chair shall suspend proceedings until a Minister is available.
The other thing is that either the minister responsible or the minister acting on their behalf shall actually make an opening statement when we come to the detail stage. That certainly does not occur at the moment. In fairness to some ministers I should point out that they are very religious in ensuring they are present during the detail stage and respond. I do not want to create the impression that no minister has done that or currently does it. The difference is that this committee is mandating it.

I am delighted to say that, under our proposals, even the Department of the House of Representatives will be subject to scrutiny, for the first time ever. It is an absolute abomination—and given your important committee duties, Mr Deputy Speaker Hawker, I know you will have a concern about this—that no department of state, no authority of state—even the Department of the House of Representatives—should not submit itself to the same scrutiny, questioning, accountability and transparency required of all other departments. It is a matter of record that historically—I am not suggesting it is happening today—expenditures were buried by the Presiding Officers in the Department of the House of Representatives because it was not subject to scrutiny. This is no longer a tolerable situation and it is important that we are seen to be not only saying what should be done but also making sure that we are seen to comply with the very standards that we are imposing on others.

I digress briefly to say that I have had, for a number of years, on the Notice Paper—and I am pleased to say it is now party policy—that there should be a staffing and appropriations committee for the House of Representatives. That would go some way towards overcoming some of the issues I have raised. It certainly would give ordinary members of the House a greater say as to proceedings. I am looking forward to the day—when the Labor Party win the next election—when we see a staffing and appropriations committee formed. It follows along the same lines that I have been talking about.

In relation to which committee gets which department, that would be a matter for the Speaker, as it is already in relation to annual reports. The estimates process does require some extra sitting hours and one day of extra sittings, but it does not take away any government time. No bill, no legislation, will fail to go through the House because we have set up an estimates committee process. These estimates committees will consider matters on two Thursday nights and on two Fridays. That is an extra commitment by everyone associated with Parliament House and an extra commitment by members of parliament, but no government time will be eaten into.

I am aware that other members of the committee wish to speak on this matter. I apologise that I have not covered it all. But I really think that this is a very important report. It is a report that I would urge all members of the House, whether on the government side or the opposition side, to read in order to understand what is being done—what is being done in the interests of democracy and greater accountability and to improve the functioning of the job that we are supposed to do, which is to scrutinise government expenditure. I do not think that we can completely say, with 100 per cent satisfaction, that we are doing it adequately now. I commend the report to all honourable members. (Time expired)

Mrs BRONWYN BISHOP (Mackellar) (7.07 p.m.)—I rise to support with a sense of urgency this Procedure Committee House estimates report. When I first entered the parliament in 1987 as a senator and was asked to serve on an estimates committee, I thought, ‘What on earth is that, and what is the purpose of that?’ I set about learning what the purpose was and
seeing how estimates committees could operate for the benefit of eliciting information which could be shared and which would give transparency to government, which I thought was important.

I suppose in a way I am in a rather unique position, having been very active in Senate estimates and then going to the House and, as a minister, experiencing being represented by another minister in Senate estimates hearings, as I was unable to deal with it myself because I was in the lower house. It seemed to me that there should be estimates hearings in the lower house. Many will say that the government will shy away from that, that ministers would not want that to occur, and yet I would put the reverse case: the fact of the matter is that estimates can be of great use to ministers themselves. It is very often the case that you can find out things about your own department that you are never going to find out simply by asking questions from time to time of people in the department who come and see you.

Estimates give you a unique opportunity to take a snapshot of what is happening in government at a particular point in time. But the practice whereby the greater number of ministers are in the lower house and are unable to be present when their officials are answering questions from senators makes the system, I think, far less efficient than it could be. I was very grateful to my colleagues from both sides of the House on the Procedure Committee who agreed with my suggestion that we do indeed look at the question of having estimates in the lower house. I am very grateful for the kind remarks that the member for Chifley made earlier. This report does more than just put forward the notion; it is quite detailed as to how it should be done, and I think that is a very good aspect of the work that the Procedure Committee did.

The real value of estimates is the eliciting of information which would otherwise not be public information. When I think of the time that I spent in the Senate on estimates committees, I can think of many issues that were aired that otherwise would never have been aired. I can remember ministers such as former Senator John Button, who would always be present for what was a very rigorous testing of his department and his policies. I particularly remember the multifunction polis, which was one of the greatest follies we ever saw in this country—but we were able to expose it as such, simply by asking questions. Former Senator Button, to his credit, was always there to answer for himself as well. I must say that I very much enjoyed being able to answer questions that were put to me concerning either the Defence portfolio that I had or the aged care portfolio that I had because I believe that as a minister you should not keep the public servants who are with you quiet but let them give the answers to the questions that are being asked and then take it on board—use it. You can enhance your own ability to deal with information in the process.

I do hope that people will read this report, because it does lay out a good modus operandi, it does take into account that government does not want to lose time from its own business and it does take into account that there are already established committees. We did look at the proposition that we have joint estimates committees with the Senate; I do not think that is workable. We did make it quite clear that there would be no duplication—that the Senate estimates committees would ask questions of ministers who were ministers in the Senate and that the House of Representatives estimates committees would ask questions of ministers in the House.

In putting forward the detailed report that we have, I hope that the people who will ultimately make the decisions will see that governments are always better governments if there is
transparency. If there is an ability to ask questions and to have matters aired, you will get better outcomes for ministers, departments and, most importantly, the electorate at large. In a working democracy, the more information there is available to people, the better the government is for it. I always said in opposition that when I went into government I would not change my mind and I would continue to believe that transparency—making information available to people—was a fundamental tenet of a working democracy.

I do recall there was a push that said the Public Service should be interested only in outcomes—never mind the process; it was minutiae—and we should only be looking at the big picture; those words were starting to become the parlance of the day. I took a very strong stance then, and I stand by it today, that process would always be important because if process is corrupt so is the outcome. It is interesting that one of the people who used to join me on a podium sometimes to argue in favour of looking at all the processes was none other than Mike Keating, who went on of course to be head of Prime Minister and Cabinet under former Prime Minister Keating.

So there is across many aspects of government a belief that governments will always benefit from transparency. I feel quite passionate about the fact that introducing an estimates process into the House through the committee structure, with ministers in the House answering to those committees, would enhance government, not detract from it. It would not make it more difficult for people but in fact bring about a situation where ministers, members and the general public could all benefit from having greater access to knowledge and information.

Mr MARTIN FERGUSON (Batman) (7.15 p.m.)—In addressing the report before the House on a proposal to establish an estimates process, I want to place it in the context of a range of reports that have been prepared by the Procedure Committee in recent years. I feel privileged to be a member of this small committee. I think in some ways, in the overall operation of the House, it is a committee that is often forgotten among the big debates that sometimes occur about taxation, changes in education and health care and other topics. I want to remind the House of the terms of reference of the Procedure Committee. They are:

... to inquire into and report on the practices and procedures of the House generally with a view to making recommendations for their improvement or change and for the development of new procedures.

Those terms of reference are fundamental to the nature of the democratic system that we operate under in Australia in the 21st century. I firmly believe that in recent years the Procedure Committee has gone out of its way to try to improve the operation of the House and, in doing so, to try to make it more accountable to the Australian public. The committee has also sought in its workings to try to make the House more worker friendly by facilitating better working practices, not only for the members of the House—in respect of issues such as sitting hours—but also for all the wonderful people who work in Parliament House and keep the House and the operations of the Australian democratic system going.

The reports of the Procedure Committee, the most recent of which was only tabled this week, have also included an endeavour by the committee, after a long drawn out process, to revise the standing orders to make them more user-friendly and understandable not only to the members of the House but also, more importantly, to those who pay a lot of attention to the operation of the House. The committee has also had occasion to review the conduct of divisions, the opening of parliament and, more recently, the operation of the estimates committees. One of the other issues the committee is currently considering is how to encourage more
interchange in the operation of the Main Committee and the House of Representatives. There is a proposal, for example, that the speaking time of members be limited to 15 minutes and then, in an endeavour to encourage interchange, members on both sides be given the opportunity to question the speaker for five minutes.

That brings me to the context in which I see the report before the House this evening. It goes to the nature of the democratic system we operate in. I note that a number of other members who have participated in this debate, such as the member for Chifley, have sought to explain to the House in a detailed way the proposal on the development of an estimates system in the House of Representatives. That proposal in many ways flows from two earlier reports, entitled *Balancing tradition and progress* and *It's your House*. Chapter 2 of *Balancing tradition and progress* clearly states at point 2.1:

In one sense Parliament is an enduring institution. Its operating procedures change over time and periodically the body of representatives who serve in it is refreshed through general elections.

It then goes on to point out that, as part of the parliamentary system that exists at a Commonwealth level in Australia, there is the other House, which we refer to as the Senate, and that the life of a parliament is determined by section 28 of the Constitution. It says:

In effect, a Parliament ends when the House of Representatives is dissolved, that is, at the end of three years of its first meeting or sooner by action of the Governor-General.

That clearly states that the House of Representatives is a very important institution in the operation of the Commonwealth parliament.

Governments are formed in the House of Representatives. That raises very serious questions, in terms of the operation of the budget, about the accountability of government to the House of Representatives. It is not just ‘the other house’, because in essence the government is formed in the House of Representatives and the budget is delivered in the House of Representatives. Surely as the people’s house there should be an opportunity for members of the House of Representatives to question the government about the nature of the budgetary process in a detailed way through the estimates process.

By way of information and actually dealing with this report, I also want to note in passing this evening that, whilst the report was presented to the parliament before the last election, in 2001, there are a number of outstanding recommendations embodied in that report which have not to date been taken up by the government of the day. I want to remind the House of the importance of these recommendations because they actually go to the nature of the issues that I am touching on this evening with respect to the fact that this House is the people’s house. This House therefore ought to seriously consider recommendations which concern the operation of the House in the opening of a new parliament in terms of how we bring into the parliament ordinary Australian citizens and open it up to those citizens.

