INTERNET

Proof and Official Hansards for the House of Representatives, the Senate and committee hearings are available at http://www.aph.gov.au/hansard

For searching purposes use http://parlinfoweb.aph.gov.au

SITTING DAYS—2005

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>8, 9, 10, 14, 15, 16, 17</td>
</tr>
<tr>
<td>March</td>
<td>7, 8, 9, 10, 14, 15, 16, 17</td>
</tr>
<tr>
<td>May</td>
<td>10, 11, 12, 23, 24, 25, 26, 30, 31</td>
</tr>
<tr>
<td>June</td>
<td>1, 2, 14, 15, 16, 20, 21, 22, 23</td>
</tr>
<tr>
<td>August</td>
<td>9, 10, 11, 16, 17, 18</td>
</tr>
<tr>
<td>September</td>
<td>5, 6, 7, 8, 12, 13, 14, 15</td>
</tr>
<tr>
<td>October</td>
<td>10, 11, 12, 13, 31</td>
</tr>
<tr>
<td>November</td>
<td>1, 2, 3, 7, 8, 9, 10, 28, 29, 30</td>
</tr>
<tr>
<td>December</td>
<td>1, 5, 6, 7, 8</td>
</tr>
</tbody>
</table>

RADIO BROADCASTS
Broadcasts of proceedings of the Parliament can be heard on the following Parliamentary and News Network radio stations, in the areas identified.

- **CANBERRA**: 103.9FM
- **SYDNEY**: 630 AM
- **NEWCASTLE**: 1458 AM
- **GOSFORD**: 98.1 FM
- **BRISBANE**: 936 AM
- **GOLD COAST**: 95.7 FM
- **MELBOURNE**: 1026 AM
- **ADELAIDE**: 972 AM
- **PERTH**: 585 AM
- **HOBART**: 747 AM
- **NORTHERN TASMANIA**: 92.5 FM
- **DARWIN**: 102.5 FM
FORTY-FIRST PARLIAMENT
FIRST SESSION—FOURTH PERIOD

Governor-General
His Excellency Major-General Michael Jeffery, Companion in the Order of Australia, Commander of the Royal Victorian Order, Military Cross

House of Representatives Officeholders
Speaker—The Hon. David Peter Maxwell Hawker MP
Deputy Speaker—The Hon. Ian Raymond Causley MP
Second Deputy Speaker—Mr Henry Alfred Jenkins MP

Members of the Speaker’s Panel—The Hon. Dick Godfrey Harry Adams, Mr Robert Charles Baldwin, the Hon. Bronwyn Kathleen Bishop, Mr Michael John Hatton, Mr Peter John Lindsay, Mr Robert Francis McMullan, Mr Harry Vernon Quick, the Hon. Bruce Craig Scott, the Hon. Alexander Michael Somlyay, Mr Kim William Wilkie

Leader of the House—The Hon. Anthony John Abbott MP
Deputy Leader of the House—The Hon. Peter John McGauran MP
Manager of Opposition Business—Ms Julia Eileen Gillard MP
Deputy Manager of Opposition Business—Mr Anthony Norman Albanese MP

Party Leaders and Whips
Liberal Party of Australia
Leader—The Hon. John Winston Howard MP
Deputy Leader—The Hon. Peter Howard Costello MP
Chief Government Whip—Mr Kerry Joseph Bartlett MP
Government Whips—Mrs Joanna Gash MP and Mr Fergus Stewart McArthur MP

The Nationals
Leader—The Hon. Mark Anthony James Vaile MP
Deputy Leader—The Hon. Warren Errol Truss MP
Chief Whip—Mr John Alexander Forrest MP
Whip—Mr Paul Christopher Neville MP

Australian Labor Party
Leader—The Hon. Kim Christian Beazley MP
Deputy Leader—Ms Jennifer Louise Macklin MP
Chief Opposition Whip—The Hon. Leo Roger Spurway Price MP
Opposition Whips—Mr Michael David Danby MP and Ms Jill Griffiths Hall MP

Printed by authority of the House of Representatives
<table>
<thead>
<tr>
<th>Member</th>
<th>Division</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abbott, Hon. Anthony John</td>
<td>Warringah, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Adams, Hon. Dick Godfrey Harry</td>
<td>Lyons, TAS</td>
<td>ALP</td>
</tr>
<tr>
<td>Albanese, Anthony Norman</td>
<td>Grayndler, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Anderson, Hon. John Duncan</td>
<td>Gwydir, NSW</td>
<td>Nats</td>
</tr>
<tr>
<td>Andrews, Peter James</td>
<td>Calare, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Andrews, Hon. Kevin James</td>
<td>Menzies, VIC</td>
<td>LP</td>
</tr>
<tr>
<td>Bailey, Hon. Frances Esther</td>
<td>McEwen, VIC</td>
<td>LP</td>
</tr>
<tr>
<td>Baird, Hon. Bruce George</td>
<td>Cook, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Baker, Mark Horden</td>
<td>Braddon, TAS</td>
<td>LP</td>
</tr>
<tr>
<td>Baldwin, Robert Charles</td>
<td>Paterson, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Barresi, Phillip Anthony</td>
<td>Deakin, VIC</td>
<td>LP</td>
</tr>
<tr>
<td>Bartlett, Kerry Joseph</td>
<td>Macquarie, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Beazley, Hon. Kim Christian</td>
<td>Brand, WA</td>
<td>ALP</td>
</tr>
<tr>
<td>Bevis, Hon. Archibald Ronald</td>
<td>Brisbane, QLD</td>
<td>ALP</td>
</tr>
<tr>
<td>Billson, Hon. Bruce Fredrick</td>
<td>Dunkley, VIC</td>
<td>LP</td>
</tr>
<tr>
<td>Bird, Sharon</td>
<td>Cunningham, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Bishop, Hon. Bronwyn Kathleen</td>
<td>Mackellar, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Bishop, Hon. Julie Isabel</td>
<td>Curtin, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Bowen, Christopher Eyles</td>
<td>Prospect, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Broadbent, Russell Evan</td>
<td>McMillan, VIC</td>
<td>LP</td>
</tr>
<tr>
<td>Brough, Hon. Malcolm Thomas</td>
<td>Longman, QLD</td>
<td>LP</td>
</tr>
<tr>
<td>Burke, Anna Elizabeth</td>
<td>Chisholm, VIC</td>
<td>ALP</td>
</tr>
<tr>
<td>Burke, Anthony Stephen</td>
<td>Watson, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Byrne, Anthony Michael</td>
<td>Holt, VIC</td>
<td>ALP</td>
</tr>
<tr>
<td>Cadman, Hon. Alan Glyndwr</td>
<td>Mitchell, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Cauley, Hon. Ian Raymond</td>
<td>Page, NSW</td>
<td>Nats</td>
</tr>
<tr>
<td>Ciobo, Steven Michele</td>
<td>Moncrieff, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>Cobb, Hon. John Kenneth</td>
<td>Parkes, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Corcoran, Ann Kathleen</td>
<td>Isaacs, VIC</td>
<td>ALP</td>
</tr>
<tr>
<td>Costello, Hon. Peter Howard</td>
<td>Higgins, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>Crean, Hon. Simon Findlay</td>
<td>Hotham, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Danby, Michael</td>
<td>Melbourne Ports, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Downer, Hon. Alexander John Gosse</td>
<td>Mayo, SA</td>
<td>LP</td>
</tr>
<tr>
<td>Draper, Patricia</td>
<td>Makin, SA</td>
<td>LP</td>
</tr>
<tr>
<td>Dutton, Hon. Peter Craig</td>
<td>Dickson, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>Edwards, Hon. Graham John</td>
<td>Cowan, WA</td>
<td>ALP</td>
</tr>
<tr>
<td>Elliot, Maria Justine</td>
<td>Richmond, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Ellis, Annette Louise</td>
<td>Canberra, ACT</td>
<td>ALP</td>
</tr>
<tr>
<td>Ellis, Katherine Margaret</td>
<td>Adelaide, SA</td>
<td>ALP</td>
</tr>
<tr>
<td>Elson, Kay Selma</td>
<td>Forde, QLD</td>
<td>LP</td>
</tr>
<tr>
<td>Emerson, Craig Anthony</td>
<td>Rankin, Qld</td>
<td>ALP</td>
</tr>
<tr>
<td>Entsch, Hon. Warren George</td>
<td>Leichhardt, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Farmer, Hon. Patrick Francis</td>
<td>Macarthur, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Fawcett, David Julian</td>
<td>Wakefield, SA</td>
<td>LP</td>
</tr>
<tr>
<td>Ferguson, Laurence Donald Thomas</td>
<td>Reid, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Ferguson, Martin John, AM</td>
<td>Batman, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Ferguson, Michael Durrel</td>
<td>Bass, TAS</td>
<td>LP</td>
</tr>
<tr>
<td>Member</td>
<td>Division</td>
<td>Party</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>---------------------------</td>
<td>-------</td>
</tr>
<tr>
<td>Fitzgibbon, Joel Andrew</td>
<td>Hunter, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Forrest, John Alexander</td>
<td>Mallee, VIC</td>
<td>Nats</td>
</tr>
<tr>
<td>Gambaro, Hon. Teressa</td>
<td>Petrie, QLD</td>
<td>LP</td>
</tr>
<tr>
<td>Garrett, Peter Robert, AM</td>
<td>Kingsford Smith, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Gash, Joanna</td>
<td>Gilmore, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Georganas, Steven</td>
<td>Hindmarsh, SA</td>
<td>ALP</td>
</tr>
<tr>
<td>George, Jennie</td>
<td>Throsby, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Georgiou, Petro</td>
<td>Kooyong, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>Gibbons, Stephen William</td>
<td>Bendigo, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Gillard, Julia Eileen</td>
<td>Lalor, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Grippson, Sharon Joy</td>
<td>Newcastle, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Griffin, Alan Peter</td>
<td>Bruce, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Haase, Barry Wayne</td>
<td>Kalgoorlie, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Hall, Jill Griffiths</td>
<td>Shortland, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Hardgrave, Hon. Gary Douglas</td>
<td>Moreton, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>Hartsuyker, Luke</td>
<td>Cowper, NSW</td>
<td>Nats</td>
</tr>
<tr>
<td>Hatton, Michael John</td>
<td>Blaxland, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Hawker, David Peter Maxwell</td>
<td>Wannon, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>Hayes, Christopher Patrick</td>
<td>Werriwa, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Henry, Stuart</td>
<td>Hasluck, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Hoare, Kelly Joy</td>
<td>Charlton, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Hockey, Hon. Joseph Benedict</td>
<td>North Sydney, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Howard, Hon. John Winston</td>
<td>Bennelong, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Hull, Kay Elizabeth</td>
<td>Riverina, NSW</td>
<td>Nats</td>
</tr>
<tr>
<td>Hunt, Hon. Gregory Andrew</td>
<td>Flinders, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>Irwin, Julia Claire</td>
<td>Fowler, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Jenkins, Harry Alfred</td>
<td>Scullin, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Jensen, Dennis Geoffrey</td>
<td>Tangney, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Johnson, Michael Andrew</td>
<td>Ryan, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>Jull, Hon. David Francis</td>
<td>Fadden, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>Katter, Hon. Robert Carl</td>
<td>Kennedy, Qld</td>
<td>Ind</td>
</tr>
<tr>
<td>Keenan, Michael Fayat</td>
<td>Stirling, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Kelly, Hon. De-Anne Margaret</td>
<td>Dawson, Qld</td>
<td>Nats</td>
</tr>
<tr>
<td>Kelly, Hon. Jacqueline Marie</td>
<td>Lindsay, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Kerr, Hon. Duncan James Colquhoun, SC</td>
<td>Denison, Tas</td>
<td>ALP</td>
</tr>
<tr>
<td>King, Catherine Fiona</td>
<td>Ballarat, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Laming, Andrew Charles</td>
<td>Bowman, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>Lawrence, Hon. Carmen Mary</td>
<td>Fremantle, WA</td>
<td>ALP</td>
</tr>
<tr>
<td>Ley, Hon. Susan Penelope</td>
<td>Farrer, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Lindsay, Peter John</td>
<td>Herbert, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>Livermore, Kirsten Fiona</td>
<td>Capricornia, Qld</td>
<td>ALP</td>
</tr>
<tr>
<td>Lloyd, Hon. James Eric</td>
<td>Robertson, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Macfarlane, Hon. Ian Elgin</td>
<td>Groom, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>Macklin, Jennifer Louise</td>
<td>Jagajaga, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Markus, Louise Elizabeth</td>
<td>Greenway, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>May, Margaret Ann</td>
<td>McPherson, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>McArthur, Fergus Stewart</td>
<td>Corangamite, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>McClelland, Robert Bruce</td>
<td>Barton, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Member</td>
<td>Division</td>
<td>Party</td>
</tr>
<tr>
<td>------------------------------</td>
<td>-------------------------</td>
<td>-------</td>
</tr>
<tr>
<td>McGauran, Hon. Peter John</td>
<td>Gippsland, Vic</td>
<td>Nats</td>
</tr>
<tr>
<td>McMillan, Robert Francis</td>
<td>Fraser, ACT</td>
<td>ALP</td>
</tr>
<tr>
<td>Melham, Daryl</td>
<td>Banks, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Moylan, Hon. Judith Eleanor</td>
<td>Pearce, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Murphy, John Paul</td>
<td>Lowe, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Nairn, Hon. Gary Roy</td>
<td>Eden-Monaro, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Nelson, Hon. Brendan John</td>
<td>Bradfield, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Neville, Paul Christopher</td>
<td>Hinkler, Qld</td>
<td>Nats</td>
</tr>
<tr>
<td>O’Connor, Brendan Patrick John</td>
<td>Gorton, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>O’Connor, Gavan Michael</td>
<td>Corio, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Owens, Julie Ann</td>
<td>Parramatta, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Panopoulos, Sophie</td>
<td>Indi, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>Pearce, Hon. Christopher John</td>
<td>Aston, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>Plibersek, Tanya Joan</td>
<td>Sydney, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Price, Hon. Leo Roger Spurway</td>
<td>Chifley, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Prosser, Hon. Geoffrey Daniel</td>
<td>Forrest, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Pyne, Hon. Christopher Maurice</td>
<td>Sturt, SA</td>
<td>LP</td>
</tr>
<tr>
<td>Quick, Harry Vernon</td>
<td>Franklin, Tas</td>
<td>ALP</td>
</tr>
<tr>
<td>Randall, Don James</td>
<td>Canning, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Richardson, Kym</td>
<td>Kingston, SA</td>
<td>LP</td>
</tr>
<tr>
<td>Ripoll, Bernard Fernando</td>
<td>Oxley, Qld</td>
<td>ALP</td>
</tr>
<tr>
<td>Robb, Andrew John</td>
<td>Goldstein, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>Roxon, Nicola Louise</td>
<td>Gellibrand, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Rudd, Kevin Michael</td>
<td>Griffith, Qld</td>
<td>ALP</td>
</tr>
<tr>
<td>Ruddock, Hon. Philip Maxwell</td>
<td>Berowra, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Sawford, Rodney Weston</td>
<td>Port Adelaide, SA</td>
<td>ALP</td>
</tr>
<tr>
<td>Schultz, Albert John</td>
<td>Hume, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Scott, Hon. Bruce Craig</td>
<td>Maranoa, Qld</td>
<td>Nats</td>
</tr>
<tr>
<td>Secker, Patrick Damien</td>
<td>Barker, SA</td>
<td>LP</td>
</tr>
<tr>
<td>Sercombe, Robert Charles Grant</td>
<td>Maribyrnong, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Slipper, Hon. Peter Neil</td>
<td>Fisher, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>Smith, Anthony David Hawthorn</td>
<td>Casey, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>Smith, Stephen Francis</td>
<td>Perth, WA</td>
<td>ALP</td>
</tr>
<tr>
<td>Snowdon, Hon. Warren Edward</td>
<td>Lilliard, NT</td>
<td>ALP</td>
</tr>
<tr>
<td>Somilyay, Hon. Alexander Michael</td>
<td>Fairfax, Qld</td>
<td>LP</td>
</tr>
<tr>
<td>Southcott, Andrew John</td>
<td>Boothby, SA</td>
<td>LP</td>
</tr>
<tr>
<td>Stone, Hon. Sharman Nancy</td>
<td>Murray, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>Swan, Wayne Maxwell</td>
<td>Lilley, Qld</td>
<td>ALP</td>
</tr>
<tr>
<td>Tanner, Lindsay James</td>
<td>Melbourne, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Thompson, Cameron Paul</td>
<td>Blair, QLD</td>
<td>LP</td>
</tr>
<tr>
<td>Thomson, Kelvin John</td>
<td>Wills, Vic</td>
<td>ALP</td>
</tr>
<tr>
<td>Ticehurst, Kenneth Vincent</td>
<td>Dobell, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Tollner, David William</td>
<td>Solomon, NT</td>
<td>CLP</td>
</tr>
<tr>
<td>Truss, Hon. Warren Errol</td>
<td>Wide Bay, QLD</td>
<td>Nats</td>
</tr>
<tr>
<td>Tuckey, Hon. Charles Wilson</td>
<td>O’Connor, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Turnbull, Malcolm Bligh</td>
<td>Wentworth, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Vaile, Hon. Mark Anthony James</td>
<td>Lyne, NSW</td>
<td>Nats</td>
</tr>
<tr>
<td>Vale, Hon. Danne Sue</td>
<td>Hughes, NSW</td>
<td>LP</td>
</tr>
</tbody>
</table>
### Members of the House of Representatives