Clearly one of the most important recommendations in my mind is a recommendation that representatives of the ACT Indigenous community be consulted to advise on a suitable Indigenous ritual to be included in the opening procedures. Another recommendation is that the Australian of the Year be invited to take part in the opening proceedings on each occasion to present a formalised message on behalf of the Australian people. That is about bringing Australian citizens into the opening of a new parliament. It is a message to the parliament, to the people who have the privilege of being sworn in on that day, that, yes, we are representatives of the Australian community and here is the person that we have selected as the Australian of
the Year to remind us of our responsibilities. There is also the suggestion, for example, that maybe it is about time we changed the form of oath and affirmation to recognise the fact that we are representing the people of Australia and that that ought to be why we are here. One of the other recommendations is that we basically try and work out how we take some of the formality out of the opening of the parliament.

That then takes me to a further report which goes to the issues that I have touched on about the operation of the people’s house and why an estimates committee process is so fundamentally important to our future. I refer to the House of Representatives Procedure Committee report entitled It’s your House. This goes to the nature of a representative democracy and accountability and transparency with respect to government processes. No government process is more fundamental than how we spend taxpayers’ money. That is what the report before the chair this evening is about. It concerns the new standing orders which create the capacity for the Australian parliamentary representatives in the House of Representatives to consider on an annual basis the estimates. When we talk about the estimates we are talking about decisions by government with respect to government policies on how they are spending the hard-earned dollars of Australian taxpayers.

That brings me to why these reports are so fundamentally important for the future operation of the House of Representatives. I go to chapter 1 of the report It’s your House by the Procedure Committee. I note that the report at paragraph 1.2 very clearly states:

Among the functions of the Parliament are law making, monitoring government activity and feeding community views into the processes of government.

When you think about it, that is what the report before the House this evening is about. It is about House estimates. That fits very squarely into the operations and functions of the parliament. In essence, it is clearly about our creating a better process rather than retaining the existing process, which is treated with contempt by government, to monitor government activity with respect to budgetary matters. It also rightly points out that the House is the master of its own affairs. It operates independently and it establishes, often through recommendations of the Procedure Committee, the rules of operation of the House, once approved by the House in session.

What we therefore need to make sure of is that through the procedures and the standing orders of the House we clearly send a signal to the people privileged to serve in the House that it is their responsibility to open up accountability in the expenditure of taxpayers’ money. That reminds me of other issues touched on in that report going to the operation of the House. It not only squarely states that under the Constitution the House is the master of its own affairs but also refers to the fact that we have to try and guarantee as members of this House that we create opportunities for the community to view its operations and see the impact of policy decisions by the government, in terms of both legislative action and budgetary action, on the Australian community.

Having dealt with the nature of the parliament and the strength of our democracy and our requirements for accountability, I turn to chapter 2 of the House estimates report of the Procedure Committee. Paragraph 2.1 states:

Section 83 of the Constitution requires all government expenditure to be authorised by an ‘appropriation made by law’—that is, by an Act of Parliament, which is introduced into the Parliament as an appropriation bill.
Paragraph 2.3 then goes on to state:

An appropriation is the authorisation of expenditure. Any bill which authorises expenditure, or which would have the effect of increasing, altering the destination of, or extending the purpose of an already existing appropriation, is an appropriation bill.

This is why we as the people’s house, the House in which governments are formed, should have the capacity to consider the nature of a government proposal with respect to the expenditure of taxpayers’ money.

It is only in this House that appropriation bills can be initiated—only in the people’s house. If that is our constitutional requirement, why then should the House shy away from opening up a capacity for the House to consider appropriation bills in detail? That is the crux of the report: appropriation bills can only be initiated in the House, yet in this very House there is no capacity to consider them in detail. It is in that context that I very firmly urge all members of the House to consider in detail—yes, in detail—the recommendations embodied in this report.

The committee is to be congratulated. It took the reference seriously because all the committee’s work is about facilitating the operation of the House for the members who are privileged to serve in the House on behalf of the Australian people. So my message to the government and the opposition—as both from time to time, because of the nature of the political process, have the opportunity to serve on the Treasury benches—is that just as in the past on odd occasions the House has had the capacity to have estimates we should now take this report and run with it. It is about genuine parliamentary reform.

This is about a modern parliament in the 21st century saying to the Australian people, the people who elect us, ‘Yes, we take your views seriously. Yes, it is a difficult process to actually represent you because of the size and breadth of the Australian continent, but in our endeavours to make sure that we are accountable we as a parliament are going to subject ministers to a questioning process. We will say to whoever is in government that in terms of spending your hard-earned dollars’—because it is your taxes that the government applies government policies to in respect of the services it is going to deliver—‘we are going to subject ministers, with a strong independent bureaucracy at the same table, to a questioning process which will hold them accountable. We will make sure that in Australia in the 21st century the Commonwealth parliament is a clear example of transparency, honesty and integrity in government.’ I recommend the report to the House and thank the Procedure Committee for a job well done.

Debate (on motion by Mrs Gash) adjourned.

MINISTERIAL STATEMENTS

Constitutional Reform: Senate Powers

Debate resumed from 8 October, on motion by Mr Abbott:

That the House take note of the following paper:

Resolving Deadlocks: A discussion paper on section 57 of the Australian Constitution.

Mr McCLELLAND (Barton) (7.30 p.m.)—In addressing this report, I would like to outline and speak to the report tabled on behalf of the Australian Labor Party titled Constitutional reform and the resolution of parliamentary deadlock. It is a submission, dated October 2003, by the Hon. Simon Crean. I had the honour of participating in the authorship of that document.
Essentially, the position of the Australian Labor Party is that we are prepared to look at reform of the powers of the Senate. We recognise that the position which was assumed by our constitutional founders—and they were fathers; there were no women among them—was that the Senate would be a house of review that would operate according to the interests of the separate states. That is why, to get the federal compact up, there are equal numbers of senators in each state. But we recognise that the reality is that the Senate has practised as a chamber that is essentially divided along party political lines, although certainly since 1949, which saw the introduction of proportional representation, there has unquestionably been greater opportunity for minor parties to be represented. Because of the participation and influence of the minor parties, the party with the majority in the House of Representatives has on very few occasions had the corresponding majority in the Senate.

I think it can be assumed in Australia’s political system that for the foreseeable future minority parties will have the balance of power in the Senate. This is not necessarily a bad thing. Those in the majority parties are inclined to say that the minority parties can perhaps run interference, but the reality is that the existence of minority parties can compel both major parties to negotiate through proposed legislation and consider various checks and balances with a view to satisfying those interests represented by the minority parties. There has been a range of legislation—for instance, the security legislation in respect of ASIO powers—on which an excellent outcome has been achieved through that process.

On the other hand, there is an argument that, if you want efficient government as opposed to, perhaps, democratically pure government, then you need to ensure a mechanism for the will of the House of Representatives, which unquestionably is a far more democratically elected House. I say that because each electorate in the House of Representatives represents 83,000-odd voters, whereas in the Senate, Tasmania, for instance, which is marginally greater in size than the Australian Capital Territory, has much more substantial representation than the ACT. This inequality of representation has been commented upon by a number of people, in particular the former Prime Minister, Paul Keating. He referred to the Senate as ‘unrepresentative swill’, perhaps overly harshly in the context of the constructive role they can play in the negotiating process.

I suppose that is the balance. At what point do you sacrifice democracy for efficiency? This is essentially the subject matter of the current debate. We say there are dangers in giving unrestrained power to the House of Representatives, and there do need to be appropriate checks in place. The Prime Minister has said that a way of achieving a balance is by having the capacity for a joint sitting—a sitting of both the House of Representatives and the Senate—to occur after a bill has been rejected on two occasions. That is one proposition. The second proposition is that which is referred to as the Lavarch model, whereby such a joint sitting can occur after an ordinary general election which was obviously held in circumstances where the subject matter of the anticipated joint sitting would have been canvassed during the course of the election campaign debates and considered by the Australian people when they cast their vote.

The trouble with that model is that, although it would obtain a contemporaneous expression of the will of the electorate, it is limited as only half the Senate goes to a ballot at any time. While there are six-year terms for senators, only half of the Senate retires at each general election, so it would be the House of Representatives and half of the Senate that would reflect the will of the electorate, but not the other half of the Senate. That is one point that I note at this

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point in time before I discuss the issue of concurrent elections. The Lavarch model—a joint sitting after a contemporaneous expression of the will of the electorate—is a model which we are prepared to consider. That is a legitimate issue to put up.

But we then say: are you not only partially addressing the issue of the power of the Senate, bearing in mind that it is unlikely in this day and age that the government of the day—that is, the party with the majority in the House of Representatives—will also control the Senate? In the foreseeable future the opposition parties will, through the combination of their numbers, most probably control the balance of power in the Senate. Therefore, if you are consistent in your concern about the abuse of Senate powers, to what extent should you permit the Senate to exercise its ultimate sanction of denying supply to the government of the day? By so denying supply, because of our constitutional restrictions, the government literally would not be able to fund the Public Service for the ordinary purposes of government—public service, schools, contributions to medical services, the defence forces and telecommunications. It would deprive the government of oxygen, forcing an election to occur.

To what extent can the Prime Minister or government speak of Senate reform without addressing that crucial issue of the power of the Senate—the opposition parties combining—to bring down a democratically elected government? This frequently resorts to a historical consideration of 1975. But I am saying: move beyond the merits of the party political arguments as to a Labor government being dismissed and look at the issue. If you look at it in terms of that ultimate power being left with opposition parties to bring down a democratically elected government, I think you will see that it is a far more extensive and dramatic power than simply the Senate obstructing the passage of a single bill or, indeed, several bills. Clearly, if we are talking about Senate reform, it is an issue that needs to be addressed.

If you look at the 1975 crisis, you will see that it was not section 57 that resolved the deadlock. Section 57, which deals with joint sittings occurring after a double dissolution to resolve deadlocks in the passage of legislation, had no relevance to the denial of supply because it was not a double dissolution trigger. It was simply that, in 1974, the opposition in the lower house indicated an intention to reject supply. On that basis the Prime Minister of the day, Gough Whitlam, said, ‘Having announced that, we are therefore going to go to the people,’ and relied on a series of bills that had been backlogged for the purpose of calling a double dissolution. But it was the coincidence of a backlog of bills that enabled the Prime Minister of the day to do that.

Equally with respect to 1975, there was never a rejection of supply by the Senate; there was a refusal to pass supply. Hence, there had never been a single rejection of the supply bill, let alone the three-month gap and then a second submitting of the supply bill. In other words, section 57 was quite irrelevant to that. The crisis of the deadlock with supply not being delivered to the government and hence the potential to freeze those essential services resulted in unquestionably a constitutional crisis. But the irony was that the power was withdrawn from the Prime Minister and given to the Leader of the Opposition on the basis of an undertaking by Mr Fraser that he would call a double dissolution, ironically with respect to a significant number of bills that had been opposed by the opposition. The opposition was installed as the caretaker government, but again because of the coincidence of these backlogged bills.

In summary, section 57 is not capable of resolving deadlocks in the Senate in respect of the issue of supply. We say that, if you are fair dinkum about reforming the powers of the Senate,
the issue of the Senate’s ability to block bills is of significance but, equally, you cannot sensibly address that unless you address the power of supply. So you say, ‘All right. The Senate should not have the power to reject supply.’ Why? Because it is the opposition determining when the government of the day goes to the election. Equally, if you are consistent, you have to say that the government of the day should not be able to arbitrarily or propitiously for their own political advantage call an election simply because of their majority in the House of Representatives.

If you accept that the Australian people are entitled to certainty, if you accept for the reasons of political stability that the Australian people are entitled to certainty, you move into the territory of the need for fixed terms. In terms of what an appropriate quantum of that fixed term should be, going back to 1929—as we refer to in our paper—there has been discussion of the appropriateness of four-year terms. That comes back to the very first proposition that I made in terms of the so-called Lavarch model about the appropriateness of the joint sitting occurring after a general election.

If you are talking about fixed terms, they should be both for the House of Representatives and the Senate. That would result in a synchronisation of the houses, with all members and all senators facing the people there to be a contemporaneous expression of the will of the people. Essentially that is our reasoning. What are the prospects of these or even the government’s propositions getting up? I have to say my hope and Buckley’s. Why do I say that? If you look at the 44 referendum propositions in Australia, only eight have been successful. In only one of those eight was there success in the face of a no case. That was a 1946 proposition in respect of social security. For the rest there was no no case conducted.

Clearly, the prospect of success is very remote when there is opposition in the form of a no case being conducted. As we have said in our paper, it would be far more constructive for the government to look at propositions that would secure some institutional reform, such as facilitating cooperative arrangements between federal and state governments. If that were done, we think it would be far more likely for all political parties to come to a unanimity of opinion that it is good for federal and state governments to break down the barriers created by our federal system. Essentially we say that we are prepared to discuss, but we think there are other priorities for constitutional reform.

Miss Jackie Kelly (Lindsay—Parliamentary Secretary to the Prime Minister) (7.45 p.m.)—Section 57 of the Australian Constitution provides for the resolution of disagreements between the House of Representatives and the Senate. That there should be conflict between the two houses is a reflection of the inherent tension between the competing traditions of responsible government and federalism. The founding fathers were well aware of this tension and, despite the reservations of some, it was seen as desirable. The framers of the Constitution saw the Senate as a bastion of states rights and, more importantly, as a bulwark against any democratic excesses from the executive in lower houses. The protection of states rights was crucial in convincing the colonies, with their own constitutions and parliaments, to hand over power to a new level of government.

Shrewd observers at the time recognised that the protection of states rights would be less of an issue. Indeed, the battleground for states rights was never in the Senate but rather in the High Court. The advent of national disciplined parties meant that the Senate would never be a states house. Crucially, the framers also saw the Senate as an important check on power.
colonial legislatures had upper houses with in-built conservative majorities, usually through electoral systems with property qualifications or later weighted to regional areas. The intent was to dilute any excesses from social democratic governments in the lower house. Liberals and conservatives alike feared de Tocqueville’s tyranny of the majority. The argument followed that power should be divided—an idea reflected both by accident and design in the US Senate and the House of Lords. Suspicious of power, the Australian liberal and conservative parties defended upper houses and state rights, seeing them as a check on political power. Power divided is power diluted.

The ALP took a different view. The tradition in social democratic parties, like the ALP and the British Labour Party, was towards unitary systems with unicameral parliaments. The argument was that the people would elect the lower house, which would house the executive which, in turn, would make the laws. Such a system was often described as an elected dictatorship; power was to be centralised. The most pure form of this was found in New Zealand—a unitary state with a unicameral parliament. This system lasted some 70 years, before a backlash prompted the introduction of proportional representation.

After 50 years of Federation, there was some tempering of philosophical positions. Ben Chifley, aware that he would lose government in 1949, advocated a change to the electoral system for the Senate to proportional representation—a system first mooted in 1901. Chifley supported PR because it would prevent the Liberal Party gaining control of the upper house. Chifley wanted a check on the lower house. Having had power, Chifley was clearly reluctant for the ALP to relinquish too much. In any event, Menzies called a double dissolution election in 1951 and Chifley’s plans came to nought—but PR was here to stay.

The introduction of proportional representation sparked dramatic changes in the function of the Australian parliament. As Professor Campbell Sharman, one of Australia’s foremost experts on bicameralism, has argued, changes to electoral systems often have profound and lasting impacts far beyond and often completely different to the intent of the instigators of change. Chifley, for example, could not have envisaged the rise of minor parties.

There can be no doubt that minor parties are a beneficial component of Australian democracy, ensuring a healthy pluralism. But there are some caveats: I note the first Greens member in the House today. Originally, the intent of minor parties, like Don Chipp’s Australian Democrats, was to ‘keep the bastards honest’—that is, to hold governments to electoral promises. It would be difficult to argue that minor parties keep governments to their promises; instead, they hope to see them break them. This is, naturally, a source of tension between the executive and minor parties; each claims a mandate. Senator Brown, whose Greens won 13.79 per cent of the vote in Tasmania, claims a mandate; and the Australian government, winning 51.03 per cent of the vote right across Australia also claims a mandate. It is not hard to see frustration develop.

Senator Brown has stated that since 1973 the Senate has passed 97 per cent of the 5,400 government bills. Senator Faulkner, in his speech to the Sydney Institute, stated that the Senate has passed 1,269 bills, negatived 29 bills and laid aside 11. Proponents of the current model are quick to point out that the overwhelming majority of legislation passes without controversy. This is true; the majority of government business does just that. However, this ignores the importance of the bills that were rejected. Those negatived or laid aside bills may actually define the agenda of a government and define its vision for Australia. They may also
represent the fulfilment of election promises. Elected governments can claim some measure of a mandate. People vote for a particular party with a view to seeing various policies enacted. The extent to which the Senate can block various pieces of legislation may thwart a government’s mandate. There is also the potential economic cost and unnecessary delay of urgently needed legislation. The situation facing the Howard government is worsened by the obstructionist nature of some of the minor parties.

There are currently six double dissolution triggers. They are the Family and Community Services Legislation Amendment (Disability Reform) Bill (No. 2) 2002 [No. 2], which would give effect to welfare reform initiatives announced in the 2002-03 budget; the Migration Legislation Amendment (Further Border Protection Measures) Bill 2002 [No. 2], which would expand the definition of ‘excised offshore place’ to include additional territory; the National Health Amendment (Pharmaceutical Benefits—Budget Measures) Bill 2002 [No. 2], which would effect savings in the PBS by increasing general and concessional copayments and safety nets; the Trade Practices Amendment (Small Business Protection) Bill 2002 [No. 2], which would allow the ACCC to take representative actions and intervene in restrictive trade practices proceedings; the Workplace Relations Amendment (Fair Dismissal) Bill 2002 [No. 2], which would exempt small business from federal unfair dismissal provisions; and the Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2002 [No. 2], which would require industrial action to be endorsed by employees through a secret ballot before it could become protected action under the act.

There are a further two bills which have been blocked by the Senate a first time and which may become double dissolution triggers. These are the Broadcasting Services Amendment (Media Ownership) Bill 2002 [No. 2], which would change foreign ownership and some cross-media ownership limits, and the Workplace Relations Amendment (Termination of Employment) Bill 2002 [No. 2], which would expand the scope of federal unfair dismissal laws and exclude state unfair dismissal laws and reliance on the corporations power in the Constitution. These bills constitute significant elements of the government’s electoral agenda. The blocking of these bills has gone beyond constructive finetuning of legislation and is closer to undermining the mandate of the government.

Discussion over section 57 of the Constitution has occurred in some form since 1901. The constitutional crisis in 1975, which I notice the member for Barton mentioned, provoked a great deal of debate over resolving the deadlock between the two houses; it has periodically reappeared since then, especially when the Senate appears intransigent. The Prime Minister’s discussion paper considers two additional models for resolving deadlocks between the two houses. The first model would allow the Governor-General to convene a joint sitting of both houses without requiring a double dissolution election; the second model allows for the Governor-General to convene a joint sitting of both houses following an ordinary House of Representatives election. The two models would augment, not remove, the existing double dissolution provision. Significantly, the models require Senate rejection, the passing of unacceptable amendments or failing to pass a bill twice over a period of more than three months—and only if the House of Representatives is not due to be dissolved within six months. I strongly encourage debate and discussion over these two models. There can be no doubt that some level of conflict and tension between the two houses is both healthy and desirable. However, that tension must not be allowed to unnecessarily obstruct key platforms in a government’s
agenda. The proposed models have the potential to remove the obstructionist elements of the existing system while retaining the productive friction between the two houses.

Mr ORGAN (Cunningham) (7.55 p.m.)—On 8 October this year, the Prime Minister released to the House Resolving deadlocks: a discussion paper on possible changes to section 57 of the Australian Constitution. I was somewhat amused by the now predictable choice of language by the Prime Minister when he spoke to this discussion paper in the House in the following terms:

The purpose of releasing this discussion paper is to initiate a widespread debate throughout Australia regarding a very moderate and reasonable proposal for possible amendment of section 57 of the Australian Constitution.