<table>
<thead>
<tr>
<th>Member</th>
<th>Division</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vamvakinou, Maria</td>
<td>Calwell, VIC</td>
<td>ALP</td>
</tr>
<tr>
<td>Vasta, Ross Xavier</td>
<td>Bonner, QLD</td>
<td>LP</td>
</tr>
<tr>
<td>Wakelin, Barry Hugh</td>
<td>Grey, SA</td>
<td>LP</td>
</tr>
<tr>
<td>Washer, Malcolm James</td>
<td>Moore, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Wilkie, Kim William</td>
<td>Swan, WA</td>
<td>ALP</td>
</tr>
<tr>
<td>Windsor, Antony Harold Curties</td>
<td>New England, NSW</td>
<td>Ind</td>
</tr>
<tr>
<td>Wood, Jason Peter</td>
<td>La Trobe, VIC</td>
<td>LP</td>
</tr>
</tbody>
</table>

**PARTY ABBREVIATIONS**

ALP—Australian Labor Party; LP—Liberal Party of Australia; Nats—The Nationals; Ind—Independent; CLP—Country Liberal Party; AG—Australian Greens

### Heads of Parliamentary Departments

Clerk of the Senate—H Evans

Clerk of the House of Representatives—I C Harris

Secretary, Department of Parliamentary Services—H R Penfold QC
<table>
<thead>
<tr>
<th>Position</th>
<th>Minster Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prime Minister</td>
<td>The Hon. John Winston Howard MP</td>
</tr>
<tr>
<td>Minister for Trade and Deputy Prime Minister</td>
<td>The Hon. Mark Anthony James Vaile MP</td>
</tr>
<tr>
<td>Treasurer</td>
<td>The Hon. Peter Howard Costello MP</td>
</tr>
<tr>
<td>Minister for Transport and Regional Services</td>
<td>The Hon. Warren Errol Truss MP</td>
</tr>
<tr>
<td>Minister for Defence and Leader of the Govern-</td>
<td>Senator the Hon. Robert Murray Hill</td>
</tr>
<tr>
<td>ment in the Senate</td>
<td></td>
</tr>
<tr>
<td>Minister for Foreign Affairs</td>
<td>The Hon. Alexander John Gosse Downer MP</td>
</tr>
<tr>
<td>Minister for Health and Ageing and Leader of</td>
<td>The Hon. Anthony John Abbott MP</td>
</tr>
<tr>
<td>the House</td>
<td></td>
</tr>
<tr>
<td>Attorney-General</td>
<td>The Hon. Philip Maxwell Ruddock MP</td>
</tr>
<tr>
<td>Minister for Finance and Administration, Deputy</td>
<td>Senator the Hon. Nicholas Hugh Minchin</td>
</tr>
<tr>
<td>Leader of the Government in the Senate and</td>
<td></td>
</tr>
<tr>
<td>Vice-President of the Executive Council</td>
<td></td>
</tr>
<tr>
<td>Minister for Agriculture, Fisheries and Forestry</td>
<td>The Hon. Peter John McGauran MP</td>
</tr>
<tr>
<td>and Deputy Leader of the House</td>
<td></td>
</tr>
<tr>
<td>Minister for Immigration and Multicultural and</td>
<td>Senator the Hon. Amanda Eloise Vanstone</td>
</tr>
<tr>
<td>Indigenous Affairs and Minister Assisting the</td>
<td></td>
</tr>
<tr>
<td>Prime Minister for Indigenous Affairs</td>
<td>The Hon. Dr Brendan John Nelson MP</td>
</tr>
<tr>
<td>Minister for Education, Science and Training</td>
<td>Senator the Hon. Kay Christine Lesley Patterson</td>
</tr>
<tr>
<td>Minister for Family and Community Services and</td>
<td></td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for</td>
<td></td>
</tr>
<tr>
<td>Women’s Issues</td>
<td></td>
</tr>
<tr>
<td>Minister for Industry, Tourism and Resources</td>
<td>The Hon. Ian Elgin Macfarlane MP</td>
</tr>
<tr>
<td>Minister for Employment and Workplace Rela-</td>
<td>The Hon. Kevin James Andrews MP</td>
</tr>
<tr>
<td>tions and Minister Assisting the Prime Minister</td>
<td></td>
</tr>
<tr>
<td>for the Public Service</td>
<td></td>
</tr>
<tr>
<td>Minister for Communications, Information Tech-</td>
<td>Senator the Hon. Helen Lloyd Coonan</td>
</tr>
<tr>
<td>nology and the Arts</td>
<td></td>
</tr>
<tr>
<td>Minister for the Environment and Heritage</td>
<td>Senator the Hon. Ian Gordon Campbell</td>
</tr>
</tbody>
</table>

(The above ministers constitute the cabinet)
HOWARD MINISTRY—continued

Minister for Justice and Customs and Manager of Government Business in the Senate
Senator the Hon. Christopher Martin Ellison
Minister for Fisheries, Forestry and Conservation
Senator the Hon. Ian Douglas Macdonald
Minister for the Arts and Sport
Senator the Hon. Charles Roderick Kemp
Minister for Human Services
The Hon. Joseph Benedict Hockey MP
Minister for Citizenship and Multicultural Affairs
The Hon. John Kenneth Cobb MP

Minister for Revenue and Assistant Treasurer
Special Minister of State
The Hon. Malcolm Thomas Brough MP
Minister for Vocational and Technical Education
and Minister Assisting the Prime Minister
Senator the Hon. Eric Abetz
Minister for Ageing
The Hon. Gary Douglas Hardgrave MP
Minister for Small Business and Tourism
The Hon. Julie Isabel Bishop MP
Minister for Local Government, Territories and Roads
The Hon. Frances Esther Bailey MP
Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence
The Hon. James Eric Lloyd MP
Minister for Workforce Participation
The Hon. De-Anne Margaret Kelly MP
Parliamentary Secretary to the Minister for Finance and Administration
The Hon. Peter Craig Dutton MP
Parliamentary Secretary to the Minister for Industry, Tourism and Resources
The Hon. Dr Sharman Nancy Stone MP
Parliamentary Secretary to the Minister for Health and Ageing
The Hon. Warren George Entsch MP
Parliamentary Secretary to the Minister for Defence
The Hon. Christopher Maurice Pyne MP
Parliamentary Secretary to the Prime Minister
The Hon. Teresa Gambaro MP
Parliamentary Secretary to the Minister for Immigration and Multicultural and Indigenous Affairs
Senator the Hon. John Alexander Lindsay Macdonald
Parliamentary Secretary to the Treasurer
The Hon. Bruce Fredrick Billson MP
Parliamentary Secretary to the Minister for Education, Science and Training
The Hon. Gary Roy Nairn MP
Parliamentary Secretary to the Minister for the Environment and Heritage
The Hon. Christopher John Pearce MP
Parliamentary Secretary (Children and Youth Affairs)
The Hon. Gregory Andrew Hunt MP
Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry
The Hon. Sussan Penelope Ley MP
Parliamentary Secretary (Foreign Affairs) and
Parliamentary Secretary to the Minister for Immigration and Multicultural and Indigenous Affairs
The Hon. Patrick Francis Farmer MP
Parliamentary Secretary to the Treasurer
Senator the Hon. Richard Mansell Colbeck
SHADOW MINISTRY

Leader of the Opposition
The Hon. Kim Christian Beazley MP

Deputy Leader of the Opposition and Shadow Minister for Education, Training, Science and Research
Jennifer Louise Macklin MP

Leader of the Opposition in the Senate, Shadow Minister for Indigenous Affairs and Shadow Minister for Family and Community Services
Senator Christopher Vaughan Evans

Deputy Leader of the Opposition in the Senate and Shadow Minister for Communications and Information Technology
Senator Stephen Michael Conroy

Shadow Minister for Health and Manager of Opposition Business in the House
Julia Eileen Gillard MP

Shadow Treasurer
Wayne Maxwell Swan MP

Shadow Attorney-General
Nicola Louise Roxon MP

Shadow Minister for Industry, Infrastructure and Industrial Relations
Stephen Francis Smith MP

Shadow Minister for Foreign Affairs and Trade and Shadow Minister for International Security
Kevin Michael Rudd MP

Shadow Minister for Defence
Robert Bruce McClelland MP

Shadow Minister for Regional Development
The Hon. Simon Findlay Crean MP

Shadow Minister for Primary Industries, Resources, Forestry and Tourism
Martin John Ferguson MP

Shadow Minister for Environment and Heritage, Shadow Minister for Water and Deputy Manager of Opposition Business in the House
Anthony Norman Albanese MP

Shadow Minister for Housing, Shadow Minister for Urban Development and Shadow Minister for Local Government and Territories
Senator Kim John Carr

Shadow Minister for Public Accountability and Shadow Minister for Human Services
Kelvin John Thomson MP

Shadow Minister for Finance
Lindsay James Tanner MP

Shadow Minister for Superannuation and Intergenerational Finance and Shadow Minister for Banking and Financial Services
Senator the Hon. Nicholas John Sherry

Shadow Minister for Child Care, Shadow Minister for Youth and Shadow Minister for Women
Tanya Joan Plibersek MP

Shadow Minister for Employment and Workforce Participation and Shadow Minister for Corporate Governance and Responsibility
Senator Penelope Ying Yen Wong

(The above are shadow cabinet ministers)
SHADOW MINISTRY—continued

Shadow Minister for Consumer Affairs and Shadow Minister for Population Health and Health Regulation
Laurie Donald Thomas Ferguson MP

Shadow Minister for Agriculture and Fisheries
Gavan Michael O’Connor MP

Shadow Assistant Treasurer, Shadow Minister for Revenue and Shadow Minister for Small Business and Competition
Joel Andrew Fitzgibbon MP

Shadow Minister for Transport
Senator Kerry Williams Kelso O’Brien

Shadow Minister for Sport and Recreation
Senator Kate Alexandra Lundy

Shadow Minister for Homeland Security and Shadow Minister for Aviation and Transport Security
The Hon. Archibald Ronald Bevis MP

Shadow Minister for Veterans’ Affairs and Shadow Special Minister of State
Alan Peter Griffin MP

Shadow Minister for Defence Industry, Procurement and Personnel
Senator Thomas Mark Bishop

Shadow Minister for Immigration
Anthony Stephen Burke MP

Shadow Minister for Aged Care, Disabilities and Carers
Senator Jan Elizabeth McLucas

Shadow Minister for Justice and Customs and Manager of Opposition Business in the Senate
Senator Joseph William Ludwig

Shadow Minister for Overseas Aid and Pacific Island Affairs
Robert Charles Grant Sercombe MP

Shadow Parliamentary Secretary for Reconciliation and the Arts
Peter Robert Garrett MP

Shadow Parliamentary Secretary to the Leader of the Opposition
John Paul Murphy MP

Shadow Parliamentary Secretary for Defence and Veterans’ Affairs
The Hon. Graham John Edwards MP

Shadow Parliamentary Secretary for Education
Kirsten Fiona Livermore MP

Shadow Parliamentary Secretary for Environment and Heritage
Jennie George MP

Shadow Parliamentary Secretary for Industry, Infrastructure and Industrial Relations
Bernard Fernando Ripoll MP

Shadow Parliamentary Secretary for Immigration
Ann Kathleen Corcoran MP

Shadow Parliamentary Secretary for Treasury
Catherine Fiona King MP

Shadow Parliamentary Secretary for Science and Water
Senator Ursula Mary Stephens

Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs
The Hon. Warren Edward Snowdon MP
CONTENTS

WEDNESDAY, 7 DECEMBER

CHAMBER

Business.............................................................................................................................................. 1
Future Fund Bill 2005—
First Reading........................................................................................................................................ 3
Second Reading.................................................................................................................................... 3
Bankruptcy Legislation Amendment (Anti-avoidance) Bill 2005—
First Reading...................................................................................................................................... 5
Second Reading.................................................................................................................................... 5
OHS and SRC Legislation Amendment Bill 2005—
First Reading...................................................................................................................................... 6
Second Reading.................................................................................................................................... 6
Australian Sports Anti-Doping Authority Bill 2005—
First Reading...................................................................................................................................... 8
Second Reading.................................................................................................................................... 8
Australian Sports Anti-Doping Authority (Consequential and Transitional Provisions) Bill 2005—
First Reading..................................................................................................................................... 11
Second Reading................................................................................................................................... 11
Tax Laws Amendment (2005 Measures No. 6) Bill 2005—
First Reading..................................................................................................................................... 11
Second Reading................................................................................................................................... 11
Workplace Relations Amendment (Work Choices) Bill 2005—
  Consideration of Senate Message........................................................................................................ 12
  Reference to Committee...................................................................................................................... 104
Higher Education Support Amendment (Abolition of Compulsory Up-front Student Union Fees) Bill 2005—
  Second Reading................................................................................................................................. 108
  Consideration in Detail.......................................................................................................................... 116
  Third Reading.................................................................................................................................... 130
Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005—
  Consideration of Senate Message........................................................................................................ 131
Family and Community Services Legislation Amendment (Welfare to Work) Bill 2005—
  Returned from the Senate...................................................................................................................... 134
Higher Education Legislation Amendment (2005 Measures No. 3) Bill 2005—
  Second Reading.................................................................................................................................. 134
Ministerial Arrangements ...................................................................................................................... 140
Questions Without Notice—
  Liberal Party: Leadership ..................................................................................................................... 140
  Economy............................................................................................................................................... 140
  Liberal Party: Leadership....................................................................................................................... 141
Distinguished Visitors............................................................................................................................. 141
Questions Without Notice—
  Workplace Relations............................................................................................................................ 141
  Mr Robert Gerard.................................................................................................................................. 142
Distinguished Visitors............................................................................................................................. 142
Questions Without Notice—
  Health: Cancer Treatment.................................................................................................................... 143
  Taxation............................................................................................................................................... 143
CONTENTS—continued

Automotive Industry......................................................................................................... 143
Mr Robert Gerard............................................................................................................. 144
Voluntary Student Unionism .......................................................................................... 145
Mr Robert Gerard............................................................................................................. 146
Indigenous Aged Care and Hearing Services ................................................................... 147
Mr Robert Gerard............................................................................................................. 147
Distinguished Visitors......................................................................................................... ... 148
Questions Without Notice—
Taxation and Superannuation ........................................................................................... 148
Water Management........................................................................................................... 149
Work for the Dole............................................................................................................. 150
Oil for Food Program ....................................................................................................... 150
Building Entrepreneurship in Small Business Program ................................................... 151
Oil for Food Program ....................................................................................................... 152
New Apprenticeships........................................................................................................ 152
Mr Robert Gerard ............................................................................................................... ... 153
Business ....................................................................................................................... .......... 153
Committees—
  Procedure Committee—Report ..................................................................................... 153
Documents ....................................................................................................................... 154
Questions to the Speaker—
  Oil for Food Program ................................................................................................... 154
Matters of Public Importance—
  Oil for Food Program ................................................................................................... 154
Anglo-Australian Telescope Agreement Amendment Bill 2005—
  Report from Main Committee ....................................................................................... 167
  Third Reading .................................................................................................................. 167
Main Committee—
  Transport and Regional Services Committee—Reference ......................................... 167
Committees—
  Public Works Committee—Report ............................................................................ 167
  Public Accounts and Audit Committee—Report ............................................................... 169
  Economics, Finance and Public Administration Committee—Membership .................. 171
  Anti-Terrorism Bill (No. 2) 2005—
    Consideration of Senate Message .............................................................................. 171
  Tax Laws Amendment (Loss Recoupment Rules and Other Measures) Bill 2005—
    Consideration of Senate Message .............................................................................. 188
  Higher Education Legislation Amendment (2005 Measures No. 3) Bill 2005—
    Second Reading .......................................................................................................... 195
  Employment and Workplace Relations Legislation Amendment (Welfare to Work and
  Other Measures) Bill 2005—
    Consideration of Senate Message .............................................................................. 207
  Higher Education Legislation Amendment (2005 Measures No. 3) Bill 2005—
    Second Reading .......................................................................................................... 216
    Third Reading ................................................................................................................ 222
  Parliamentary Library Committee ................................................................................... 222
  Occupational Health and Safety (Commonwealth Employment) Amendment (Promoting
  Safer Workplaces) Bill 2005—
    Second Reading .......................................................................................................... 222
CONTENTS—continued

Adjournment—
  Taxation ....................................................................................................................... 230
  Graffiti ........................................................................................................................ 231
  Victory in the Pacific Day Medallions ............................................................................. 232
  Victorian High Court Building ......................................................................................... 233
  Child Care ........................................................................................................................ 234
  South Australia: Crime ..................................................................................................... 236
Notices ........................................................................................................................ ........... 237
MAIN COMMITTEE
Statements By Members—
  Ms Irene Rose Moran ....................................................................................................... 239
  Queensland Parliament ..................................................................................................... 239
  Vietnam Veterans: Health of Children Study .................................................................... 240
  Queanbeyan ..................................................................................................................... 241
  Mr Russell Workman ........................................................................................................ 242
  Moncrieff Electorate: Postal Services .............................................................................. 243
  Cyprus .............................................................................................................................. 243
  Dunkley Electorate: Police Resources ............................................................................. 244
  Environment ..................................................................................................................... 245
  Motorcycle Charity Run ................................................................................................... 246
Anglo-Australian Telescope Agreement Amendment Bill 2005—
  Second Reading ................................................................................................................ 247
Committees—
  Procedure Committee—Report ....................................................................................... 255
  Agriculture, Fisheries and Forestry Committee—Report ................................................. 258
Distinguished Visitors......................................................................................................... ... 261
Committees—
  Joint Standing Committee on Aboriginal and Torres Strait Islander Land Fund—
    Report ............................................................................................................................. 261
Adjournment—
  Word War II Commemorative Medallions ....................................................................... 268
  Dental Care ...................................................................................................................... 269
  Victory in the Pacific Medallions ..................................................................................... 271
  Child Care ........................................................................................................................ 272
QUESTIONS IN WRITING
  Commonwealth Departments: Programs and Grants—(Question Nos 1934 to 1952) .... 274
  Commonwealth Departments: Programs and Grants—(Question Nos 2013 to 2031) .... 274
  Commonwealth Departments: Programs and Grants—(Question Nos 2117 to 2135) .... 275
  Minister for Fisheries, Forestry and Conservation—(Question No. 2178) ................. 275
  Domestic and Overseas Air Travel—(Question No. 2433) ............................................ 275
  ABC Asia Pacific—(Question No. 2543) ........................................................................... 277
Wednesday, 7 December 2005

The SPEAKER (Hon. David Hawker) took the chair at 9 am and read prayers.

BUSINESS

Mr ABBOTT (Warringah—Leader of the House) (9.01 am)—I move:

That, in relation to proceedings on the Higher Education Support Amendment (Abolition of Compulsory Up-front Student Union Fees) Bill 2005, so much of the standing and sessional orders be suspended to enable:

(1) at the conclusion of the second reading debate or at 12 noon on Wednesday 7 December 2005, whichever is the earlier, a Minister to be called to sum up the second reading debate and thereafter the immediate question before the House to be put without delay; the bill then to be taken as a whole during consideration in detail for a period not exceeding 60 minutes (at the end of this period the Government amendment as circulated shall be treated as if it has been moved); immediately after which the question then before the House to be put, then the putting without amendment or debate of any question necessary to complete the consideration of the bill; and

(2) any variation to this arrangement to be made only by a Minister moving a motion without notice.

Opposition members interjecting—

Mr ABBOTT—I do not wish to long detain the House from debating this procedural motion of mine, but I would simply point out to the interjectors opposite that, between 1990 and 1996, when members opposite were in government, a total of 437 guillotines were applied in this chamber. So 437 guillotines were applied by members opposite when they were in government. By contrast, from 1996 to the present, just 42 guillotines have been applied by this government.

Ms MACKLIN (Jagajaga) (9.03 am)—This is unadulterated ideology. That is what we are getting from this power-drunk government—

Mr ABBOTT (Warringah—Leader of the House) (9.03 am)—I move:

That the question be now put.

Question put.

The House divided. [9.07 am]

(The Speaker—Hon. David Hawker)

Ayes………… 80
Noes……….. 60
Majority……… 20

AYES

<table>
<thead>
<tr>
<th>Tollner, D.W.</th>
<th>Truss, W.E.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tuckey, C.W.</td>
<td>Turnbull, M.</td>
</tr>
<tr>
<td>Vaile, M.A.J.</td>
<td>Vale, D.S.</td>
</tr>
<tr>
<td>Vasta, R.</td>
<td>Wakelin, B.H.</td>
</tr>
<tr>
<td>Washer, M.J.</td>
<td>Wood, J.</td>
</tr>
</tbody>
</table>

(NOES)

<table>
<thead>
<tr>
<th>Adams, D.G.H.</th>
<th>Andren, P.J.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beazley, K.C.</td>
<td>Bevis, A.R.</td>
</tr>
<tr>
<td>Bird, S.</td>
<td>Bowen, C.</td>
</tr>
<tr>
<td>Burke, A.S.</td>
<td>Byrne, A.M.</td>
</tr>
<tr>
<td>Corcoran, A.K.</td>
<td>Cream, S.F.</td>
</tr>
<tr>
<td>Danby, M. *</td>
<td>Edwards, G.J.</td>
</tr>
<tr>
<td>Elliot, J.</td>
<td>Ellis, A.L.</td>
</tr>
<tr>
<td>Ellis, K.</td>
<td>Emerson, C.A.</td>
</tr>
<tr>
<td>Ferguson, L.D.T.</td>
<td>Ferguson, M.J.</td>
</tr>
<tr>
<td>Fitzgibbon, J.A.</td>
<td>Garrett, P.</td>
</tr>
<tr>
<td>Georganas, S.</td>
<td>George, J.</td>
</tr>
<tr>
<td>Gibbons, S.W.</td>
<td>Gillard, J.E.</td>
</tr>
<tr>
<td>Grierson, S.J.</td>
<td>Griffin, A.P.</td>
</tr>
<tr>
<td>Hall, J.G. *</td>
<td>Hatton, M.J.</td>
</tr>
<tr>
<td>Hayes, C.P.</td>
<td>Hoare, K.J.</td>
</tr>
<tr>
<td>Irwin, J.</td>
<td>Jenkins, H.A.</td>
</tr>
<tr>
<td>Katter, R.C.</td>
<td>King, C.F.</td>
</tr>
<tr>
<td>Lawrence, C.M.</td>
<td>Livermore, K.F.</td>
</tr>
<tr>
<td>Macklin, J.L.</td>
<td>Mclelland, R.B.</td>
</tr>
<tr>
<td>McMullan, R.F.</td>
<td>Melham, D.</td>
</tr>
<tr>
<td>Murphy, J.P.</td>
<td>O’Connor, B.P.</td>
</tr>
<tr>
<td>O’Connor, G.M.</td>
<td>Owens, J.</td>
</tr>
<tr>
<td>Plibersek, T.</td>
<td>Price, L.R.S.</td>
</tr>
<tr>
<td>Quick, H.V.</td>
<td>Ripoll, B.F.</td>
</tr>
<tr>
<td>Roxon, N.L.</td>
<td>Rudd, K.M.</td>
</tr>
<tr>
<td>Sawford, R.W.</td>
<td>Sercombe, R.C.G.</td>
</tr>
<tr>
<td>Smith, S.F.</td>
<td>Snowdon, W.E.</td>
</tr>
<tr>
<td>Swan, W.M.</td>
<td>Tanner, L.</td>
</tr>
<tr>
<td>Thomson, K.J.</td>
<td>Vanvakinou, M.</td>
</tr>
<tr>
<td>Wilkie, K.</td>
<td>Windsor, A.H.C.</td>
</tr>
</tbody>
</table>

* denotes teller

The Speaker—Hon. David Hawker

**Question agreed to.**

**Original question put:**

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

The House divided.  [9.12 am]

<table>
<thead>
<tr>
<th>AYES</th>
<th>NOES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abbots, A.J.</td>
<td>Anderson, J.D.</td>
</tr>
<tr>
<td>Andrews, K.J.</td>
<td>Bailey, F.E.</td>
</tr>
<tr>
<td>Baird, B.G.</td>
<td>Baker, M.</td>
</tr>
<tr>
<td>Baldwin, R.C.</td>
<td>Barresi, P.A.</td>
</tr>
<tr>
<td>Bartlett, K.J.</td>
<td>Billson, B.F.</td>
</tr>
<tr>
<td>Bishop, B.K.</td>
<td>Bishop, J.I.</td>
</tr>
<tr>
<td>Broadbent, R.</td>
<td>Brough, M.T.</td>
</tr>
<tr>
<td>Cadman, A.G.</td>
<td>Causley, I.R.</td>
</tr>
<tr>
<td>Ciobo, S.M.</td>
<td>Cobb, J.K.</td>
</tr>
<tr>
<td>Costello, P.H.</td>
<td>Draper, P.</td>
</tr>
<tr>
<td>Dutton, P.C.</td>
<td>Elson, K.S.</td>
</tr>
<tr>
<td>Entsch, W.G.</td>
<td>Farmer, P.F.</td>
</tr>
<tr>
<td>Fawcett, D.</td>
<td>Ferguson, M.D.</td>
</tr>
<tr>
<td>Forrest, J.A. *</td>
<td>Gambaro, T.</td>
</tr>
<tr>
<td>Gash, J.</td>
<td>Georgiou, P.</td>
</tr>
<tr>
<td>Haase, B.W.</td>
<td>Hardgrave, G.D.</td>
</tr>
<tr>
<td>Hartsuyker, L.</td>
<td>Henry, S.</td>
</tr>
<tr>
<td>Hockey, J.B.</td>
<td>Hull, K.E.</td>
</tr>
<tr>
<td>Hunt, G.A.</td>
<td>Jensen, D.</td>
</tr>
<tr>
<td>Johnson, M.A.</td>
<td>Jull, D.F.</td>
</tr>
<tr>
<td>Keenan, M.</td>
<td>Kelly, D.M.</td>
</tr>
<tr>
<td>Kelly, J.M.</td>
<td>Laming, A.</td>
</tr>
<tr>
<td>Ley, S.P.</td>
<td>Lindsay, P.J.</td>
</tr>
<tr>
<td>Lloyd, J.E.</td>
<td>Macfarlane, I.E.</td>
</tr>
<tr>
<td>Markus, L.</td>
<td>May, M.A.</td>
</tr>
<tr>
<td>McArthur, S. *</td>
<td>McGauran, P.J.</td>
</tr>
<tr>
<td>Moylan, J.E.</td>
<td>Nairn, G.R.</td>
</tr>
<tr>
<td>Nelson, B.J.</td>
<td>Neville, P.C.</td>
</tr>
<tr>
<td>Panopoulos, S.</td>
<td>Pearce, C.J.</td>
</tr>
<tr>
<td>Prosser, G.D.</td>
<td>Pyne, C.</td>
</tr>
<tr>
<td>Richardson, K.</td>
<td>Robb, A.</td>
</tr>
<tr>
<td>Ruddock, P.M.</td>
<td>Schultz, A.</td>
</tr>
<tr>
<td>Scott, B.C.</td>
<td>Secker, P.D.</td>
</tr>
<tr>
<td>Slipper, P.N.</td>
<td>Smith, A.D.H.</td>
</tr>
<tr>
<td>Somlyay, A.M.</td>
<td>Thompson, C.P.</td>
</tr>
<tr>
<td>Ticehurst, K.V.</td>
<td>Tollner, D.W.</td>
</tr>
<tr>
<td>Truss, W.E.</td>
<td>Tuckey, C.W.</td>
</tr>
<tr>
<td>Turnbull, M.</td>
<td>Vaile, M.A.J.</td>
</tr>
<tr>
<td>Vale, D.S.</td>
<td>Vasta, R.</td>
</tr>
<tr>
<td>Wakelin, B.H.</td>
<td>Washer, M.J.</td>
</tr>
</tbody>
</table>

CHAMBER
Question agreed to.

FUTURE FUND BILL 2005

First Reading

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

Second Reading

Mr COSTELLO (Higgins—Treasurer) (9.14 am)—I move:

That this bill be now read a second time.

The Future Fund Bill 2005 implements another important part of the government’s long-term fiscal strategy. This is a bill which will put in place arrangements for future generations to allow them to deal with the massive changes that the ageing of the population will bring, from a much stronger financial position.

When this government was elected in 1996, Australian government net debt stood at $96 billion. We are forecasting that by 30 June 2006, after 10 years of coalition government, we will have reduced that debt by around $90 billion and, by doing so, released more than $6 billion a year from ‘dead’ interest payments to fund priority areas like health, education and national security.

With net debt now under control, we are turning our attention to addressing the largest single liability on the government’s balance sheet: unfunded public sector superannuation. As at 30 June 2005, unfunded public sector superannuation liabilities stood at around $90 billion, and are forecast to grow to around $140 billion by 2020.

The Future Fund will strengthen the Australian government’s long-term financial position and ensure we are better able to meet the challenges of an ageing population without raising taxes or driving the budget into deficit. The Future Fund will reduce calls on the budget in future years and free up resources at a time when the 2002 Intergenerational report tells us significant pressures are expected to emerge.

The Future Fund will be invested with the aim of accumulating financial assets sufficient to offset the government’s unfunded superannuation liabilities by 2020. The bill provides for seed capital of $18 billion to be transferred to the fund in 2005-06. The government will also contribute future realised surpluses and proceeds from asset sales to the fund. To ensure that the fund grows over time the earnings of the fund will be re-invested and the assets held by the Future Fund will be quarantined from the rest of the budget. Notably, New Zealand, Ireland, France and Canada all have similar strategies in place and in none of those other national
funds are the returns on investment allowed to be siphoned off to fund pet projects of the government of the day. This will also be the case for the Future Fund.

The fund will only be drawn upon at the earlier of 2020 or a time when an independent actuary determines that the fund’s assets are sufficient to offset the unfunded part of the government’s accrued superannuation liabilities.

Queensland has already fully funded its superannuation schemes. Other states and territories have put in place arrangements to fund past service liabilities with the aim of achieving fully funded schemes over the next 30 to 40 years. The Commonwealth is now, for the first time, making proper financial provision for its liability.

An appropriately qualified Board of Guardians, chaired by Mr David Murray, will manage the fund. Mr Murray is a well-known figure in Australia and with 13 years experience as CEO of the Commonwealth Bank of Australia is an outstanding choice to lead the Future Fund through its inception and early years of operation. The board will be responsible for deciding how to invest the Future Fund. By creating an independent Board of Guardians with powers protected by legislation, the government is putting in place robust measures to guard the fund from being raided by any future government. The assets and the earnings of the fund will be locked away, to grow over time, and will be directed to the purpose for which it has been created.