Moderate and reasonable—I remember the PM’s very conciliatory tone at the time. However, after a year in this place, I am getting used to the very blatant misrepresentation and twisting of the facts by our Prime Minister. This is yet another example.

This proposal is not ‘very moderate and reasonable’; it is a very blatant attempt to severely curb the power of the Senate. In fact, if the Prime Minister had his way the Senate, a legitimate and important arm of our democracy, would no longer have any real or effective power; that much is clear. So, from the outset, I contest the Prime Minister’s assertion that this proposal is ‘very moderate’, because it is far from being that, and the Prime Minister should be honest about that. Also, it is not a ‘reasonable’ proposal, and the Prime Minister should not dress it up as such. This proposal is in fact quite extreme and its consequences very serious.

In his speech on 8 October the Prime Minister went on to say:

Yes, they do actually; and the facts show that. Let us just look at some of them. Analysis of legislation debated in the parliament since 1973 shows that less than three per cent of government legislation is blocked in the Senate. The argument that reform of the Senate is essential to ensure a workable democracy is contradicted by the facts. During the term of the Howard government, of 1,305 bills presented for a vote only 36 have been voted down or laid aside. In fact, over 98 per cent of the 5,467 bills voted on in the Senate over the past 30 years have been passed.

In correspondence received by the Greens from Harry Evans, the Clerk of the Senate, the truth behind the government’s supposed ‘very moderate and reasonable’ reform proposal becomes very clear. For example, in that correspondence Mr Evans says:

Mr Howard’s proposal is that, whenever the Senate fails to pass government legislation, the government should be able to hold a joint sitting of the two Houses of Parliament to pass that legislation.

The flaw in this proposal has been readily identified: it would allow the government (except in the unusual circumstances of a government majority of only one or two seats in the House of Representatives) to pass any and all legislation without regard to the Senate.

With this power, a government could pass legislation to avoid scrutiny of its actions and to perpetuate itself in power, for example, by altering the electoral law.

This sounds anything but a ‘very moderate and reasonable’ proposal to me. My own view—and the term of this government so far has driven this point home very strongly for me—is
that the Senate provides a crucial stopper, preventing the complete power of one political perspective from dominating our Australian democracy. People I have spoken to in my seat of Cunningham have expressed similar concerns and see the PM’s moves as an attack on the very heart of our democracy.

Proposals from any government must be moderated when they are too extreme. The Senate prevents one party or a coalition of parties of one particular political persuasion from completely dominating with their legislative agenda. As has been demonstrated by research carried out by the Australian Greens, the Howard government has never received more than 47.2 per cent of the vote at a general election and usually very much less than that in the Senate. The most extreme legislative plans of the government have been moderated by the Senate, and I am sure many Australians have been very relieved by this.

We live in a community where we accept and embrace a plethora of opinions. We embrace diversity. To effectively remove the power of different voices who have been legitimately elected to represent Australians of a variety of persuasions flies in the face of the Australian democratic tradition. Howard’s way would effectively enable one political persuasion to dominate and would diminish the power of Australians to determine whom they want representing their views. It would prove a savage blow to our assurance of a workable, lively democracy. The Prime Minister has stated:

I make the point that when you are looking at the behaviour of the Senate, or sections of the Senate, you do not look at the number of government bills that have been passed; you look at the number of important government bills that have been passed. Of course, most legislation numerically described is passed by the Senate without demur, because most legislation is uncontroversial and does not produce any kind of political divide within the Australian community.

Here, the Prime Minister is talking about the creation of a political divide within the Australian community. The Senate ensures that a variety of political views must be considered when legislation is presented to the Australian parliament, and no political party will dig their heels in unreasonably, because of the electoral disadvantage that they will necessarily endure come the next election if they do so without reasonable political justification.

At present, different sections of the Australian community are represented in the Senate and in this House, ensuring that one political persuasion cannot dominate. In a democracy they should not be entitled to. It is precisely the exacerbation of the political divide—that is, a situation where one side of the political divide is able to dominate completely—that the Senate currently guards against. The Greens are firmly opposed to the Prime Minister’s plan to take away the legitimate power of one of our houses of parliament, and we will fight this plan in the community and ensure that the Australian people are aware that the Prime Minister wishes to deal a perhaps fatal blow to our assurance of democratic representation.

I was fascinated to read a paper presented by Senator Helen Coonan, the Minister for Revenue and Assistant Treasurer, at the Australian Davos Connection Leadership Conference held on Hayman Island on 23 August 2003. This paper, I believe, best outlines the government’s underlying aims and objectives with regard to their proposal for Senate reform. In her speech Senator Coonan presented a very sound justification for the existence of an unfettered house of review in our federal parliament. She said:

Let there be no mistake. An efficient and hard working Senate, scrutinising, criticising and examining legislation and keeping the government accountable, is a great institutional safeguard for all Australians.
It is no surprise that Senator Coonan blotted her copybook somewhat by then drifting into emotive bleating about obstructionism. Apparently, for Senator Coonan sometimes the Senate does its job and sometimes it does not. On the one hand, it is an essential institution but, on the other hand, it is at times a pesky obstruction. I guess it just depends on whether you are in government or not. Senator Coonan stated:

But when the Senate crosses the line and acts as an obstructional competitor to the democratically elected government of the day, frustrating or substantially delaying urgently required responses to national problems or insisting on its own policy, it is no longer a House of review but a House of obstruction.

This sounds very much like a subjective critique rather than a reasoned opinion. It sounds like the senator is having two bob each way. Or perhaps she is just following orders from the Prime Minister in order to support an unsupportable position. The Prime Minister was very keen to argue when he spoke to his constitutional reform paper in the chamber that this was not about the minor parties and that he did not wish to curb their power in any way, because that would be undemocratic. He said:

The first point I would make is that these proposals do not represent an attack on the powers of the Senate. They do not represent an attempt to remove the fundamental role or the fundamental influence of the Senate within the Australian bicameral system of government, nor are they an attempt to extend the power of the executive. There is nothing in these proposals that represents any attempt to extend the power of the executive, nor do these proposals represent an attack on the minor parties or on the Independents.

This is all very interesting in the context of what Senator Coonan had to say to her friends on Hayman Island back in August—or perhaps the government has got its wires crossed. Senator Coonan stated:

The reforms that have been implemented have only been achieved with the support of minor parties or independents. This provides minor parties, who command only narrow electoral support with the opportunity to exploit the balance of power and to renovate the legislation to better reflect their own policy preferences.

So there you have it—the government’s agenda is clear: limit the power of the minor parties and the Independents. And yet Mr Howard, in his speech on this ‘Resolving deadlocks’ discussion paper, said:

We can make partisan comments about this, and no doubt they will be made, but I do think this is important if we are to achieve any sensible change in something—and this is pretty modest. We are not dealing with overturning 100 years of ingrained practice. We are just recognising that, in the modern reality, the public wants to elect small parties and Independents into the Senate and we must respect that wish. I think the worst thing would be for the major parties to gang up and try to change the system to squeeze out the small parties. That would draw very deep resentment in the Australian community.

I totally agree; any attempt to minimise the influence of the minor parties and the Independents would draw a deep resentment from the Australian community.

Based on his own comments, we hear that the Prime Minister is deeply committed to preserving democracy and the wishes of the people. But actions speak louder than words, and the Prime Minister’s actions in presenting this discussion paper suggest just the opposite. Realistically, I wonder what real power minor parties and opposition parties will have if the government can request the Governor-General to hold a joint sitting whenever there is a gridlock. As the Prime Minister has said:
Let us be realistic about these things. You need realism when it comes to constitutional reform. That is the most important ingredient of all.

We all know that politics is ultimately about numbers. If the opposition parties cannot effect a vote, they will not get a say. The government is being either grossly naive or grossly manipulative in suggesting that their presence will matter under its proposed Senate reforms. I would say it is more likely to be the latter. Opposition, Independents, minor parties: it would not matter under these proposed reforms.

What this proposal is really about is curbing the power of the Senate and ensuring that the government has no opposition in implementing its current reforms that it cannot presently get through the Senate. The government is hedging its bets. The government thinks it has a good chance of winning the next election and wants a mechanism whereby it can get all its legislation through anyway, even if it does have a hostile Senate. This is another example of the government’s predictable, short-sighted political manipulation for its own political ends.

In summary, over time it is crucial that our parliamentary system be allowed to evolve and not be undermined as the current government is attempting to do via these possible amendments to section 57 of the Australian Constitution. The Australian Greens will campaign strongly against the government’s Senate reform proposals and we encourage the opposition to do so as well. In closing, I would just like to reiterate a comment I received from one of my constituents while discussing this ‘Resolving deadlocks’ issue and plans to weaken the power of the Senate. As he said to me, ‘If it ain’t broke, don’t fix it.’

Mr ANDREN (Calare) (8.08 p.m.)—This document, *Resolving deadlocks: a discussion paper on possible changes to section 57 of the Australian Constitution*, which was presented to the parliament in October, is a transparent attempt to stem the tide of alternatives that, as the major parties would say, have infected our parliamentary system in recent years. I would say it has refreshed our parliamentary system. We have seen the arrival of the Independents and minor parties—particularly the Independents—in numbers in the state legislatures around the country in recent years. We also see that trend continuing. In fact, votes for candidates who are not members of the major parties consistently sit at about 21 per cent of the vote for the House of Representatives at a federal level and at about 30 to 33 per cent in the state legislatures.

That is surely saying something. The Australian people are looking for those long-term alternatives. They have found them in the Senate, where that house best represents the kaleidoscope of the Australian electorate in all of its variations of political pursuit these days. They are looking for that sort of representation, and they are securing and cementing it. They do not want it tampered with. If either of these so-called models—the PM’s model or the Lavarch model—were put to the Australian people, they would be rejected outright. Even with a coalition of the willing of the Labor and coalition parties out there spending millions of dollars promoting one or the other of those models they would be rejected, because the Australian people want their Senate to be a house that has not only a review role but a veto role if the circumstances warrant it.