When the fund is eventually drawn down to pay superannuation liabilities—some of which are accruing now—taxpayers will face a lighter burden than would have been the case if this fund had not been established. The fund represents a sensible financial policy now for the benefit of future generations. The fund will be needed in the future because we know that future generations will have the costs of the ageing of the population on their hands within 20 years time. The fact that the current generation is funding its liabilities, and also funding liabilities accrued in the past, will give future taxpayers a much better chance to cope with these challenges.

The Board of Guardians will be assisted by a new statutory agency, the Future Fund Management Agency. The agency will implement the decisions of the board and undertake the associated operational activities but investment activities will primarily be outsourced to private sector funds managers. The primary functions of the agency will be to provide administrative and policy support to the board and manage the relationships between the board and investment managers such as funds managers, transition managers and custodians.

The government’s clear view is that detailed investment decisions should be left to the board. The bill provides a framework for these decisions by outlining an investment mandate to guide the board and setting the broad parameters within which the fund can operate. The government’s initial investment mandate will set a benchmark for long-term returns on the fund and will include any restrictions on the investment of the fund. The general view of the government is that restrictions should only be applied where there are sound policy or national interest reasons to do so.

The Future Fund is a financial asset fund. This means that the board will be able to invest in a wide range of financial assets including shares and bonds, but it cannot invest in non-financial assets such as direct holdings of property and infrastructure. However, the board will be able to gain exposure to these asset classes through pooled investment vehicles. Under the external reporting standards which the budget is pre-
pared on, transactions involving financial assets do not have an impact on the budget.

The provision of a broad investment mandate does not in any way compromise the independence of the board to deliver the government’s desired risk and return objectives. The bill sets out a transparent process by which the board’s view on the investment mandate is tabled in parliament. The bill allows the board to take a long-term view of the investment strategy and gives them the investment powers to maximise the returns on the fund over the long term. This is broadly consistent with the approach taken by national funds in New Zealand, Ireland, France and Canada. The framework ensures that the management of the fund will remain at arm’s length from the government and that the board is accountable for the performance of the fund.

Full details on the establishment of the fund, board and agency are contained in the explanatory memorandum. I present the memorandum and commend the bill to the House.

Debate (on motion by Mr Gavan O’Connor) adjourned.

BANKRUPTCY LEGISLATION AMENDMENT (ANTI-AVOIDANCE) BILL 2005

First Reading

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

Second Reading

Mr RUDDOCK (Berowra—Attorney-General) (9.22 am)—I move:

That this bill be now read a second time.

The Bankruptcy Legislation Amendment (Anti-avoidance) Bill 2005 is the latest in a series of amendments introduced by this government to address practices which undermine the integrity of the bankruptcy system.

This bill contains amendments designed to strengthen existing anti-avoidance provisions in the Bankruptcy Act 1966. Those provisions allow the trustee to recover property disposed of prior to bankruptcy or owned by a third person but acquired by that person using the bankrupt’s resources. It is possible for bankrupts to deliberately avoid these provisions by, for instance, transferring assets to family members or close associates when insolvency is looming and then purposefully delaying the commencement of the bankruptcy. It is also possible for people approaching insolvency to build up wealth in the name of a person who allows the bankrupt to enjoy assets acquired with that wealth.

This bill will amend the claw-back provisions in the Bankruptcy Act by:

(a) increasing the claw-back period in section 120 from two to four years for transfers of property by a bankrupt to a related entity for less than market value;

(b) introducing a rebuttable presumption of insolvency for the purposes of sections 120 and 121 where a bankrupt has failed to keep proper books, accounts and records; and

(c) providing that a transfer made to defeat creditors is void against the bankruptcy trustee under section 121 if it was reasonable for the transferee to infer that the bankrupt’s main purpose in transferring the property was to defeat creditors.

The bill also includes some minor amendments to remove possible doubts about the operation of the claw-back provisions.

Significant amendments will also be made to division 4A of part VI of the act. These
will remove current difficulties in applying these provisions to property held by a natural person. The amendments will allow the court to make orders in relation to property or money of a natural person where during the period of up to five years prior to bankruptcy:

- the person acquired an estate in property as a direct or indirect result of financial contributions made by the bankrupt during that period; or the value of the person’s interest in particular property increased as a direct or indirect result of financial contributions made by the bankrupt during the period; and

- the bankrupt used or derived (whether directly or indirectly) a benefit from the property during the relevant period.

The time periods in division 4A of part VI will be aligned with the amendments to section 120. That is, the trustee will be able to recover property acquired by the person or the increase in the value of property held by the person in the two-year period prior to bankruptcy or four years if the person is related to the bankrupt. In both cases, the period can be extended to up to five years if the bankrupt was insolvent at the relevant time. There will also be rebuttable presumption that the bankruptcy was insolvent if, at the time, they had not kept proper books and records.

A further amendment contained in the bill will allow transcripts and notes from examinations under sections 77C and 81 of the act to be used in proceedings under the act, regardless of whether the person examined is a party to the proceedings. The proposed amendment is consistent with the modern trend to allow relevant and probative material to be considered in proceedings, rather than having artificial limits on the evidence that may be adduced. In many cases, use of the transcript will be an efficient way to get straight to the major issues and evidence in the proceedings. These amendments will assist trustees particularly in relation to proceedings to recover property for the benefit of creditors.

The amendments to be made by this bill have been developed following extensive public consultation. They will provide an appropriate balance between the rights of individuals to organise their affairs as they see fit and the rights of creditors to be paid. The amendments will also ensure that our bankruptcy system is protected from abuse.

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

Debate (on motion by Mr Gavan O’Connor) adjourned.

OHS AND SRC LEGISLATION AMENDMENT BILL 2005

First Reading

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

Second Reading

Mr ANDREWS (Menzies—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (9.27 am)—I move:

That this bill be now read a second time.


In that report, the Productivity Commission recommended extending coverage under the Occupational Health and Safety (Commonwealth Employment) Act 1991 to eligible corporations which are licensed under the Safety, Rehabilitation and Compensation Act 1988.
The SRC Act establishes a premium based workers compensation scheme for Commonwealth employees but also enables former Commonwealth authorities and eligible private sector corporations to obtain a licence to self-insure under the scheme.

The OH&S(CE) Act provides the legal basis for the protection of the health and safety of Commonwealth employees. It does not, however, apply to former Commonwealth authorities and private sector corporations that become licensed self-insurers.

At present, therefore, former Commonwealth authorities and licensed private sector corporations operate under the Commonwealth workers compensation regime but are covered by state and territory occupational health and safety legislation in the jurisdictions in which they operate. This makes unnecessary difficulties for many firms to develop a national approach to occupational health and safety and may result in the requirement that they comply with eight separate and quite distinct occupational health and safety jurisdictions.

The amendments in this bill will provide all licensees under the SRC Act with the benefits of operating under one occupational and health and safety scheme together with integrated prevention, compensation and rehabilitation arrangements. This will produce better health and safety outcomes all round, including for the employees of the affected bodies. The amendments will enable greater coordination and feedback between the workers compensation and occupational health and safety arrangements.

The time and resources currently expended in addressing jurisdictional and boundary disputes caused by multiple compliance regimes can be redirected to achieve overall efficiencies. Importantly, savings can be devoted to further improving health and safety at the workplace.

The bill contains other amendments. The name of the act is being changed to the Occupational Health and Safety Act 1991 to reflect its extended application beyond Commonwealth workplaces. Consequential amendments are being made to other acts which contain references to the Occupational Health and Safety (Commonwealth Employment) Act to reflect the new name of the act. The remaining amendments are mainly technical in nature.

Some amendments correct a drafting oversight in amendments to the SRC Act and the Occupational Health and Safety (Commonwealth Employment) Act made in 2001, which rationalised scheme funding and placed the provisions for regulatory contributions for both acts in the SRC Act. Because of differences in the definitions of ‘Commonwealth authority’ in both acts, a regulatory contribution towards the costs of administering the Occupational Health and Safety (Commonwealth Employment) Act cannot currently be charged to some Commonwealth authorities covered by that act but not by the SRC Act. The amendments will correct this oversight and validate payments already made for the year 2002-03.

The 2001 amendments also rationalised the licensing arrangements under the SRC Act and introduced one generic licence. Some licensees were charged, and paid, licence fees for the year 2002-03 under the wrong licence provisions. While the amounts were later recalculated under the correct provisions and reconciled, the amendments will also validate those licence fees as originally paid.

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

Debate (on motion by Mr Gavan O’Connor) adjourned.
AUSTRALIAN SPORTS ANTI-DOPING AUTHORITY BILL 2005

First Reading
Bill presented by Mr Andrews, for Mr McGauran, and read a first time.

Second Reading
Mr ANDREWS (Menzies—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (9.32 am)—I move:

That this bill be now read a second time.

This bill establishes the Australian Sports Anti-Doping Authority as the focal point for Australia’s continuing campaign against doping in sport.

Australia is acknowledged internationally as being at the forefront of the fight against doping in sport, balancing a ‘tough on drugs’ approach with ensuring that all athletes are treated fairly and that athletes’ rights are protected.

Through its Tough on Drugs in Sport strategy, launched in May 1999 in the lead-up to the Sydney 2000 Olympic Games, the government has ensured that Australia has a robust antidoping framework that is world’s best practice. The government’s unrelenting pursuit of this strategy has meant that all major Australian sporting organisations are now compliant with the World Anti-Doping Code.

In the 2004 election policy Building Australian Communities Through Sport, the government committed to strengthening its Tough on Drugs in Sport strategy through enhancing the investigation of alleged doping violations and establishing clear and consistent arrangements for the hearing of doping in sport matters.

As part of that commitment, on 23 June 2005, the Minister for the Arts and Sport, Senator the Hon. Rod Kemp, announced that the government will establish a new Australian Sports Anti-Doping Authority (ASADA) to investigate allegations of antidoping rule violations and present doping cases at hearings.

ASADA would assume the existing drug testing, education and advocacy functions of the Australian Sports Drug Agency (ASDA) and include the current Australian Sports Drug Medical Advisory Committee.

The bill before the House delivers on that commitment. It sets out a new, more robust regime for responding to alleged antidoping rule violations in Australia through a new, dedicated agency.

The ASADA Bill empowers ASADA to investigate all allegations of antidoping rule violations outlined in the World Anti-Doping Code and present cases against alleged offenders at the international Court of Arbitration for Sport and other sports tribunals.

The bill provides ASADA with the following functions:

- Undertake antidoping testing, investigations and presentations at sport tribunal hearings functions;
- Determine mandatory antidoping provisions to be included in Australian government funding agreements with sports;
- Advise the Australian Sports Commission, as the government’s principal sports funding body, of the performance of sports in observing these requirements;
- Provide education for Australian athletes and support personnel in relation to antidoping matters;
- Support and encourage research into antidoping matters;
- Encourage antidoping initiatives by the states and territories and cooperate in carrying out these initiatives;
- Provide antidoping and other services under contract;
• Make resources available to the Australian Sports Drug Medical Advisory Committee for the performance of its functions; and
• Provide advice to the responsible minister on matters relating to these functions.

The establishment of ASADA will mean that sports, athletes and the public can have complete confidence that doping allegations will be investigated and pursued in an independent, robust and transparent way.

ASADA’s establishment represents the next step forward in strengthening Australia’s already world-class antidoping regime.

In the event of serious allegations of doping infractions by athletes, Australia will have in place an integrated system to respond vigorously from the outset—from collecting, preserving and analysis of evidence to making recommendations on its findings and carrying a case to a tribunal hearing if required.

The creation of ASADA will enhance Australia’s compliance with the World Anti-Doping Code and will strategically implement the UNESCO International Convention Against Doping In Sport, once ratified by Australia.

The creation of ASADA, more broadly, represents a tough response to doping in sport and a response that treats all athletes fairly.

The ASADA Bill sets out the broad requirements under which ASADA will exercise its functions. Detailed protocols and procedures for the exercise of ASADA’s functions will be contained in a National Anti-Doping Scheme, which will be a legislative instrument developed alongside the ASADA Bill, to be tabled in parliament.

The National Anti-Doping Scheme will reflect the provisions of the two major international instruments on antidoping to which Australia is a party. It will be consistent with the mandatory provisions of the World Anti-Doping Code and will implement the UNESCO convention, once ratified.

The scheme will contain:
• Antidoping rules applicable to athletes and support personnel, including details of antidoping rule violations and the consequences of infractions;
• Protocols for ASADA drug testing procedures;
• Protocols and procedures governing ASADA investigations;
• Protocols for ASADA to establish a register of its findings, and to advise sporting organisations and athletes of its findings; and
• Protocols for ASADA’s presentation of doping cases at sports tribunal hearings.

The scheme will set out the obligations for Australian sporting organisations in the following areas:
• Promoting athlete compliance with the scheme;
• Referring violations of the scheme to ASADA;
• Assisting ASADA in the course of its investigations;
• Taking action in response to ASADA finding a violation has occurred; and
• ASADA’s role in hearings and appeals for doping cases.

The scheme will also authorise ASADA to:
• Monitor the compliance of sports and sports administration bodies (including the ASC) with these obligations;
• Notify the Australian Sports Commission in regard to such compliance; and
• Publish reports about the extent of compliance.

As a condition of any funding from the government, sports will be required to adopt the scheme as part of their antidoping policies, which will include submitting to the antidoping jurisdiction of ASADA.

This carries with it requirements for sports to ensure that their athletes and support personnel cooperate with ASADA officials in carrying out its testing, investigations and presentations at hearings functions. Sports will also be required, as a condition of the scheme, to accept any findings by the new authority that an individual has committed a doping offence and apply the appropriate penalty.

The bill also contains provisions facilitating the exchange of sensitive information between ASADA, the Australian Customs Service and the Australian Federal Police in regard to the use and importation of prohibited substances.

The bill also provides protection from civil actions to ASADA members, staff and those giving information to ASADA for any act undertaken in good faith during an ASADA investigation.

These provisions, along with the obligations imposed on sports through the contractual arrangements with the government, will put in place a system that will provide ASADA with the powers and ability to carry out its functions to the fullest extent.

In framing the proposed ASADA legislation, the issue of safeguarding athletes’ rights was a prime consideration.

Accordingly, the ASADA Bill attaches strict conditions to the receipt and disclosure of sensitive information from Customs, the Australian Federal Police and other law enforcement bodies. For example, disclosure must not contravene the terms of Customs initial disclosure to ASADA, and sports in receipt of such information must give an undertaking that any use of the information on its part must be for antidoping purposes and will not occur in a way prejudicial to the subject of the information.

It also stipulates the rights that athletes will have in relation to ASADA decisions. Athletes will have access to established external review mechanisms in relation to any ASADA investigation (including a test or the testing process) including the Commonwealth Ombudsman, the Administrative Appeals Tribunal and the Federal Court or Federal Magistrates Court under the Administrative Decisions (Judicial Review) Act 1977.

Further, the bill contains appropriate privacy safeguards for athletes and sporting support personnel—the Privacy Act 1988 will apply to ASADA’s advocacy, education, drug testing, investigative and reporting functions, and any other operations where ASADA is required to collect and deal with sensitive information.

Taken together, these provisions will continue to ensure that athletes’ rights are protected under the new antidoping regime.

The World Anti-Doping Agency, the body responsible for coordinating the international effort against doping in sport, has welcomed the entry of ASADA as the new key body in Australia’s antidoping framework.

As host of the Commonwealth Games in Melbourne in March 2006, Australia now has an opportunity to showcase internationally its commitment to the fight against drugs in sport and to demonstrate to athletes who might be inclined to cheat that they face a strong and systematic response once detected.

The establishment of ASADA represents a significant enhancement to a Tough on Drugs in Sport strategy that is already world-leading. ASADA will ensure that Australia
remains a leader in the international fight against drugs in sport.

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

Debate (on motion by Mr Gavan O’Connor) adjourned.

**AUSTRALIAN SPORTS ANTI-DOPING AUTHORITY (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2005**

**First Reading**

Bill presented by Mr Andrews, for Mr McGauran, and read a first time.

**Second Reading**

Mr ANDREWS (Menzies—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (9.42 am)—I move:

That this bill be now read a second time.

This bill contains transitional provisions and consequential amendments to a number of acts related to the establishment of the Australian Sports Anti-Doping Authority (ASADA) by the Australian Sports Anti-Doping Authority Bill 2005 that I have just introduced.

The detailed provisions of the bill will ensure that the new ASADA is able to operate effectively.

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

Debate (on motion by Mr Gavan O’Connor) adjourned.

**TAX LAWS AMENDMENT (2005 MEASURES No. 6) BILL 2005**

**First Reading**

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

**Second Reading**

Mr BROUGH (Longman—Minister for Revenue and Assistant Treasurer) (9.43 am)—I move:

That this bill be now read a second time.

This bill amends various taxation laws to implement a range of changes and improvements to Australia’s taxation system.

Amendments contained in this bill ensure that parents who work fewer than 15 hours a week continue to be eligible for the child-care tax rebate.

To be eligible for the rebate, families must receive child-care benefit for approved care and meet the child-care benefit work-training or study test. The Welfare to Work package introduces a requirement that a taxpayer must work, train, or study for at least 15 hours a week—or 30 hours over two weeks—to meet the child-care benefit work-training or study test.

Taxpayers will not need to satisfy the new hourly requirements to receive the child-care tax rebate. Taxpayers will continue to be eligible for the rebate if they receive child-care benefit for approved care and work, train or study at some time in the week.

This bill also gives effect to the government’s announcement that it will amend the income tax law to ensure certain not-for-profit organisations are not subject to tax on mutual receipts as a result of the Coleambally Federal Court decision handed down on 7 September 2004.

Under the mutuality principle, membership subscriptions and receipts from other mutual dealings with members are not liable for income tax. The court’s decision, which held that the principle of mutuality cannot apply where an organisation is prevented from distributing to members, would potentially affect between 200,000 to 300,000 not-for-profit entities including clubs, profes-
sional organisations and some friendly societies. The government’s amendment today restores the longstanding benefits of the mutuality principle that applied prior to the Coleambally decision.

Further refinement to the consolidation regime is also contained in this bill. The amendment ensures the method for calculating the rate at which the head company of a consolidated group can recoup a joining entity’s losses, operates as intended. It allows consolidated groups to round the available fraction for a bundle of losses to the first non-zero digit, if rounding to three decimal places would result in an available fraction of nil. The amendment improves the consolidation regime by ensuring that the available fraction rounding rules do not prevent consolidated groups from being able to deduct losses held by a joining entity at the joining time.

Also, this bill amends the lists of deductible gift recipients in the Income Tax Assessment Act 1997. Deductible gift recipient status will assist the listed organisations to attract public support for their activities.

Finally, amendments are made to the medical expenses offset to ensure that solely cosmetic procedures are no longer eligible expenses for the purposes of this offset. Specifically, solely cosmetic procedures are excluded from the medical expenses offset under two broad categories: general medical expenses and general dental expenses.

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

I commend this bill and present the explanatory memorandum.

 Debate (on motion by Mr Gavan O’Connor) adjourned.

WORKPLACE RELATIONS AMENDMENT (WORK CHOICES) BILL 2005

Consideration of Senate Message

Consideration resumed from 5 December.

Senate’s amendments—

1. Clause 2, page 2 (after table item 2), insert:

2A. Schedule 1A The day on which this Act receives the Royal Assent.

2. Clause 2, page 2 (cell at table item 4, 2nd column), omit the cell, substitute:

The day on which this Act receives the Royal Assent.

3. Clause 2, page 2 (after table item 4), insert:

4A. Schedule 3A The day on which this Act receives the Royal Assent.

4. Clause 3, page 3 (lines 4 to 8), omit the clause, substitute:

3 Schedule(s)

1. Each Act, and each set of regulations, that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

2. The amendment of any regulation under subsection (1) does not prevent the regulation, as so amended, from being amended or repealed by the Governor-General.

3. Schedule 1, item 1, page 4 (lines 20 and 21), omit “providing a foundation of key minimum standards for agreement-making while ensuring that”, substitute “ensuring that, as far as possible.”.

4. Schedule 1, item 2, page 7 (line 24), omit “activities”, substitute “an activity”.

5. Schedule 1, item 2, page 7 (line 24), omit “activities”, substitute “an activity”.

6. Schedule 1, item 2, page 18 (line 18), omit “Part XA”, substitute “Parts VI and XA, and in regulations made for the purposes of section 101D”.

CHAMBER
(8) Schedule 1, item 6, page 22 (after line 10), after section 7, insert:

7AAA Exclusion of persons insufficiently connected with Australia

(1) A provision of this Act prescribed by the regulations does not apply to a person or entity in Australia prescribed by the regulations as a person to whom, or an entity to which, the provision does not apply.

Note 1: In this context, Australia includes the Territory of Christmas Island, the Territory of Cocos (Keeling) Islands and the coastal sea. See section 15B and paragraph 17(a) of the Acts Interpretation Act 1901.

Note 2: The regulations may prescribe the person or entity by reference to a class. See subsection 13(3) of the Legislative Instruments Act 2003.

(2) Before the Governor-General makes regulations for the purposes of subsection (1) prescribing either or both of the following:

(a) a provision of this Act that is not to apply to a person or entity;
(b) a person to whom, or an entity to which, a provision of this Act is not to apply;
the Minister must be satisfied that the provision should not apply to the person or entity in Australia because there is not a sufficient connection between the person or entity and Australia.

(3) In this section:

this Act includes the Registration and Accountability of Organisations Schedule and regulations made under it.

(9) Schedule 1, item 6, page 22 (after table item 4), insert:

4A Division 1A Public holidays Section of Part VIA 170A M

(10) Schedule 1, item 6, page 23 (after line 8), at the end of subsection 7AA(1), add:

Note 3: Part VC (Industrial action) and related provisions of this Act may extend in relation to Australia’s exclusive economic zone, and in relation to Australia’s continental shelf, as prescribed by the regulations. See section 106C.

(11) Schedule 1, item 8, page 24 (line 7), omit “86.”, substitute “86;”.

(12) Schedule 1, item 8, page 24 (after line 7), at the end of subsection 7B(2), add:

(d) section 106C.

(13) Schedule 1, item 8, page 24 (line 7), omit “section 86”, substitute “sections 86 and 106C”.

(14) Schedule 1, item 9, page 24 (lines 29 and 30), omit “for a purpose other than a purpose connected with occupational health and safety”.

(15) Schedule 1, item 9, page 25 (line 11), at the end of paragraph 7C(3)(c), add “(including entry of a representative of a trade union to premises for a purpose connected with occupational health and safety)”.

(16) Schedule 1, item 9, page 25 (after line 11), after paragraph 7C(3)(c), insert:

(ca) matters relating to outworkers (including entry of a representative of a trade union to premises for a purpose connected with outworkers);

(17) Schedule 1, item 9, page 25 (lines 19 and 20), omit paragraph 7C(3)(j).

(18) Schedule 1, item 9, page 25 (line 32), after “with”, insert “such entry for a purpose connected with”.

(19) Schedule 1, item 9, page 26 (after line 4), after subsection 7C(4), insert:

(4A) To avoid doubt, subsection (4) has effect even if the law is covered by subsection (2) (so that subsection (1) does not apply to the law). This subsection does not limit subsection (4).
(20) Schedule 1, item 9, page 26 (line 16), after “matter”, insert “, except a law that is prescribed by the regulations as a law to which awards and workplace agreements are not subject”.

(21) Schedule 1, item 9, page 26 (line 19), omit paragraph 7D(2)(c), substitute:

(c) training arrangements;

(22) Schedule 1, item 10, page 27 (line 6) to page 41 (line 28), omit the item.

(23) Schedule 1, item 15, page 43 (line 27), at the end of subsection 42(3C), add:

; (d) if the party applies to be represented by an agent—whether the agent is a person or body, or an officer or employee of a person or body, that is able to represent the interests of the party under a State or Territory industrial relations law.

(24) Schedule 1, item 20, page 45 (line 5), omit “without discrimination based on sex”.

(25) Schedule 1, item 43, page 57 (line 17), after “small business)”, insert “and organisations”.

(26) Schedule 1, item 43, page 57 (lines 19 and 20), omit “and employers”, substitute “, employers and organisations”.

(27) Schedule 1, item 43, page 57 (line 26), omit “and employers”, substitute “, employers and organisations”.

(28) Schedule 1, item 43, page 58 (lines 22 and 23), omit “on the grounds of”, substitute “because of, or for reasons including, ”.

(29) Schedule 1, item 71, page 64 (line 28), omit “and VI”, substitute “, VI and VIAAA”.

(30) Schedule 1, item 71, page 65 (after line 23), after subsection 89A(2), insert:

(2A) A dispute about:

(a) whether the Australian Fair Pay and Conditions Standard provides a more favourable outcome for an employee in a particular respect than a workplace agreement that operates in relation to that employee; or

(b) what the outcome is for an employee in a particular respect under

the Australian Fair Pay and Conditions Standard, where a workplace agreement operates in relation to that employee; is to be resolved using the dispute settlement procedure included (or taken to be included) in the agreement.

(31) Schedule 1, item 71, page 65 (line 26), omit “(2)”, substitute “(2) or (2A)”.

(32) Schedule 1, item 71, page 66 (lines 14 to 30), omit section 89C.

(33) Schedule 1, item 71, page 70 (after line 29), after the definition of FMW for an employee in section 90B, insert:

frequency of payment provisions means:

(a) for a pre-reform wage instrument—provisions (whether of that instrument or of another instrument or law), as in force on the reform comparison day, that would have determined the frequency with which an employee covered by the instrument had to be paid; or

(b) for an APCS, a workplace agreement or a contract of employment—provisions of the APCS, workplace agreement or contract that determine the frequency with which an employee covered by the APCS, workplace agreement or contract must be paid.

Note: For a preserved APCS, the frequency of payment provisions will (at least initially) be the frequency of payment provisions (if any) for the pre-reform wage instrument from which the APCS is derived (see paragraph 90ZD(1)(ea)).

(34) Schedule 1, item 71, page 75 (line 16), omit “hour worked (pro-rated for parts of hours worked)”, substitute “of the employee’s guaranteed hours (pro-rated for part hours)”.

(35) Schedule 1, item 71, page 75 (lines 20 and 21), omit the note, substitute:
Note: For what are the employee’s guaranteed hours, see section 90G.

(36) Schedule 1, item 71, page 76 (line 5), omit “hour worked (pro-rated for parts of hours worked)”, substitute “of the employee’s guaranteed hours (pro-rated for part hours)”.

(37) Schedule 1, item 71, page 76 (lines 8 and 9), omit the note, substitute:
Note: For what are the employee’s guaranteed hours, see section 90G.

(38) Schedule 1, item 71, page 76 (line 19), omit “hour worked (pro-rated for parts of hours worked)”, substitute “of the employee’s guaranteed hours (pro-rated for part hours)”.

(39) Schedule 1, item 71, page 76 (lines 22 and 23), omit the note, substitute:
Note: For what are the employee’s guaranteed hours, see section 90G.

(40) Schedule 1, item 71, page 76 (line 24) to page 77 (line 26), omit section 90G, substitute:

90G An employee’s guaranteed hours for the purpose of section 90F

Employees employed to work a specified number of hours

(1) For the purposes of section 90F, if an employee is employed to work a specified number of hours per week, the guaranteed hours for the employee, for each week, are to be worked out as follows:

(a) start with that specified number of hours (subject to subsection (4));
(b) deduct all of the following:
   (i) any hours in the week when the employee is absent from work on deductible authorised leave (as defined in subsection (6));
   (ii) any hours in the week in relation to which the employer is prohibited by section 114 from making a payment to the employee;
   (iii) any other hours of unauthorised absence from work by the employee in the week;
   (c) if, during the week, the employee works, and is required or requested to work, additional hours that are, under the terms and conditions of the employee’s employment, not counted towards the specified number of hours—add on those additional hours.

Note: The actual hours worked from week to week by an employee who is employed to work a specified number of hours per week may vary, due to averaging as mentioned in section 91C or to some other kind of flexible working hours scheme that applies to the employee’s employment.

(2) If an employee is employed on a full-time basis, but the terms and conditions of the employee’s employment do not determine the number of hours in a period that is to constitute employment on a full-time basis for the employee, the employee is, for the purpose of subsection (1), taken to be employed to work 38 hours per week.

(3) If an employee is employed to work a specified number (the number of non-week specified hours) of hours per period (the non-week period), but that period is not a week (for example, it is a fortnight), then, for the purpose of subsection (1), the employee is taken to be employed to work the number of hours per week determined, subject to the regulations (if any), in accordance with the formula:

\[
\text{Number of non-week specified hours} \times \frac{7}{\text{Number of days in non-week period}}
\]
(4) If:
   (a) subsection (1) applies to the employment of an employee to whom a training arrangement applies; and
   (b) an APCS includes provisions that determine, in relation to the employee’s employment, that hours attending off-the-job training (including hours attending an educational institution) are hours for which a basic periodic rate of pay is payable; and
   (c) the hours that would otherwise be the specified number of hours referred to in subsection (1) for the employee for a week do not include all the hours (the paid training hours) in the week that the APCS so determines are hours for which a basic periodic rate of pay is payable;
subsection (1) applies as if the specified number of hours were increased to such number of hours as includes all the paid training hours.

Employees not employed to work a specified number of hours

(5) For the purpose of section 90F, if subsection (1) of this section does not apply to the employment of an employee, the guaranteed hours for the employee are the hours that the employee both is required or requested to work, and does work, for the employer, less any period in relation to which the employer is prohibited by section 114 from making a payment to the employee.

Definitions

(6) In this section:
deductible authorised leave means leave, or an absence, whether paid or unpaid, that is authorised:
   (a) by an employee’s employer; or
   (b) by or under a term or condition of an employee’s employment; or
   (c) by or under a law, or an instrument in force under a law, of the Commonwealth, a State or a Territory;
but not including any leave or absence:
   (d) that is on a public holiday and that is so authorised because the day is a public holiday; or
   (e) any leave or absence that is authorised in order for the employee to attend paid training hours (within the meaning of paragraph (4)(c)) of off-the-job training.

hour includes a part of an hour.

Note: An employee’s guaranteed hours may therefore be a number of hours and part of an hour.

public holiday means:
   (a) a day declared by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of that State or Territory, as a public holiday by people who work in that State, Territory or region, other than:
   (i) a union picnic day; or
   (ii) a day, or kind of day, that is excluded by regulations made for the purposes of this paragraph from counting as a public holiday; or
   (b) a day that, under (or in accordance with a procedure under) a law of a State or Territory, or an award or workplace agreement, is substituted for a day referred to in paragraph (a).

(41) Schedule 1, item 71, page 77 (after line 26), at the end of Subdivision B, add:

90GA Modified operation of section 90F to continue effect of Supported Wage System for certain employees with a disability

(1) This section applies to the employment of an employee with a disability if:
   (a) subsection 90F(1) applies (disregarding this section) to the employment of the employee; and
(b) the APCS that covers the employee’s employment does not determine the basic periodic rate of pay for the employee as a rate that is specific to employees with disabilities; and
(c) the employee is eligible for the Supported Wage System; and
(d) the employee’s employment is covered by a workplace agreement; and
(e) the workplace agreement provides for the payment of a basic periodic rate of pay to the employee at a rate that is not less than the rate (the SWS-compliant rate of pay) set in accordance with the Supported Wage System.

Note: The Supported Wage System was endorsed by the Commission in the Full Bench decision dated 10 October 1994 (print L5723).

(2) If this section applies to the employment of the employee, subsection 90F(1) has effect as if the guaranteed basic periodic rate of pay under that subsection for the employment of the employee were instead a rate equal to the SWS-compliant rate of pay.

(42) Schedule 1, item 71, page 78 (lines 4 and 5), omit “collective agreement or an AWA”, substitute “workplace agreement”.