Once, while in opposition, the Prime Minister said—and no doubt other opposition leaders of any colour have said—that the mandate view of politics is a nonsense, or some words to that effect. Of course the mandate view of politics is a nonsense. The Australian people in this modern age do not accept that the two-party model is the only model or that the side that wins
the lower house has an absolute mortgage on commonsense and its list of policy options are to be adopted without question because of some mandate which is cobbled together in this day and age by a reluctant allocation of preferences from, in many cases, people who are forced to see their vote trickle down to the options which they least want—the major parties. The Australian people do not accept that in some magic way delivers a mandate to a party that may enjoy at best 37, 38 or 39 per cent of the vote.

What a nonsense to argue then that the upper house, the Senate, is blocking and rejecting the will of the Australian people. The winner take all days are over. Let it sink in. Let the major parties ponder that: the winner take all days are over. There has to be a realisation that not only is proportional representation attractive to the electorate for the Senate, but people want it more and more when they understand its processes in their people’s house—the House of Representatives. They realise too, more and more, that democracies around the world, apart from those that grew out of the British model, have proportional representation. The critics throw up the Italian argument and talk about 55 governments since the war. Let us look at some of the other governments that deliver democratic outcomes in Europe, such as Switzerland and others.

Why do we need an opposition or a Senate if the mandate is to be realised unchallenged? The PM said that the mandate view of politics is a nonsense. I wonder whether he holds to that now. I suggest that the proposed changes included in this document would completely override the will of the founding fathers, for they wanted a balance between the people’s house and the Senate. So it is not a problem of the Constitution that we should be debating; it is a problem of the parties and the lack of a conscience vote—the tight control of those party members. A person came up to me at a function in Orange the other day—I will not put his name on the record, but he is a very prominent member of a prominent party who was once a candidate—and said, ‘Thank God I didn’t win. I could never sit down and not be able to cross the floor, because for one I would want to vote against the full privatisation of Telstra.’ He said, ‘I can appreciate what you have been saying for these seven or eight years’. It was all of a bit of a mystery trip to me when I got in and started looking at this thing and realised that people were absolutely fed up with the party structure and that they wanted that choice—and they are going to want it more and more. That is particularly showing up in our state legislatures. Let us look at just a few of the points in the document. There is this complaint:

... the election of an even number of senators at a half-Senate election, combined with proportional representation, has meant that it is virtually impossible for a government to obtain a majority in the upper house, no matter how large its majority is in the lower house.

I weep for the major parties over that point! What about Telstra? What about the GST? What mandate was there for them? Yet a mandate is argued, and the Senate somehow is obstructionist! What I would love to see is a cross-bench in the lower house, like in those European parliaments and like New Zealand has now. My orchardists, who once were rusted-on National Party members, are now confronted by the realities of free trade agreements and globalisation impacts which may mean they will have to dismantle their quarantine protections. We have had an ongoing struggle with New Zealand for many years over the fire blight issue, and that surely will also be on the table for debate, and perhaps we will have to water down the restrictions that keep that dreaded disease out of our apple and horticultural industries. But members of the major parties seem to be compliant to—and I see them succumbing to—the forces of
the agenda that insists that we give away those trade advantages and those very real and im-
portant protections for our industry.

Here I have my orchardists, once rusted-on but no longer National Party supporters; at the
other end of the spectrum, we have the Berlei workers of Lithgow, who for generations
worked in that factory, only to see their jobs exported to Indonesia—and for what purpose? To
improve the dividends to the shareholders, not to improve the price of undergarments—not
that I buy many foundation garments—for the people who wander into your Grace Bros or
wherever. Indeed, they are dearer than they were when they were made in Lithgow. These
guys in Lithgow and my farmers in Orange are soul mates now. They know they have not got
an answer from their political representation over the years that has answered at least those
most basic of concerns. That is why they are fed up. That is why they are voting for not only a
check and balance but a watchdog that will toss out, revolt against and reject legislation that
has not got a mandate. They know it is a nonsense to talk about that. Get real. This is the new
reality of modern politics.

The report talks about experiences in the last century when section 57 has been invoked
and has not worked. But the deadlock dissipated with the change of government in several
cases, and in other cases the legislation was not even reintroduced. So how serious was the
government of the day in bringing on that double dissolution? The fact that after a double dis-
solution the government has been defeated three times and a bill passed only once shows that
the will of the people was not being reflected by that bill, and that a double dissolution was in
fact called for. The double dissolution, as we have it now, is an option for the government of
the day. But to argue that we should have a double sitting automatically, in any form, even
after a general election, is not what I believe the people of this nation want.

They are happy with the system as it stands in the upper house. It is the representative ka-
leidoscope of the electorate. They are happy with that. That is why we have the Independents.
That is why we have the One Nation representation—because they got eight per cent of the
vote at one point. If they get 30 per cent of the vote on the back of Pauline Hanson’s martyr-
dom, so be it. Let them prove themselves in the House and get tossed out if they do not prove
themselves. Why do these glorious parties that have been around for 30, 40 or 100 years be-
lieve that they have the mortgage on democracy in this place? They do not, and the people
realise it.

What the people do want is for proportional representation to show up more and more in
their representation in the people’s house. I know that the member for Cunningham is work-
ing on a piece of legislation that will call for a royal commission into proportional representa-
tion for both houses of parliament. I do not expect much support for that out there in ‘politics
land’, but I tell you there will be a lot of support out there in ‘voter land’ for it. Unless we re-
connect with the voters who want that sort of mandate recognised, we will just muddle on and
see documents like this—aimed at doing nothing more than shoring up a declining vote. This
is a panic document; it is not a democratic discussion document.

Debate (on motion by Mrs Gash) adjourned.

Main Committee adjourned at 8.21 p.m.
QUESTIONS ON NOTICE
The following answers to questions were circulated:

National Security
(Question No. 1295)

Mr Rudd asked the Prime Minister, upon notice, on 4 February 2003:
(1) Further to his comments of 1 December 2002 about Australian support for a doctrine of pre-emption against somebody that he believed was going to launch an attack against Australia, is it the Government’s view that Iraq is going to launch an attack against this country.
(2) Is it the Government’s view that a terrorist organisation supported by Iraq is going to launch an attack against this country.

Mr Howard—The answer to the honourable member’s question is as follows:
(1) and (2) The Government’s reasons for action against Saddam Hussein’s regime in Iraq have already been extensively explained.

Telstra: Infosys Technologies
(Question No. 2386)

Mr Brendan O’Connor asked the Minister for Communications, Information Technology and the Arts, upon notice, on 11 September 2003:
(1) Can the Minister confirm reports in the Herald-Sun on 9 September 2003 to the effect that Telstra has redirected a $15 million contract to the Indian IT provider Infosys that will have the effect of sending up to 180 existing IT jobs at IBM Global Services offshore to India.
(2) Was the Government aware in advance of this move by Telstra.
(3) Can the Minister confirm that Indian workers at Infosys are paid $40,000 per annum less than their Australian counterparts.
(4) Is the Minister able to inform the House about Infosys’ comparative Occupational Health and Safety standards.

Mr Williams—The answer to the honourable member’s question is as follows:
(1) Telstra has advised that it recently approved a group of IT applications currently supported by IBM GSA being transferred to Infosys Technologies. The contract with Infosys is for a value of $15m per annum. I am unable to advise where Infosys employees undertaking this contract will be located.
Telstra earlier advised the market that it has commenced a strategic restructure of its IT services to introduce a new operating model aimed at consolidating and integrating its IT systems and operations to achieve greater efficiencies and improved services and products from its IT providers.
(2) Telstra informed the Office of the Minister for Communications, Information Technology and the Arts of its decision on 5 September 2003.
(3) No.
(4) No.
Telstra: Service Performance Statistics  
(Question No. 2416)

Mr Tanner asked the Minister for Communications, Information Technology and the Arts, upon notice, on 17 September 2003:
(1) Is the Minister aware of the article entitled ‘Has Telstra been fudging the service standard figures’ on Crikey.com’s Sole Subscriber Sealed Section Bulletin dated 15 September at 4.34 p.m.
(2) Has the Minister investigated allegations in this article that Telstra has been providing the Australian Communications Authority with incorrect service performance statistics that have misrepresented Telstra’s service performance in an overly positive light; if so, can the Minister provide a full account of the investigation.
(3) Can the Minister state categorically that all Telstra’s service performance statistics over the past three year’s are accurate.

Mr Williams—The answer to the honourable member’s question, based on information provided by Telstra and the Australian Communications Authority (ACA), is as follows:
(1) Yes.
(2) Yes, the allegations have been investigated.
Telstra has advised that it is unaware of any basis for these allegations and is disappointed that these allegations can be made in the absence of any supporting evidence, particularly as they in effect question the values of some of its staff. Telstra has since responded to crikey.com calling for evidence to support these allegations which Telstra characterises as union driven and without basis.
Telstra has indicated that it believes that there are no systemic problems in the accuracy of its service reporting and that any individual training or compliance issues would be identified and addressed by the regular audits on field service conducted by Team Leaders and Managers.
Telstra has advised that its field staff have never had the ability to input a job (service restoration or installation) into Director - Telstra’s Work Management Field Despatch System. Telstra has indicated that new fault repair jobs received are input initially into Telstra’s Service Plus order receipt system for any necessary line qualification or testing prior to them being input into Director. It is not possible for field staff to somehow input a customer’s job into Service Plus and direct that job back to them via Director for their action. Fault volume analysis shows that variations in fault levels prior to, during and after the implementation of FuturEdge (Connect) - Telstra’s latest Work Management System - are well within seasonal variations that Telstra plans for.
Further, Telstra has advised that there is simply no incentive for field staff to create ‘fake’ jobs. Telstra field staff do not have a quota of Customer Service Guarantee (CSG) jobs that they are expected to complete or get measured on. Telstra has indicated that all CSG jobs are linked to a customer telephone number, and that systemic abuse or inaccurate reporting on CSG volumes would become evident in audits Telstra conducts from time to time and the compliance and governance arrangements Telstra has implemented regarding CSG reporting. For example, if Telstra staff created a fake CSG connection order, an actual Telstra customer would receive a connection charge. In the case of service faults, the test desk process used to confirm the nature of the fault would highlight any false reporting. Systemic abuse would also be detected through other Telstra systems and process including customer complaints and compliance training audits.
(3) All monitoring and performance processes are subject to human error, and it is impossible to categorically state that such a complex procedure is fault free.
Telstra has indicated that it performs approximately 2.8 million CSG jobs each year. At various points in the CSG process human intervention is required. As with any system involving human
input errors may occur, however the level of human error is minute and any systemic abuse, as alleged in the crikey.com article, would become evident to Telstra customers, Telstra's internal reporting, and the ACA.