(43) Schedule 1, item 71, page 78 (lines 12 to 27), omit subsection 90H(3), substitute:

(3) The guaranteed casual loading percentage is as set out in the following table:

<table>
<thead>
<tr>
<th>Item</th>
<th>In this situation …</th>
<th>the guaranteed casual loading percentage is …</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>if:</td>
<td>the percentage that is the casual loading payable to the employee under casual loading provisions of the APCS referred to in subsection 90F(1).</td>
</tr>
<tr>
<td></td>
<td>(a) subsection 90F(1) applies to the employment of the employee; and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) the employee’s employment is not covered by a workplace agreement; and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(c) subsection 103R(1) is not operating in relation to the employee’s employment;</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>if:</td>
<td>the higher of:</td>
</tr>
<tr>
<td></td>
<td>(a) subsection 90F(1) applies to the employment of the employee; and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) the employee’s employment is not covered by a workplace agreement; and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(c) subsection 103R(1) is operating in relation to the employee’s employment;</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>if:</td>
<td>the default casual loading percentage.</td>
</tr>
<tr>
<td></td>
<td>(a) subsection 90F(1) applies to the employment of the employee; and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) the employee’s employment is covered by a workplace agreement;</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>if subsection 90F(3) or (4) applies to the employment of the employee</td>
<td>the default casual loading percentage.</td>
</tr>
</tbody>
</table>
Schedule 1, item 71, page 79 (after line 10), after Subdivision C, insert:

**Subdivision CA—Guarantee of frequency of payment**

90KA The guarantee

APCS applies and contains frequency of payment provisions

(1) If:

(a) the employment of an employee is covered by an APCS; and

(b) the APCS contains frequency of payment provisions that apply in relation to the employee’s employment;

the employer must comply with those provisions in relation to the employee.

APCS applies but does not contain frequency of payment provisions

(2) If:

(a) the employment of an employee is covered by an APCS; but

(b) the APCS does not contain frequency of payment provisions that apply in relation to the employee’s employment;

then:

(c) if a workplace agreement that covers the employment of the employee contains frequency of payment provisions that apply in relation to the employee’s employment—the employer must comply with those provisions in relation to the employee; or

(d) if paragraph (c) does not apply, and the employee’s contract of employment contains frequency of payment provisions that apply in relation to the employee’s employment—the employer must comply with those provisions in relation to the employee; or

(e) if neither paragraph (c) nor (d) applies—the employer must pay the employee on the basis of fortnightly payments in arrears.

Other situations

(3) If the employment of an employee is not covered by an APCS, then:

(a) if a workplace agreement that covers the employment of the employee contains frequency of payment provisions that apply in relation to the employee’s employment—the employer must comply with those provisions in relation to the employee; or

(b) if paragraph (a) does not apply, and the employee’s contract of employment contains frequency of payment provisions that apply in relation to the employee’s employment—the employer must comply with those provisions in relation to the employee; or

(c) if neither paragraph (a) nor (b) applies—the employer must pay the employee on the basis of fortnightly payments in arrears.

(45) Schedule 1, item 71, page 82 (lines 6 and 7), omit “subsection 90H(3)”, substitute “item 3 of the table in subsection 90H(3)”.

(46) Schedule 1, item 71, page 86 (line 32), omit “count as”, substitute “are”.

(47) Schedule 1, item 71, page 86 (after line 33), after paragraph 90X(2)(c), insert:

(ca) frequency of payment provisions; and

(48) Schedule 1, item 71, page 87 (line 1), omit “Rate provisions”, substitute “Subject to subsection 90ZD(3A), rate provisions”.

(49) Schedule 1, item 71, page 91 (after line 15), after paragraph 90ZD(1)(e), insert:

(ea) any frequency of payment provisions for the instrument; and

(50) Schedule 1, item 71, page 91 (line 19), after “Subject to”, insert “subsection (3A) and”.

(51) Schedule 1, item 71, page 91 (after line 25), after subsection 90ZD(3), insert:
(3A) If:

(a) the rate provisions referred to in paragraph (1)(a) include pay increases for particular employees, determined before the reform commencement, that are expressed to take effect at a time or times after the reform commencement; and

(b) those increases were determined by the Commission, or by a State industrial authority, wholly or partly on the ground of work value change or pay equity;

then (despite subsection 90X(3)), the preserved APCS is taken to include provisions under which those increases will take effect for those employees at that time or those times.

(52) Schedule 1, item 71, page 97 (line 3), at the end of subsection 90ZN(2), add “, except to the extent that the AFPC is satisfied it is not appropriate to do so because of the effect of subsection 90ZD(3A)”. 

(53) Schedule 1, item 71, page 100 (line 4), omit “on the grounds of”, substitute “because of, or for reasons including,”.

(54) Schedule 1, item 71, page 101 (line 18), after “required”, insert “or requested”.

(55) Schedule 1, item 71, page 101 (lines 20 and 21), omit paragraph 91C(1)(a), substitute:

(a) either:

(i) 38 hours per week; or

(ii) subject to subsection (3), if the employee and the employer agree in writing that the employee’s hours of work are to be averaged over a specified averaging period that is no longer than 12 months—an average of 38 hours per week over that averaging period; and

(56) Schedule 1, item 71, page 101 (line 23), after “work”, insert “less than 38 hours per week, or”.

(57) Schedule 1, item 71, page 101 (line 25), omit “applicable”.

(58) Schedule 1, item 71, page 101 (line 26), omit “The requirement”, substitute “A requirement”.

(59) Schedule 1, item 71, page 101 (line 29) to page 102 (line 23), omit subsections 91C(2) to (4), substitute:

Calculating the number of hours worked

(2) For the purposes of paragraph (1)(a), in calculating the number of hours that an employee has worked in a particular week, or the average number of hours that an employee has worked per week over an averaging period, the hours worked by the employee are taken to include any hours of authorised leave taken by the employee during the week, or during that period.

Start of averaging period

(3) For the purpose of subparagraph (1)(a)(ii), if an employee starts to work for an employer after the start of a particular averaging period that applies to the employee, that averaging period is taken, in relation to the employee, not to include the period before the employee started to work for the employer.

(60) Schedule 1, item 71, page 102 (line 26), after “required”, insert “or requested”.

(61) Schedule 1, item 71, page 102 (line 36), after “required”, insert “or requested”.

(62) Schedule 1, item 71, page 103 (line 1), after “requirement”, insert “or request”.

(63) Schedule 1, item 71, page 103 (line 4), omit “hours.”, substitute “hours”.

(64) Schedule 1, item 71, page 103 (after line 4), at the end of subsection 91C(5), add:

(f) whether any of the additional hours are on a public holiday;

(g) the employee’s hours of work over the 4 weeks ending immediately before the employee is required or requested to work the additional hours.
Note: An employee and an employer may agree that the employee may take breaks during any additional hours worked by the employee.

(65) Schedule 1, item 71, page 103 (after line 4), at the end of section 91C, add:

Definition

(6) In this section:

public holiday means:

(a) a day declared by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of that State or Territory, as a public holiday by people who work in that State, Territory or region, other than:

(i) a union picnic day; or

(ii) a day, or kind of day, that is excluded by regulations made for the purposes of this paragraph from counting as a public holiday; or

(b) a day that, under (or in accordance with a procedure under) a law of a State or Territory, or an award or workplace agreement, is substituted for a day referred to in paragraph (a).

(66) Schedule 1, item 71, page 103 (line 29) to page 104 (line 22), omit the definition of nominal hours worked in section 92A, substitute:

nominal hours worked has the meaning given by section 92AA.

Note: See also section 92C.

(67) Schedule 1, item 71, page 104 (lines 25 to 32), omit the definition of public holiday in section 92A, substitute:

public holiday means:

(a) a day declared by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of that State or Territory, as a public holiday by people who work in that State, Territory or region, other than:

(i) a union picnic day; or

(ii) a day, or kind of day, that is excluded by regulations made for the purposes of this paragraph from counting as a public holiday; or

(b) a day that, under (or in accordance with a procedure under) a law of a State or Territory, or an award or workplace agreement, is substituted for a day referred to in paragraph (a).

(68) Schedule 1, item 71, page 104 (line 39), omit “a Sunday or public holiday”, substitute “Sundays and public holidays”.

(69) Schedule 1, item 71, page 105 (after line 2), after section 92A, insert:

92AA Meaning of nominal hours worked

Employees employed to work a specified number of hours

(1) For the purposes of this Division, if an employee is employed by an employer to work a specified number of hours per week, the number of nominal hours worked, by the employee for the employer during a week, is to be worked out as follows:

(a) start with that specified number of hours;

(b) deduct all of the following:

(i) the number of hours (if any) in the week when the employee is absent from his or her work for the employer on leave which does not count as service;

(ii) the number of hours (if any) in the week (other than hours mentioned in subparagraph (i)) in relation to which the employer is prohibited by section 114 from making a payment to the employee.

Note: The actual hours worked from week to week by an employee
who is employed to work a specified number of hours per week may vary, due to averaging as mentioned in section 91C or to some other kind of flexible working hours scheme that applies to the employee’s employment.

(2) If an employee is employed on a full-time basis, but the terms and conditions of the employee’s employment do not determine the number of hours in a week that is to constitute employment on a full-time basis for the employee, the employee is, for the purpose of subsection (1), taken to be employed to work 38 hours per week.

(3) If an employee is employed to work a specified number (the number of non-week specified hours) of hours over a period (the non-week period) that is not a week (for example, a fortnight), then, for the purpose of subsection (1), the employee is taken to be employed to work the number of hours per week determined, subject to the regulations (if any), in accordance with the formula:

\[
\text{Number of non-week specified hours} \times \frac{7}{\text{Number of days in non-week period}}
\]

Employees not employed to work a specified number of hours

(4) For the purposes of this Division, if subsection (1) does not apply to the employment of an employee by an employer, the number of nominal hours worked, by the employee for the employer during a week, is the lesser of the following:

(a) the number worked out as follows:

(i) start with the number of hours (if any) in the week that the employee both works, and is required or requested to work, for the employer;

(ii) add the number of hours (if any) in the week when the employee is absent from his or her work for the employer on leave that counts as service;

(iii) deduct the number of hours (if any) in the week in relation to which the employer is prohibited by section 114 from making a payment to the employee;

(b) the number of nominal hours the employee would be taken to have worked for the employer under subsection (1) during the week if the employee were employed to work 38 hours per week.

Definition

(5) In this section:

- hour includes a part of an hour.

Note 1: The regulations may prescribe a different definition of nominal hours worked for piece rate employees (see section 92C).

Note 2: An employee’s hours of work may be varied (by number or time) in accordance with a workplace agreement, award or contract of employment that binds the employee and his or her employer.

Note 3: For whether leave guaranteed under this Part counts as service, see subsections 92I(2) (annual leave), 93T(2) (paid personal leave), 93U(2) (unpaid carer’s leave) and 94ZZB(2) (parental leave).

Note 4: Because of the definition of hour in subsection (5), an employee’s nominal hours worked may be a number of hours and part of an hour.

(70) Schedule 1, item 71, page 106 (after line 30), at the end of subsection 92E(1), add:

Note: If, under this section, an employee forgoes an entitlement to take an amount of annual leave, the employee’s employer may deduct that amount from the...
amount of accrued annual leave credited to the employee.

(71) Schedule 1, item 71, page 107 (after line 4), at the end of section 92E, add:

(4) If, under this section, an employee forgoes an entitlement to take an amount of annual leave, the employer must, within a reasonable period, give the employee the amount of pay that the employee is entitled to receive in lieu of the amount of annual leave.

(72) Schedule 1, item 71, page 109 (after line 9), at the end of Subdivision C, add:

**92HA Annual leave and workers’ compensation**

This Division does not apply to the extent that it is inconsistent with a provision of a law of the Commonwealth, a State or a Territory relating to workers’ compensation if the provision would (apart from this Division):

(a) prevent an employee from taking or accruing annual leave during a period while the employee is receiving compensation under such a law; or

(b) restrict the amount of annual leave an employee may take or accrue during such a period.

(73) Schedule 1, item 71, page 110 (lines 27 and 28), omit “medical practitioner”, substitute “registered health practitioner”.

(74) Schedule 1, item 71, page 110 (lines 29 to 31), omit the definition of medical practitioner in section 93A.

(75) Schedule 1, item 71, page 110 (line 32) to page 111 (line 22), omit the definition of nominal hours worked in section 93A, substitute:

**nominal hours worked** has the meaning given by section 93AA.

Note: See also section 93C.

(76) Schedule 1, item 71, page 111 (after line 27), after the definition of piece rate employee in section 93A, insert:

registered health practitioner means a health practitioner registered, or li-
in a week that is to constitute employment on a full-time basis for the employee, the employee is, for the purpose of subsection (1), taken to be employed to work 38 hours per week.

(3) If an employee is employed to work a specified number (the number of non-week specified hours) of hours over a period (the non-week period) that is not a week (for example, a fortnight), then, for the purpose of subsection (1), the employee is taken to be employed to work the number of hours per week determined, subject to the regulations (if any), in accordance with the formula:

\[
\text{Number of non-week specified hours} \times \frac{7}{\text{Number of days in non-week period}}
\]

Employees not employed to work a specified number of hours

(4) For the purposes of this Division, if subsection (1) does not apply to the employment of an employee by an employer, the number of nominal hours worked, by the employee for the employer during a week, is the lesser of the following:

(a) the number worked out as follows:

(i) start with the number of hours (if any) in the week that the employee both works, and is required or requested to work, for the employer;

(ii) add the number of hours (if any) in the week when the employee is absent from his or her work for the employer on leave that counts as service;

(iii) deduct the number of hours (if any) in the week in relation to which the employer is prohibited by section 114 from making a payment to the employee;

(b) the number of nominal hours the employee would be taken to have worked for the employer under subsection (1) during the week if the employee were employed to work 38 hours per week.

Definition

(5) In this section:

hour includes a part of an hour.

Note 1: The regulations may prescribe a different definition of nominal hours worked for piece rate employees (see section 93C).

Note 2: An employee’s hours of work may be varied (by number or time) in accordance with a workplace agreement, award or contract of employment that binds the employee and his or her employer.

Note 3: For whether leave guaranteed under this Part counts as service, see subsections 92I(2) (annual leave), 93T(2) (paid personal leave), 93U(2) (unpaid carer’s leave) and 94ZZB(2) (parental leave).

Note 4: Because of the definition of hour in subsection (5), an employee’s nominal hours worked may be a number of hours and part of an hour.

(78) Schedule 1, item 71, page 113 (line 35), omit “2 weeks”, substitute “10 days”.

(79) Schedule 1, item 71, page 114 (lines 15 and 16), omit the heading to section 93H, substitute:

93H Paid personal/carer’s leave—workers’ compensation

(80) Schedule 1, item 71, page 114 (line 17), before “An employee”, insert “(1)”.

(81) Schedule 1, item 71, page 114 (after line 21), at the end of section 93H, add:

(2) Subject to subsection (1), this Division does not apply to the extent that it is inconsistent with a provision of a law of the Commonwealth, a State or a Territory relating to workers’ compensation if the provision would (apart from this Division):
(a) prevent an employee from taking or accruing paid personal/carer’s leave during a period while the employee is receiving compensation under such a law; or

(b) restrict the amount of paid personal/carer’s leave an employee may take or accrue during such a period.

(82) Schedule 1, item 71, page 115 (line 8), omit “2 weeks”, substitute “10 days”.

(83) Schedule 1, item 71, page 117 (lines 8 to 25), omit section 93N, substitute:

93N Sick leave—documentary evidence

(1) This section applies if an employer requires an employee of the employer to give the employer documentary evidence in relation to a period of sick leave taken (or to be taken) by the employee.

(2) To be entitled to sick leave during the period, the employee must, in accordance with this section, give the employer a document (the required document) of whichever of the following types applies:

(a) if it is reasonably practicable to do so—a medical certificate from a registered health practitioner;

(b) if it is not reasonably practicable for the employee to give the employer a medical certificate—a statutory declaration made by the employee.

(3) The required document must be given to the employer as soon as reasonably practicable (which may be at a time before or after the sick leave has started).