Telstra has advised that its performance and reporting is subject to an extremely high level of scrutiny from the ACA, ACCC, TIO, Senate Committees and numerous inquiries and is supported through internal audits, checks and compliance reporting systems.

Telstra has indicated that its reporting systems continue to evolve in response to changing regulations, technologies and market conditions. For example, in 2003 Telstra had to modify existing reporting systems to accommodate the new measures of Priority Assistance reporting, NRF and CSG Extreme failure. It is illogical to claim that Telstra's older Director system is 'inaccurate' when it had not been designed to report on these new measures.

In its role as the industry regulator, in addition to regular monitoring of data received from telecommunications providers, the ACA has undertaken a program of audits to verify industry performance data, test compliance with statutory obligations and assess the operational and record-keeping practices of carriers in their implementation of CSG performance reporting. Specific performance audits include:

- Telstra data relating to its Priority Assistance for Individuals Policy (report completed);
- use of CSG exemption notice provisions by Telstra and Optus (report completed);
- interim and alternative services, (currently being scoped); and
- CSG data (currently being scoped).

**Telstra: Mobile Services**

**(Question No. 2421)**

*Ms O’Byrne* asked the Minister for Communications, Information Technology and the Arts, upon notice, on 18 September 2003:

In respect of Telstra Pre-Paid Mobile services, is the Minister aware that customers have had difficulties accessing the network when the network is busy; if so, (a) when and how was the Minister advised of the problem, (b) what is the total number of reported instances of this problem, (c) what is Telstra doing to fix this problem, (d) what is the projected cost of addressing this problem, (e) how much has Telstra expended to date on addressing this problem, (f) when does Telstra expect that they will have this problem resolved in all areas, and (g) since the problem was discovered, which ten electoral divisions have reported the highest incidence of this problem as a percentage of all Telstra mobile telephone customers in those electoral divisions.

**Mr Williams**—The answer to the honourable member’s question is as follows:

Telstra advises that mobile networks are designed to ensure that sufficient capability is available to handle all reasonable traffic demand. Telstra advises that it has introduced special promotions, such as a 1 cent per minute promotion on the Communic8 Pre-Paid Mobile plan, in order to better utilise the network during periods when traffic is light, such as in the late evening and early morning. Telstra further advises that the promotion has been popular and resulted in network congestion during the peak period of the promotion between 9pm and 11pm. Telstra informs me that the terms and conditions of the promotion state that the offer is subject to network availability.

(a) Telstra advised me of the problem in response to this question on notice.

(b) Telstra advises that from time to time it receives complaints regarding congestion during promotional periods on the prepaid platform. Where it receives a complaint, Telstra examines network capacity in the area to ensure that it is sufficient to handle reasonable demand.
(c) Telstra advises that it continually monitors mobile network performance to ensure a high standard of network availability and call quality and, where necessary, upgrades its network to meet increasing call demands, as part of its normal network management practices.

(d) Telstra advises that the projected cost of network upgrades in 2002/03 and 2003/04 is $19.5 million.

(e) Telstra informs me that it spent nearly $10 million on network upgrades to its prepaid platform in 2002/03 and that it expects to allocate a further $9.5 million in 2003/04.

(f) Telstra advises that its network capacity has recently been increased in Queensland and Tasmania, with further works planned in Victoria and New South Wales. Telstra reiterated that it upgrades the network as required, to meet increasing call demands.

(g) Telstra advises that it cannot disaggregate customer complaints by electoral division, as its systems are not configured in this way.

**Government Departments: Legal Services**

**(Question No. 2466)**

Mr Murphy asked the Minister for Trade, upon notice, on 17 September 2003:
Further to the answers to questions Nos 1620 to 1635 and 1637 (Hansard, 12 August 2003, page 18283) what are the Chief Executive Officers of the Minister’s departments and agencies doing to ensure that they do not retain the services of any barrister or solicitor who has previously been made bankrupt.

Mr Vaile—The answer to the honourable member’s question is as follows: Austrade’s legal department would only engage a barrister or solicitor via external law firms engaged to conduct Austrade business. External firms would discuss the suitability of any such engagement and alert Austrade to any matter that may prevent Counsel from properly representing the interests of the Commission.

**Government Departments: Legal Services**

**(Question No. 2472)**

Mr Murphy asked the Minister for the Environment and Heritage, upon notice, on 18 September 2003:
Further to the answers to questions Nos 1620 to 1635 and 1637 (Hansard, 12 August 2003, page 18283) what are the Chief Executive Officers of the Minister’s departments and agencies doing to ensure that they do not retain the services of any barrister or solicitor who has previously been made bankrupt.

Dr Kemp—The answer to the honourable member’s question is as follows: With the exception of the Australian Greenhouse Office (AGO), agencies in the Environment Portfolio normally use the services of solicitors employed by, and engage counsel through, the Australian Government Solicitor (AGS) which has policies and procedures in place in respect of the engagement of suitable counsel. These policies and procedures accord with Commonwealth policy which is directed toward ensuring that Departments and agencies do not engage counsel who use insolvency as a means of avoiding tax.

The AGO has a panel of legal service providers comprising the AGS and three private law firms. The AGO and its panel of legal service providers are also cognizant of the Commonwealth policy mentioned above.
Arts: Funding  
(Question No. 2495)

Mr Gibbons asked Minister representing the Minister for the Arts and Sport, upon notice, on 18 September 2003:

(1) What Commonwealth funding has been allocated to the City of Greater Bendigo for development work on the (i) Bendigo Art Gallery, and (ii) Capital Theatre Bendigo.

(2) In what year was the money paid to the City of Greater Bendigo and for what purposes.

(3) Has the Commonwealth undertaken to pay the City of Greater Bendigo the $2 million originally promised for the development of the Bendigo Art Gallery; if so, when will this sum be paid.

Mr Williams—The Minister for the Arts and Sport has provided the following answer to the honourable member’s question:

(1) to (3) The Australian Government was to provide $2 million to the Bendigo Art Gallery but when the Council advised that the money was not required for the Gallery it was, at their request, directed to the Bendigo Performing Arts Centre. To date, $500,000 has been paid to the Council under the terms of the Deed of Grant signed on 23 May 2001. The first payment of $200,000 was made on 24 May 2001 and the second payment of $300,000 was made on 5 July 2001. However, in May 2003, the Council advised that the project was to be abandoned due to significant escalation in costs. The Council requested that $1.5m of the grant be used to upgrade the existing Capital Theatre and $500,000 be put towards meeting costs associated with the abandoned project. The Council has been advised that it can use $1.5m of the grant to upgrade the existing theatre. However a decision on contributing to costs of the former project will not be made until advice is received on the Victorian State Government’s willingness to also contribute to those costs as it was a partner in the project. The Department of Communications, Information Technology and the Arts, in consultation with the Bendigo City Council, is now preparing a new grant deed in relation to the upgrade of the existing theatre. Payments will be made in accordance with the agreed schedule of works. An initial payment will be made within 28 days of the Date of the Deed and it is anticipated that the greater part of the funds will be paid before the end of the 2003-04 financial year. Subject to work progressing in accordance with the schedule, all payments will be finalised by July 2004.

Environment: Solar Power  
(Question No. 2537)

Mr Kelvin Thomson asked the Minister for the Environment and Heritage, upon notice, on 7 October 2003:

(1) Is the Government examining the implementation of a national solar cell policy for the installation of solar cells in all new buildings.

(2) Is the Government aware that the world’s largest photovoltaic manufacturing plant has recently been completed in Spain using Australian developed technologies; if so, is he able to say why developers were forced overseas in order to commercialise this product.

(3) Does the Government support the establishment of a photovoltaic manufacturing plant in Australia; if so, what action if any is the Government taking to encourage the mass production of consumer grade solar cells in Australia.

(4) Has the Minister investigated the potential for solar cells to be installed on Australian roofs.

(5) Is it the case that the principal challenges facing traditional solar cell farms are the transportation and storage of electricity and that these issues are overcome by installing solar cells on roofs.
(6) Has the Government conducted any estimates of the amount of greenhouse gas emissions which could be saved in Australia through the widespread installation of solar cells on buildings; if so, what is the amount of greenhouse gas emissions which could be prevented in this way.

Dr Kemp—The answer to the honourable member’s question is as follows:

(1) The Australian Government is supporting renewable energy through a combination of incentives, however building regulation is the responsibility of State and Territory Governments.

(2) The Government is aware of BP Solar’s facility in Spain that utilizes Saturn photovoltaic cell technology developed by the University of New South Wales. The right to manufacture cells using this technology was purchased by BP Solar, a multinational company, that chose to deploy the technology in their plant in Spain. The Australian Government does not seek to impose restrictions on the sale of Australian-developed photovoltaic technologies.