(4) The required document must include a statement to the effect that:

(a) if the required document is a medical certificate—in the registered health practitioner’s opinion, the employee was, is, or will be unfit for work during the period because of a personal illness or injury; or

(b) if the required document is a statutory declaration—the employee was, is, or will be unfit for work during the period because of a personal illness or injury.

(5) This section does not apply to an employee who could not comply with it because of circumstances beyond the employee’s control.

Note: The use of personal information given to an employer under this section may be regulated under the Privacy Act 1988.

(84) Schedule 1, item 71, page 118 (line 10) to page 119 (line 11), omit section 93P, substitute:

93P Carer’s leave—documentary evidence

(1) This section applies if an employer requires an employee of the employer to give the employer documentary evidence in relation to a period of carer’s leave taken (or to be taken) by the employee to provide care or support to a member of the employee’s immediate family or a member of the employee’s household.

(2) To be entitled to carer’s leave during the period, the employee must, in accordance with this section, give the employer a document (the relevant document) that is:

(a) if the care or support is required because of a personal illness, or injury, of the member—a medical certificate from a registered health practitioner, or a statutory declaration made by the employee; or

(b) if the care or support is required because of an unexpected emergency affecting the member—a statutory declaration made by the employee.

(3) The relevant document must be given to the employer as soon as reasonably practicable (which may be at a time before or after the carer’s leave has started).
(4) If the relevant document is a medical certificate, it must include a statement to the effect that, in the opinion of the registered health practitioner, the member had, has, or will have a personal illness or injury during the period.

(5) If the relevant document is a statutory declaration, it must include a statement to the effect that the employee requires (or required) leave during the period to provide care or support to the member because the member requires (or required) care or support during the period because of:

(a) a personal illness, or injury, of the member; or

(b) an unexpected emergency affecting the member.

(6) This section does not apply to an employee who could not comply with it because of circumstances beyond the employee's control.

Note: The use of personal information given to an employer under this section may be regulated under the Privacy Act 1988.

(85) Schedule 1, item 71, page 119 (lines 23 to 33), omit subsection 93Q(2) (not including the note), substitute:

(2) Subject to this Subdivision, an employee is entitled to a period of 2 days of compassionate leave for each occasion (a permissible occasion) when a member of the employee's immediate family or a member of the employee's household:

(a) contracts or develops a personal illness that poses a serious threat to his or her life; or

(b) sustains a personal injury that poses a serious threat to his or her life; or

(c) dies.

(3) However, the employee is entitled to compassionate leave only if the employee gives his or her employer any evidence that the employer reasonably requires of the illness, injury or death.

(86) Schedule 1, item 71, page 120 (line 2), before "An employee", insert "(1)".

(87) Schedule 1, item 71, page 120 (line 3), after "93Q", insert "for a particular permissible occasion".

(88) Schedule 1, item 71, page 120 (after line 7), at the end of section 93R, add:

(2) An employee who is entitled to a period of compassionate leave under section 93Q because a member of the employee's immediate family or a member of the employee's household has contracted or developed a personal illness, or sustained a personal injury, is entitled to start to take the compassionate leave at any time while the illness or injury persists.

(89) Schedule 1, item 71, page 129 (line 8), omit "(or was)", substitute "was, or will be".

(90) Schedule 1, item 71, page 129 (line 25), omit "(or was)", substitute "was, or will be".

(91) Schedule 1, item 71, page 160 (after line 3), at the end of Part VA, add:

Division 7—Civil remedies

94ZZC Definition

In this Division:

Court means the Federal Court of Australia or the Federal Magistrates Court.

94ZZD Civil remedies

(1) An employer must not contravene a term of the Australian Fair Pay and Conditions Standard contained in Division 3, 4, 5 or 6 of this Part in relation to an employee of the employer to whom that term applies.

(2) Subsection (1) is a civil remedy provision.

(3) The reference in subsection (1) to Division 6 of this Part includes a reference to that Division as it applies because of section 170KB.

94ZZE Standing for civil remedies

(1) Any of the following persons may apply to the Court for an order under this
Division in relation to a contravention referred to in subsection 94ZZD(1):
(a) the employee concerned;
(b) an organisation of employees (subject to subsection (2));
(c) a workplace inspector.

(2) An organisation of employees must not apply on behalf of an employee for a remedy under this Division in relation to a contravention unless:
(a) a member of the organisation is employed by the respondent employer; and
(b) the contravention relates to, or affects, the member of the organisation or work carried on by the member for the employer.

94ZZF Court orders
The Court may, on application by a person in accordance with section 94ZZE, make one or more of the following orders in relation to an employer who has contravened a relevant term of the Australian Fair Pay and Conditions Standard:
(a) an order requiring the employer to pay a specified amount to another person as compensation for damage suffered by the other person as a result of the contravention;
(b) any other orders (including injunctions) that the Court considers necessary to stop the contravention or rectify its effects.

(92) Schedule 1, item 71, page 160 (after line 12), after the definition of undertakings in section 95, insert:
verified copy, in relation to a document, means a copy that is certified as being a true copy of the document.

(93) Schedule 1, item 71, page 161 (lines 21 to 30), omit section 95C.

(94) Schedule 1, item 71, page 165 (line 23), omit the heading to section 97.

(95) Schedule 1, item 71, page 165 (lines 24 to 27), omit subsection 97(1).

(96) Schedule 1, item 71, page 165 (lines 28 and 29), omit subsection 97(2).

(97) Schedule 1, item 71, page 165 (line 30) to page 166 (line 3), omit subsection 97(3).

(98) Schedule 1, item 71, page 167 (line 19), omit “or section 97”.

(99) Schedule 1, item 71, page 168 (line 32), omit “sections 97 and 97A (which deal”, substitute “section 97A (which deals”.

(100) Schedule 1, item 71, page 168 (lines 35 and 36), omit “sections 97 and 97B (which deal”, substitute “section 97B (which deals”.

(101) Schedule 1, item 71, page 173 (line 27), after “Divisions 3 and 4”, insert “and section 99”.

(102) Schedule 1, item 71, page 176 (line 20), omit “a greenfields agreement”, substitute “an employer greenfields agreement”.

(103) Schedule 1, item 71, page 177 (line 3), omit “a greenfields agreement”, substitute “an employer greenfields agreement”.

(104) Schedule 1, item 71, page 178 (after line 3), after subsection 101B(2), insert:

(2A) Despite paragraph (2)(c), those protected award conditions have effect in relation to the employment of that person to the extent that those protected award conditions are about outworker conditions, despite any terms of the workplace agreement that provide, in a particular respect, a less favourable outcome for that person.

(105) Schedule 1, item 71, page 178 (after line 24), after paragraph (d) of the definition of protected allowable award matters in subsection 101B(3), insert:

(da) days to be substituted for, or a procedure for substituting, days referred to in paragraph (d);

(106) Schedule 1, item 71, page 179 (line 3), omit paragraph (a) of the definition of protected award conditions in subsection 101B(3), substitute:

(a) are:

(i) about protected allowable award matters; or
(ii) terms that are incidental to protected allowable award matters and that may be included in an award as permitted by section 116F; or

(iii) machinery provisions that are in respect of protected allowable award matters and that may be included in an award as permitted by section 116F; and

(107) Schedule 1, item 71, page 179 (line 5), omit subparagraph (b)(i) of the definition of protected award conditions in subsection 101B(3), substitute:

(i) matters that are not allowable award matters because of section 116B; or

(108) Schedule 1, item 71, page 179 (lines 25 to 30), omit paragraph 101C(3)(b), substitute:

(b) if the industrial instrument is a workplace agreement—the instrument is binding on the employer in relation to the agreement mentioned in subsection (1) just before that agreement is made.

(109) Schedule 1, item 71, page 185 (lines 23 and 24), omit paragraph 102A(e), substitute:

(e) for an employer greenfields agreement—the time when the variation is approved in accordance with section 102F.

(110) Schedule 1, item 71, page 186 (lines 29 and 30), omit “sections 97 and 97A (which deal)”, substitute “section 97A (which deals)”.  

(111) Schedule 1, item 71, page 186 (lines 33 and 34), omit “sections 97 and 97B (which deal)”, substitute “section 97B (which deals)”.

(112) Schedule 1, item 71, page 188 (line 11), at the end of the heading to section 102E, add “or union greenfields agreement”.

(113) Schedule 1, item 71, page 191 (line 27), omit “and Subdivision B of this Division”, substitute “and Subdivision B of this Division and section 102H”.

(114) Schedule 1, item 71, page 191 (after line 28), at the end of section 102M, add:

(3) A variation to a multiple-business agreement comes into operation only if the variation has been authorised under section 96F.

(115) Schedule 1, item 71, page 193 (lines 21 and 22), omit “sections 97 and 97A (which deal)”, substitute “section 97A (which deals)”.

(116) Schedule 1, item 71, page 194 (lines 1 and 2), omit “variation to union collective agreement”, substitute “termination of union collective agreement or union greenfields agreement”.

(117) Schedule 1, item 71, page 197 (line 23), after “lodgment,”, insert “and after the nominal expiry date of the agreement has passed,”.

(118) Schedule 1, item 71, page 198 (line 28), after “lodgment,”, insert “and after the nominal expiry date of the agreement has passed,”.

(119) Schedule 1, item 71, page 202 (line 7), omit “103(2)(a)”, substitute “103(1)(a)”.

(120) Schedule 1, item 71, page 202 (line 7), after “Subdivision B”, insert “and section 103G”.

(121) Schedule 1, item 71, page 202 (lines 9 and 10), omit “103(2)(b) or (c)”, substitute “103(1)(b)”.

(122) Schedule 1, item 71, page 202 (line 30), omit paragraph 103R(3)(b), substitute:

(b) an award, except to the extent to which it contains protected award conditions as defined in section 101B (disregarding any exclusion or modification of those conditions made by the agreement that was terminated).

(123) Schedule 1, item 71, page 203 (line 11), after “meaning of”, insert “section”.

(124) Schedule 1, item 71, page 203 (lines 25 to 28), omit subsection 104(6), substitute:

(6) To avoid doubt, a person does not apply duress for the purposes of subsection (5) merely because the person requires another person to make an AWA as a condition of engagement.
(125) Schedule 1, item 71, page 209 (after line 15), at the end of Part VB, add:

Division 12—Miscellaneous

105L AWAs with Commonwealth employees

(1) An Agency Head (within the meaning of the Public Service Act 1999) may act on behalf of the Commonwealth in relation to AWAs with persons in the Agency who are engaged under the Public Service Act 1999.

(2) A Secretary of a Department (within the meaning of the Parliamentary Service Act 1999) may act on behalf of the Commonwealth in relation to AWAs with persons in the Department who are engaged under the Parliamentary Service Act 1999.

105M Evidence—verified copies

(1) The Employment Advocate may issue a verified copy of any of the following:

(a) a declaration lodged under subsection 99B(2), 102J(2), 103H(2) or 103N(1) in relation to a workplace agreement;

(b) a document annexed to a declaration mentioned in paragraph (a);

(c) a receipt issued by the Employment Advocate under section 99C, 102K, 103I or 103O in relation to a workplace agreement;

(d) a written notice given by the Employment Advocate under subsection 101H(1) or paragraph 101K(4)(a) in relation to a workplace agreement;

(e) an authorisation granted by the Employment Advocate under section 96F for a workplace agreement that is a multiple-business agreement;

(f) a written advice in relation to a workplace agreement given by the Employment Advocate to an employer for the purposes of paragraph 101E(2)(a).

Note: For the definition of verified copy, see section 95.

(2) The verified copy may only be issued to a person who is or was bound by the workplace agreement to which the verified copy relates.

(3) In the Court and in proceedings in the Court, a verified copy issued by the Employment Advocate under subsection (1) is prima facie evidence of the document of which it is a verified copy.

(4) A document that purports to be a verified copy issued by the Employment Advocate under subsection (1) is taken to be such a copy, unless evidence to the contrary is adduced.

105N Evidence—certificates

(1) The Employment Advocate may issue a certificate stating any one or more of the following in relation to one or more workplace agreements:

(a) that a particular person lodged a particular declaration under subsection 99B(2), 102J(2), 103H(2) or 103N(1) with the Employment Advocate on a particular day;

(b) if the certificate states that a declaration was lodged with the Employment Advocate as mentioned in paragraph (a)—that a particular document was annexed to the declaration;

(c) that particular declarations lodged with the Employment Advocate as mentioned in paragraph (a) in relation to a particular workplace agreement are the only such declarations that were so lodged in relation to that workplace agreement before a particular day;

(d) if the certificate states that particular documents were annexed to declarations lodged with the Employment Advocate as mentioned in paragraph (b)—that those documents were the only documents annexed to those declarations;
(e) that the Employment Advocate issued a receipt under section 99C, 102K, 103I or 103O to a particular person on a particular day for such a lodgment;

(f) if the certificate states that particular receipts were issued by the Employment Advocate as mentioned in paragraph (e) in relation to a particular workplace agreement—that those receipts were the only receipts so issued in relation to the workplace agreement before a particular day;

(g) that the Employment Advocate gave a particular advice for the purposes of paragraph 101E(2)(a) to a particular person on a particular day;

(h) if the certificate states that particular advices were given by the Employment Advocate as mentioned in paragraph (g) in relation to a particular workplace agreement—that those advices were the only advices so given in relation to the workplace agreement before a particular day;

(i) that the Employment Advocate granted an authorisation under section 96F on a particular day for a particular employer to make or vary a particular multiple-business agreement;

(j) if the certificate states that particular authorisations were granted by the Employment Advocate as mentioned in paragraph (i) in relation to a particular multiple-business agreement—that those authorisations were the only authorisations so granted in relation to the multiple-business agreement before a particular day;

(k) that the Employment Advocate gave a particular notice under subsection 101H(1) or paragraph 101K(4)(a) on a particular day to a particular employer;

(l) if the certificate states that particular notices were given by the Employment Advocate as mentioned in paragraph (k) in relation to a particular workplace agreement—that those notices were the only notices so given in relation to that workplace agreement before a particular day.

(2) The certificate may only be issued to a person who is or was bound by the workplace agreement or all of the workplace agreements to which the certificate relates.

(3) In the Court and in proceedings in the Court, a certificate issued by the Employment Advocate under subsection (1) is prima facie evidence of the matters stated in the certificate.

(4) A document that purports to be a certificate issued by the Employment Advocate under subsection (1) is taken to be such a certificate, unless evidence to the contrary is adduced.

105O Regulations relating to workplace agreements

The regulations may make provision in relation to the following matters:

(a) requiring an employer who is bound by a workplace agreement to supply copies of prescribed documents to the employee or employees bound by the workplace agreement;

(b) the qualifications and appointment of bargaining agents;

(c) the required form of workplace agreements (including a requirement that documents be in the English language);

(d) the witnessing of signatures on AWAs;

(e) the signing of workplace agreements by persons bound by those agreements, or representatives of those persons;
(f) the retention by employers of signed workplace agreements (including the manner and period of retention);

(g) prescribing fees for the issue by the Employment Advocate of certificates and verified copies.

Note: See section 359 for the types of sanctions that the regulations may provide for a breach of the regulations.

(126) Schedule 1, item 71, page 211 (line 25), at the end of subsection 106A(3), add “(except to the extent that this would be an expansion of the ordinary meaning of that expression)”.

(127) Schedule 1, item 71, page 211 (after line 5), at the end of Division 1, add:

106C Extraterritorial extension
Australia’s exclusive economic zone

(1) This Part, and the rest of this Act so far as it relates to this Part, extend in relation to Australia’s exclusive economic zone in the way prescribed by the regulations (if any).

(2) If the regulations prescribe modifications of this Act (other than this section) for its operation in relation to Australia’s exclusive economic zone under subsection (1), this Act has effect (in accordance with that subsection) as modified in relation to Australia’s exclusive economic zone.

Australia’s continental shelf

(3) This Part, and the rest of this Act so far as it relates to this Part, extend, in the way prescribed by the regulations (if any), in relation to a part of Australia’s continental shelf that is prescribed by the regulations.

(4) If the regulations prescribe modifications of this Act (other than this section) for its operation in relation to a prescribed part of Australia’s continental shelf under subsection (3), this Act has effect (in accordance with that subsection) as modified in relation to that part.