(3) There is already a photovoltaic manufacturing plant in Australia, and three pilot manufacturing plants have been supported by Government grants. The Australian Government recognizes the importance of building a robust high growth renewable energy technology industry with strong export potential. A number of Australian Government programs support the growth of renewable energy in Australia. The Mandatory Renewable Energy Target (MRET) was introduced in April 2001 requiring electricity retailers to source an additional 9500 Gigawatt hours per year of new renewable energy by 2010. Also over $300 million is being provided through grant programs to support the commercialization of technologies, standards, training and utilization of renewable energy. For example, a remote property can receive up to 50% rebate on the cost of solar power, a suburban home can receive up to $4000. To date $11,222,000 in grants have been approved to commercialize Australian solar photovoltaic technologies.

(4) The Government is supporting the installation of solar power systems on Australian roofs through the range of measures outlined in (3) above.

(5) No. Solar farms are not necessarily located in remote areas where transportation of electricity may be an issue.

(6) No specific study has been undertaken, however, the Renewable Energy Regulator who determines the credits given to renewable energy generators under the Mandatory Renewable Energy Target, has deemed that 1 kilowatt (peak) of solar panels installed on a roof will generate between 1.185 and 1.622 megawatt hours of electricity per year depending on the part of the country where the solar panels are installed. Each kilowatt (peak) photovoltaic system would thus abate up to 2.0 tonnes of greenhouse gas emissions per year, depending on the system’s location and the emissions intensity of the electricity it was displacing, with the maximum abatement achieved by displacing brown coal or diesel generated electricity.

Environment: Export Finance and Insurance Corporation Environment Policy

(Question No. 2538)

Mr Kelvin Thomson asked the Minister for the Environment and Heritage, upon notice, on 7 October 2003:

(1) Was the Department of Environment and Heritage consulted in the preparation of environmental guidelines for projects supported by the Export Finance and Insurance Corporation (EFIC).

(2) Is the Minister satisfied that the environmental guidelines approved in 2000 are adequate to ensure the environmental sustainability of projects supported by the EFIC.

(3) Is the Minister aware of the proposed Sepon Copper and Gold Mine in Laos and the EFIC’s planned role in granting political risk insurance for this venture.

(4) Does the existing national environmental legislative framework in Laos meet the EFIC environmental guidelines.
(5) Does the impact of the proposed new project on water quality and fisheries satisfy the environmental guidelines.

**Dr Kemp**—The answer to the honourable member’s question is as follows:

(1) The Department of the Environment and Heritage provided a submission as part of the general consultation for the development of Export Finance and Insurance Corporation (EFIC) Environment Policy.

(2) EFIC’s Environment Policy is based on the World Bank Pollution Prevention and Abatement Handbook, which is aimed at ensuring environmentally sustainable development. I understand that EFIC Environment Policy is widely recognised internationally as being among the most stringent of any export credit agency.

(3) Decisions by EFIC are not subject to the Environment Protection and Biodiversity Conservation Act 1999. I was therefore unaware of the Sepon project at the time of the question. EFIC has since advised that both the gold and copper developments at the Sepon project have undergone a comprehensive assessment process in accordance with the World Bank’s Pollution Prevention and Abatement Handbook. Further, EFIC sought and considered public comment on the gold project environmental assessment documentation before approving the EFIC facility for the gold development, and is currently providing public access to environmental impact documentation associated with the copper development.

(4) EFIC’s Environment Policy sets out a regime for the identification, assessment and mitigation of any significant environmental impacts of proposed transactions for which an EFIC facility is sought. The assessment undertaken by EFIC examines the impacts of the particular development project, not the adequacy of the legislative framework in the relevant country.

(5) I have been advised by EFIC that the gold project as proposed was in compliance with the World Bank Pollution Prevention and Abatement Handbook that underpins EFIC Environment Policy, including in relation to water quality and fisheries, and that EFIC has put in place facility conditions that will be monitored by EFIC for the duration of the EFIC facility.

**Trade: Free Trade Agreement with United States**

(1) Does he have any involvement in the discussions or negotiations surrounding the proposed Australia-US Free Trade Agreement.

(2) Is it the case that the proposed agreement contains a dispute settlement mechanism enabling any proposed investor to take action against any Australian environmental law which restricts trade.

(3) Would such a provision diminish Australian sovereignty and, in particular, diminish Australia’s capacity to protect its environment.

**Mr Kelvin Thomson** asked the Minister for the Environment and Heritage, upon notice, on 7 October 2003:

(1) Does he have any involvement in the discussions or negotiations surrounding the proposed Australia-US Free Trade Agreement.

(2) Is it the case that the proposed agreement contains a dispute settlement mechanism enabling any proposed investor to take action against any Australian environmental law which restricts trade.

(3) Would such a provision diminish Australian sovereignty and, in particular, diminish Australia’s capacity to protect its environment.

**Dr Kemp**—The answer to the honourable member’s question is as follows:

(1) I have been working with my Ministerial colleagues on aspects of the Australia-US Free Trade Agreement as appropriate. My Department is working closely with officials from the Department of Foreign Affairs and Trade on relevant elements of the proposed Australia-US Free Trade Agreement.

(2) No such mechanism has been tabled in the negotiations on the Australia-US Free Trade Agreement, although the US has foreshadowed they will be putting such a mechanism forward for negotiation shortly.

(3) If the US puts forward text then that will need to be assessed at the time.
**Family Services: Child Care**  
*(Question No. 2574)*

**Mrs Crosio** asked the Minister for Children and Youth Affairs, upon notice, on 9 October 2003:

1. What was the total expenditure on child care in 2002-2003.
2. What was the expenditure on family day care centres in 2002-2003.
3. What was the level of Commonwealth funding for each of the family day care centres in the electoral division of Prospect in 2002-2003.
4. Is the Government aware of analyses that estimate the return on Government investment in child care is twelve times the value of expenditure allocated; if so, will he guarantee that funding for family day care will not be reduced or abolished.

**Mr Anthony**—The answer to the honourable member’s question is as follows:

1. Total expenditure on child care in 2002-03 was $1692 million.
2. The total amount of Commonwealth child care broadband funding paid to family day care services in 2002-03 was $67 046 306. The amount of Child Care Benefit (CCB) expenditure paid to families using family day care services in 2002-03 was $243 874 074. This amount excludes CCB received as a lump sum payment and is based on pre-reconciliation amounts paid to families during the financial year. It does not take into account Centrelink CCB advance/acquittal processes to services.
3. There was one family day care service operating in the electoral division of Prospect in 2002-03. The amount of Commonwealth child care broadband funding received by this service in 2002-03 was $438 820. The amount of CCB expenditure paid to families using this service in 2002-03 was $1 695 356. This amount excludes CCB received as a lump sum payment and is based on pre-reconciliation amounts paid to families during the financial year. It does not take into account Centrelink CCB advance/acquittal processes to services.
4. The Government is aware of this analysis. It was undertaken by a Departmental official and the findings were presented to the Australian Early Childhood Association Conference Children - The Core of Society on 13 July 2003. The Australian Government is committed to child care and has maintained an unprecedented $8 billion allocation over the four years to 2006-07. This amount has substantially increased in recent years, particularly with the introduction of CCB on 1 July 2000 and now supports an unprecedented 759 000 children using care. The Government also recognises family day care is highly valued as a child care choice for many families and has provided it with long and substantial support. The Government continues to support family day care together with other forms of quality child care to meet the child care needs of families.

**Environment: Barmah-Millewa Forests**  
*(Question No. 2584)*

**Mr Kelvin Thomson** asked the Minister for the Environment and Heritage, upon notice, on 8 October 2003:

1. Has he been sent material by the Yorta Yorta Elders Council and the Victorian National Parks Association concerning their proposal for a jointly managed Barmah-Millewa National Park.
2. Is he investigating this proposal in the light of this information; if so, what is his response to this proposal.

**Dr Kemp**—The answer to the honourable member’s questions is as follows:
(1) On 1 October 2003 I received a letter from Mr Michael Fendley, Director, Victoria National Parks 
Association. Mr Fendley, on behalf of the Yorta Yorta Elders Council, provided me with a copy of 
the ‘River Red Gum forests – Our Natural Heritage’ fact sheet and an extract from the Riverina 
News ‘Red gum protection derailed’.

(2) I have responded to Mr Fendley. In my response I referred to the listing of the Barmah-Millewa 
forests as wetlands of international importance listed under the Ramsar Convention on Wetlands. 
I indicated that the purpose of listing sites such as Barmah and Millewa forests under the 
Convention is to ensure their ‘wise use’ and to conserve their ecological character for future 
generations.

At the time of listing, the Barmah and Millewa group of forests were managed for multiple 
purposes, including recreation, grazing, forestry, honey production and conservation. In 
designating these sites, the Australian, New South Wales and Victorian governments accepted that 
these practices were sustainable under the existing management regime.

The forests provide a good demonstration of the Ramsar Convention’s ‘wise use’ principle and I 
am confident that, under current management arrangements, they are being managed in accordance 
with Australia’s obligations under the Convention.

On 14 November 2003 the Murray-Darling Basin Ministerial Council, of which I am member, took 
an historic First Step decision to address the declining health of the River Murray system. One of 
the key elements of the First Step decision is a focus on maximising environmental benefits for six 
significant ecological assets, including the enhancement of forest, fish and wildlife values in the 
Barmah-Millewa forest.

My Department will continue to work with the relevant management authorities, the community 
and the Barmah-Millewa Forum to ensure the forests are being managed appropriately.

Fisheries: Management
(Question No. 2585)

Mr Kelvin Thomson asked the Minister for the Environment and Heritage, upon notice, 
on 13 October 2003:

(1) Is he aware of a report by scientists from the University of Canberra and CSIRO Resource Futures 
which found that almost 60% of Australia’s fisheries are over-fished and that this could increase to 
68% by 2020.

(2) Is he able to say whether this assessment is correct.

(3) Does the report identify the WA Snapper Fishery as being under particular threat.

(4) What action is the Government taking to address the issue of over-fishing of these fisheries.

Dr Kemp—The answer to the honourable member’s question is as follows:

(1) Yes, I am aware of the report. The report is entitled “Modelling Australia’s Fisheries to 2050: 
Policy and Management Implications” by Drs. R. Kearney, B. Foran, F. Poldy and D. Lowe. The 
report makes preliminary projections on the future status of fisheries and capacity to satisfy 
seafood supply demands to 2050.

(2) As in any predictive modelling exercise the accuracy of the report depends on a great number of 
variables and availability of further data. The report findings are generally consistent with the 
overall assessment by the Commonwealth Bureau of Rural Sciences Fishery Status Reports 2003 
on the current status of 70 principal species in Commonwealth fisheries.

(3) There are a number of fisheries identified as of concern. The WA Snapper fishery is one example 
where increased attention is warranted in order to ensure sustainability of the resource.
(4) Management of fisheries in Australian waters is the responsibility of the Commonwealth and the States. My Department is undertaking a comprehensive assessment program on the ecologically sustainable management of all Commonwealth managed fisheries and export State managed fisheries. These assessments address strict guidelines developed by the Commonwealth to meet the requirements of the Environment Protection and Biodiversity Conservation Act 1999.

Fisheries: Seabird Bycatch

(5) (a) I understand that a routine observer program for pelagic tuna fisheries commenced in the Eastern Tuna and Billfish Fishery, and Southern and Western Tuna and Billfish Fishery, in August 2003. Prior to this, there has been significant observer coverage south of latitude 30°S since 2001, primarily established to assist in development of seabird bycatch mitigation measures. An observer program has also been in place in the Gillnet, Hook and Trap Fishery since 2001, and the Antarctic Fishery operating around Heard and McDonald Islands since 2002. However as management of these fisheries and collection of fisheries data is a responsibility of the Australian Fisheries Management Authority, your question should be addressed to the Minister for Fisheries, the Hon Senator Ian Macdonald. (b) The introduction of mandatory measures south of latitude 30°S, such as night-setting of longlines and retention of offal, the number of seabirds killed in Australia’s pelagic tuna fisheries will undoubtedly have been reduced significantly.

(2) The introduction of measures outlined in the answer to question (1)(b) will have led to a reduction in albatross bycatch of around 90% since 1998.

(3) If this question relates to the fisheries observer program, it should be addressed to the Hon Senator Ian Macdonald.

(4) Implementation of an observer program for Australian pelagic longline fisheries was delayed pending the results of a trial of an underwater bait-setting chute. This device showed great promise as a seabird mitigation measure in initial trials, but failed to reduce seabird bycatch significantly when it was tested extensively. When this became apparent, the observer program was implemented.

(5) Trials of mitigation measures are already a standard practice. The TAP provides for the trialling of new mitigation measures. The TAP advisory group is working to further develop effective approaches to minimise the capture of seabirds in longline fisheries.
Mr Kelvin Thomson asked the Minister for the Environment and Heritage, upon notice, on 16 October 2003:

(1) Will he provide a copy of his department’s Natural Resource Management (NRM) Programme Delivery Advice document #1: Acquittal of investments against the commitment to spend at least $350m of Trust funds “directly on measures to improve water quality”.

(2) Will he provide a copy of other NRM Programme Delivery Advice documents.

(3) Who are these advice documents prepared for, who uses them and why are they not available on the internet.

Dr Kemp—The answer to the honourable member’s question is as follows:

(1) A copy is attached.

(2) No.

(3) These documents are prepared for use by officers of the Department of Agriculture, Fisheries and Forestry and the Department of the Environment and Heritage. They are designed to provide guidance to these officers on the management of Natural Resource Management Programs particularly the Natural Heritage Trust and the National Action Plan for Salinity and Water Quality. They are not publicly available documents as they are internal Departmental working documents and are revised on a regular basis.

Environment: Salinity and Water Quality
(Question No. 2654)

POLICY CONTEXT

1. In the 2001 election, the Prime Minister committed to spend at least $350 million of the Extension of the Trust directly on measures to improve water quality.

2. The Framework for the Extension of the Trust notes “investment under the Trust will be available for salinity and water quality measures across Australia, including NAP regions. At least $350 million of the Trust funds will be invested directly on measures to improve water quality”.

3. The Bilateral Agreements for the delivery of the Trust note that the joint Commonwealth State Steering Committees will identify expenditure against this commitment.

National Water Quality Management Strategy (NWQMS)

4. The NWQMS provides a national framework under which all stakeholders can contribute to better water quality outcomes. The Strategy provides a consistent approach to water quality management through guidelines that promote a shared national objective while allowing flexibility to respond to regional and local differences.

5. The NWQMS defines water quality as “the physical, chemical and biological attributes of water that effect its ability to sustain environmental values”. Environmental values are the agreed ‘beneficial uses’ of water, and the NWQMS specifies five values, as follows:
(i) Aquatic ecosystems (general ecosystems, production of edible fish, crustacea and shellfish; water associated with wildlife);
(ii) Recreational water quality and aesthetics;
(iii) Raw water for drinking water supplies;
(iv) Agricultural water use (irrigation, livestock, farmstead water supplies); and
(v) Industrial water use.

6. The guidelines under the NWQMS provide a set of scientific criteria for water quality to match each environmental value. The set of criteria that satisfy all of the environmental values selected for a particular water body become its water quality objectives. These objectives are the numbers to aim for in water quality management programs.

7. The states and territories have agreed to the approach to managing water quality, which includes the determination of environmental values and water quality objectives, set out in the NWQMS.

Water Quality and Salinity

8. The National Action Plan for Salinity and Water Quality (NAP) clearly distinguishes between salinity and water quality, as reflected in the two specific goals for the Plan:
(i) to prevent stabilize and reverse trends in dryland salinity...
(ii) to improve water quality and secure reliable allocations for human uses, industry and the environment...

9. While salinity targets may be established as primary water quality targets (eg instream salinity concentrations) where the primary process driving deterioration in this aspect of water quality is dryland (ie non-agricultural induced) salinity, a distinction has been made between the issues by the Prime Minister.

ISSUES

10. There is a clear expectation from the NH Ministerial Board that there will be periodic, and probably public, reporting against this commitment.

11. Operational guidelines are therefore required to assist in the acquittal of Trust investments against this commitment at all levels - Envirofund, regional and national.

12. Given the number of managers overseeing Trust investments, there is a need to ensure that any guidelines are applied consistently by different managers, and across investment levels.

PROCEDURAL ADVICE

13. All Trust investment managers must assess their investments to determine whether or not the constituent activities (or parts thereof) can be acquitted against this commitment.

14. Where activities are identified as contributing to this commitment, both the assessment, and the subsequent level of funding acquitted, must be recorded on Program Administrator within 30 days of the Ministerial Board or relevant Minister approving the investment.

Recording the information on Program Administrator.

15. (i) Go to your individual project, pull up on screen and click the “Key Result Area” tab. The screen that appears will have a section on the bottom called “Water Quality Commitment”.
(ii) Select yes from the “Yes/No” drop down box. Each funding year with approved dollars will be automatically populated on the screen.
(iii) Calculate the percentage of each years funding that you are attributing to directly improving water quality, and type this in - the actual quantum of funding will then be automatically generated. Alternatively, if you know the exact quantum, you can put this directly into the relevant field. Save.
(iv) Click on the “Assessment” tab and insert a new assessment. Select assessment type “$350M Water Quality Component”, the year, and the “recommended” assessment grade. In the comments field, summarise your answers to questions 20, 21 and 22 (as set out below). Save. These instructions can also be found in the PA User Guide.

16. Review of assessments
The activities identified as contributing to this commitment will be reviewed periodically by an expert group appointed by the AFFA/EA NRM Forum.

17. The expert group will also review the Assessment Advice from time to time, as appropriate.

COMMONWEALTH ASSESSMENT ADVICE

18. Definitions
Water quality is defined as “the physical, chemical and biological attributes of water that effect its ability to sustain environmental values”.

19. There are five environmental values (beneficial uses) as follows: aquatic ecosystems, primary industries, recreation and aesthetics, drinking water, industrial water and cultural and spiritual values.

20. Assessment criteria
The marine or aquatic ecosystem and/or waterbody that will benefit from the water quality improvements arising from the Trust investment must be clearly identified.

21. The Trust funded activity (or part thereof) must contribute:
   (i) to directly improving one or more of the physical, chemical or biological attributes of the identified marine or aquatic ecosystem and/or waterbody; or
   (ii) to establishing specific management plans and baseline data for, and/or monitoring of, marine or aquatic ecosystems and/or waterbodies.

22. The projected water quality improvements must be ascertained with reference to:
   (i) the water quality objectives and associated environmental values identified through the NWQMS process for the marine or aquatic ecosystem and/or waterbody in question;
   (ii) marine and aquatic targets established in the accredited regional NRM plan under the National NRM Standards and Targets Framework; or
   (iii) management action targets which have a water quality output.

23. Water quality improvement activities
The key question to be asked in ascertaining whether or not an investment contributes to this commitment is “will the investment bring forward a water quality output”?

The following list is illustrative of activities which would be consistent with this commitment:
   (i) salts and nutrient discharge reductions from irrigation areas;
   (ii) acid and heavy metal discharge reductions from acid sulphate soils;
   (iii) sediment discharge reductions from river banks and streambeds;
   (iv) pollutant discharge reductions from industrial or urban areas; and
   (v) nutrient discharge reductions from agricultural activities (both intensive - such as diaries and feedlots; and broadscale such as cattle ranching).

24. Typical water quality improvement projects include activities that:
   (i) prevent erosion and soil loss in actively eroding sites;
   (ii) repair and restore riparian vegetation;
(iii) exclude stock from waterways;
(iv) prevent discharges from oxidized acid sulphate soils;
(vi) treat, reuse or recycle wastewaters from intensive agricultural or urban sources;
(vii) implement effective treatment technologies for industrial point sources;
(viii) implement water pollution source controls;
(ix) implement water sensitive urban design practices; and
(x) establish water quality baselines and monitor water quality.

MATCHING FUNDING

25 NAP investments cannot be acquitted against this commitment.

26. Matching funding contributions from states and territories (as required under the Bilateral Agreements), and any other investment leveraged through Trust investment (for example from the private sector), cannot be acquitted against this commitment.