Note: The regulations may prescribe different modifications relating to different parts of Australia’s continental shelf. The regulations may need to do so to give effect to Australia’s international obligations.

Definitions

(5) In this section:

modifications includes additions, omissions and substitutions.

this Act includes the Registration and Accountability of Organisations Schedule and regulations made under it.

(128) Schedule 1, item 71, page 214 (line 27), omit “Agt60”, substitute “96A”.

(129) Schedule 1, item 71, page 214 (line 11), after “negotiating party”, insert “(not being the applicant for the order)”.

(130) Schedule 1, item 71, page 214 (line 30), after “Engaging in”, insert “or organising”.

(131) Schedule 1, item 71, page 214 (line 29), after “Engaging in”, insert “or organising”.

(132) Schedule 1, item 71, page 214 (after line 5), at the end of Division 1, add:

(133) Schedule 1, item 71, page 214 (after line 5), at the end of Division 1, add:

106C Extraterritorial extension
Australia’s exclusive economic zone

(1) This Part, and the rest of this Act so far as it relates to this Part, extend in relation to Australia’s exclusive economic zone in the way prescribed by the regulations (if any).

(2) If the regulations prescribe modifications of this Act (other than this section) for its operation in relation to Australia’s exclusive economic zone under subsection (1), this Act has effect (in accordance with that subsection) as modified in relation to Australia’s exclusive economic zone.

Australia’s continental shelf

(3) This Part, and the rest of this Act so far as it relates to this Part, extend, in the way prescribed by the regulations (if any), in relation to a part of Australia’s continental shelf that is prescribed by the regulations.

(4) If the regulations prescribe modifications of this Act (other than this section) for its operation in relation to a prescribed part of Australia’s continental shelf under subsection (3), this Act has effect (in accordance with that subsection) as modified in relation to that part.

Note: The regulations may prescribe different modifications relating to different parts of Australia’s continental shelf. The regulations may need to do so to give effect to Australia’s international obligations.

Definitions

(5) In this section:

modifications includes additions, omissions and substitutions.

this Act includes the Registration and Accountability of Organisations Schedule and regulations made under it.

(128) Schedule 1, item 71, page 214 (line 27), omit “Agt60”, substitute “96A”.

(129) Schedule 1, item 71, page 214 (line 11), after “negotiating party”, insert “(not being the applicant for the order)”.

(130) Schedule 1, item 71, page 214 (line 30), after “Engaging in”, insert “or organising”.

(131) Schedule 1, item 71, page 214 (line 29), after “Engaging in”, insert “or organising”.

(132) Schedule 1, item 71, page 214 (after line 5), at the end of Division 1, add:

106C Extraterritorial extension
Australia’s exclusive economic zone

(1) This Part, and the rest of this Act so far as it relates to this Part, extend in relation to Australia’s exclusive economic zone in the way prescribed by the regulations (if any).

(2) If the regulations prescribe modifications of this Act (other than this section) for its operation in relation to Australia’s exclusive economic zone under subsection (1), this Act has effect (in accordance with that subsection) as modified in relation to Australia’s exclusive economic zone.

Australia’s continental shelf

(3) This Part, and the rest of this Act so far as it relates to this Part, extend, in the way prescribed by the regulations (if any), in relation to a part of Australia’s continental shelf that is prescribed by the regulations.

(4) If the regulations prescribe modifications of this Act (other than this section) for its operation in relation to a prescribed part of Australia’s continental shelf under subsection (3), this Act has effect (in accordance with that subsection) as modified in relation to that part.

Note: The regulations may prescribe different modifications relating to different parts of Australia’s continental shelf. The regulations may need to do so to give effect to Australia’s international obligations.

Definitions

(5) In this section:

modifications includes additions, omissions and substitutions.

this Act includes the Registration and Accountability of Organisations Schedule and regulations made under it.

(128) Schedule 1, item 71, page 214 (line 27), omit “Agt60”, substitute “96A”.

(129) Schedule 1, item 71, page 214 (line 11), after “negotiating party”, insert “(not being the applicant for the order)”.

(130) Schedule 1, item 71, page 214 (line 30), after “Engaging in”, insert “or organising”.

(131) Schedule 1, item 71, page 214 (line 29), after “Engaging in”, insert “or organising”.

(132) Schedule 1, item 71, page 214 (after line 5), at the end of Division 1, add:

106C Extraterritorial extension
Australia’s exclusive economic zone

(1) This Part, and the rest of this Act so far as it relates to this Part, extend in relation to Australia’s exclusive economic zone in the way prescribed by the regulations (if any).

(2) If the regulations prescribe modifications of this Act (other than this section) for its operation in relation to Australia’s exclusive economic zone under subsection (1), this Act has effect (in accordance with that subsection) as modified in relation to Australia’s exclusive economic zone.

Australia’s continental shelf

(3) This Part, and the rest of this Act so far as it relates to this Part, extend, in the way prescribed by the regulations (if any), in relation to a part of Australia’s continental shelf that is prescribed by the regulations.

(4) If the regulations prescribe modifications of this Act (other than this section) for its operation in relation to a prescribed part of Australia’s continental shelf under subsection (3), this Act has effect (in accordance with that subsection) as modified in relation to that part.

Note: The regulations may prescribe different modifications relating to different parts of Australia’s continental shelf. The regulations may need to do so to give effect to Australia’s international obligations.

Definitions

(5) In this section:

modifications includes additions, omissions and substitutions.

this Act includes the Registration and Accountability of Organisations Schedule and regulations made under it.

(128) Schedule 1, item 71, page 214 (line 27), omit “Agt60”, substitute “96A”.

(129) Schedule 1, item 71, page 214 (line 11), after “negotiating party”, insert “(not being the applicant for the order)”.

(130) Schedule 1, item 71, page 214 (line 30), after “Engaging in”, insert “or organising”.

(131) Schedule 1, item 71, page 214 (line 29), after “Engaging in”, insert “or organising”.

(132) Schedule 1, item 71, page 214 (after line 5), at the end of Division 1, add:

106C Extraterritorial extension
Australia’s exclusive economic zone

(1) This Part, and the rest of this Act so far as it relates to this Part, extend in relation to Australia’s exclusive economic zone in the way prescribed by the regulations (if any).

(2) If the regulations prescribe modifications of this Act (other than this section) for its operation in relation to Australia’s exclusive economic zone under subsection (1), this Act has effect (in accordance with that subsection) as modified in relation to Australia’s exclusive economic zone.

Australia’s continental shelf

(3) This Part, and the rest of this Act so far as it relates to this Part, extend, in the way prescribed by the regulations (if any), in relation to a part of Australia’s continental shelf that is prescribed by the regulations.

(4) If the regulations prescribe modifications of this Act (other than this section) for its operation in relation to a prescribed part of Australia’s continental shelf under subsection (3), this Act has effect (in accordance with that subsection) as modified in relation to that part.

Note: The regulations may prescribe different modifications relating to different parts of Australia’s continental shelf. The regulations may need to do so to give effect to Australia’s international obligations.

Definitions

(5) In this section:

modifications includes additions, omissions and substitutions.

this Act includes the Registration and Accountability of Organisations Schedule and regulations made under it.
voters’ meal-time or other breaks, or outside their hours of employment; and
(ii) the order may also specify other rules about the times when voters may vote.

(134) Schedule 1, item 71, page 266 (line 33), omit “affecting the employer”.

(135) Schedule 1, item 71, page 268 (line 5), omit paragraph 110(7)(c), substitute:

(c) any person affected by the industrial action; or
(d) any other person prescribed by the regulations.

(136) Schedule 1, item 71, page 268 (line 16), omit paragraph 110(8)(d), substitute:

(d) any person affected by the industrial action; or
(e) any other person prescribed by the regulations.

(137) Schedule 1, item 71, page 283 (line 27) to page 284 (line 7), omit section 115B.

(138) Schedule 1, item 71, page 285 (after line 31), after paragraph 116(1)(d), insert:

(da) leave for the purpose of seeking other employment after the giving of notice of termination by an employer to an employee;

(139) Schedule 1, item 71, page 286 (after line 6), after paragraph 116(1)(e), insert:

(ea) days to be substituted for, or a procedure for substituting, days referred to in paragraph (e);

(140) Schedule 1, item 71, page 287 (line 33), before “Each”, insert “(1)”.

(141) Schedule 1, item 71, page 288 (after line 3), at the end of section 116A, add:

(2) The dispute settling process included in an award may only be used to resolve disputes:

(a) about matters arising under the award; and
(b) between persons bound by the award.

(142) Schedule 1, item 71, page 288 (lines 13 and 14), omit paragraph 116B(1)(b), substitute:

(b) conversion from casual employment to another type of employment;

(143) Schedule 1, item 71, page 288 (line 31), at the end of paragraph 116B(1)(j), add “in the meat industry”.

(144) Schedule 1, item 71, page 288 (line 34), omit paragraph 116B(1)(m).

(145) Schedule 1, item 71, page 289 (after line 5), after subsection 116B(2), insert:

(2A) Paragraph (1)(g) does not limit the operation of paragraph 116B(1)(m).

(146) Schedule 1, item 71, page 289 (after line 18), at the end of subsection 116B(3), add:

Note: In this Part, references to independent contractors are not confined to natural persons (see subsection 4(2)).

(147) Schedule 1, item 71, page 291 (after line 13), after subsection 116B(2), insert:

(2A) However, to avoid doubt, paragraph 116B(1)(g) does not limit the operation of subsections (1) and (3) to the extent that those subsections relate to the matter referred to in paragraph 116B(1)(m).

(148) Schedule 1, item 71, page 294 (after line 3), after “a term”, insert “, or more than one term,”.

(149) Schedule 1, item 71, page 294 (after line 24), after subsection 117(3), insert:

(3A) If more than one term of an award is about a matter referred to in subsection (2), then those terms, taken together, constitute the preserved award term of that award about that matter.

(150) Schedule 1, item 71, page 295 (lines 3 and 4), omit paragraph 117(7)(a), substitute:

(a) the matter referred to in paragraph (2)(c) does not include one or both of the following:

(i) special maternity leave (within the meaning of section 94C);
(ii) the entitlement under section 94F to transfer to a safe job or to take paid leave; and

Schedule 1, item 71, page 295 (lines 11 to 13), omit the note, substitute:

Note: The effect of excluding a form of leave or an entitlement in relation to a matter is that the entitlement in relation to that form of leave or matter under the Australian Fair Pay and Conditions Standard will automatically apply.

Schedule 1, item 71, page 302 (line 5), at the end of the note, add “and may bind eligible entities under Division 6A”.

Schedule 1, item 71, page 303 (after line 8), after subsection 118J(4), insert:

Note: An award may also be varied to bind eligible entities and employers under Division 6A.

Schedule 1, item 71, page 304 (line 8), omit “The Commission”, substitute “A Full Bench”.

Schedule 1, item 71, page 304 (after line 11), omit “The Commission may establish principles relating”, substitute “Principles under subsection (1) may relate”.

Schedule 1, item 71, page 304 (line 17), omit “subsections (1) and (2)”, substitute “subsection (1)”.

Schedule 1, item 71, page 304 (after line 25), at the end of section 118N, add:

(6) To avoid doubt, principles under subsection (1) must be consistent with, and cannot be such as to override, a provision of this Act that relates to the variation of awards.

Schedule 1, item 71, page 308 (line 14), omit “, employee”.

Schedule 1, item 71, page 308 (line 16), omit “, employee”.

Schedule 1, item 71, page 308 (line 18), omit “, employee”.

Schedule 1, item 71, page 308 (line 23), omit “; employee”.

Schedule 1, item 71, page 310 (after line 11), after note 2, insert:

Note 3: An award may also be varied to bind eligible entities and employers under Division 6A.

Schedule 1, item 71, page 313 (after line 22), after Division 6, insert:

Division 6A—Outworkers

120G Definitions

In this Division:

eligible entity means any of the following entities, other than in the entity’s capacity as an employer:

(a) a constitutional corporation;
(b) the Commonwealth;
(c) a Commonwealth authority;
(d) a body corporate incorporated in a Territory;
(e) a person or entity (which may be an unincorporated club) that carries on an activity (whether of a commercial, governmental or other nature) in a Territory in Australia, in connection with the activity carried on in the Territory.

outworker term means a term of an award that is:

(a) about the matter referred to in paragraph 116(1)(m); or
(b) incidental to such a matter, and included in the award as permitted by section 116I; or
(c) a machinery provision in respect of such a matter included in the award as permitted by section 116I.

120H Outworker terms may bind eligible entities and employers

(1) This section applies to an award made under section 118E or varied under section 118J if the award includes outworker terms.

(2) In addition to the employers, organisations and persons that the award is expressed to bind under section 118I or 118J, as the case requires, the award
may be expressed to bind, but only in relation to the outworker terms, an eligible entity or an employer that operates in an industry:

(a) to which the award relates; or

(b) in respect of which the outworker terms are applicable.

120I Binding additional eligible entities and employers

(1) An organisation, an eligible entity or an employer may apply to the Commission for an order varying an award that includes outworker terms to bind an eligible entity or an employer to the award, but only in relation to the outworker terms.

(2) If an application is made under subsection (1), the Commission must take such steps as it thinks appropriate to ensure that each employer, employee and organisation bound by the award, and any other interested persons and bodies, are made aware of the application.

(3) The Minister may intervene in relation to the application.

(4) If an application is made under subsection (1), the Commission may make the order if it is satisfied that:

(a) the eligible entity or employer operates in an industry to which the award relates; and

(b) the eligible entity or employer is not already bound by an award that includes outworker terms in respect of such an industry in relation to those terms; and

(c) making the order is consistent with the objective of protecting the overall conditions of employment of outworkers.

164) Schedule 1, item 71, page 318 (after line 11), after the definition of Court in section 122B, insert:

instrument means:

(a) an AWA; or

(b) a collective agreement; or

(c) an award; or

(d) an APCS.

165) Schedule 1, item 71, page 331 (lines 6 to 13), omit subsection 126A(2), substitute:

(2) Despite section 100B but subject to subsection (3), a collective agreement that is in operation at the time of transmission does not have effect in relation to an employee’s employment while the transmitted award operates, in accordance with subsection 126(1), in relation to that employment.

Note 1: But for subsection (2), section 100B would have the effect that the transmitted award would not have effect in relation to the employee’s employment while a collective agreement operates in relation to that employment.

Note 2: Section 126B modifies the operation of section 100B in relation to AWAs and collective agreements that come into operation after the time of transmission.

(3) Despite subsection 126(1), if the employee agrees that the collective agreement is to operate in relation to that employment:

(a) the collective agreement comes into operation in relation to that employment; and

(b) the transmitted award ceases to be in operation in relation to that employment in accordance with subsection 126B(3).

166) Schedule 1, item 71, page 336 (lines 32 to 35), omit paragraph 129(3)(f), substitute:

(f) identify:

(i) any provisions of the Australian Fair Pay and Conditions Standard; or

(ii) any other instrument;
that the employer intends to be the source for terms and conditions that will apply to the matters that are dealt with by the transmitted instrument when the transmitted instrument ceases to bind the employer; and

(167) Schedule 1, item 71, page 337 (after line 5), after subsection 129(3), insert:

(3A) Subject to subsection (3B), if the notice under subsection (3) identifies an instrument under paragraph (3)(g), the employer must give the transferring employee a copy of the instrument together with the notice.

Note: This is a civil remedy provision, see section 129C.

(3B) Subsection (3A) does not apply if:

(a) the transferring employee is able to easily access a copy of the instrument in a particular way; and

(b) the notice under subsection (3) tells the transferring employee that a copy of the instrument is accessible in that way.

Note: Paragraph (a)—the copy may be available, for example, on the Internet.

(168) Schedule 1, item 71, page 337 (lines 7 to 15), omit paragraph 129(4)(a), substitute:

(a) the transmitted instrument is an award and the new employer and the transferring employee become bound by an AWA or a collective agreement at the time of transmission or within 14 days after the time of transmission; or

(b) subsections 129(2) and (3A);

(169) Schedule 1, item 71, page 339 (line 12), omit paragraph 129C(1)(b), substitute:

(b) subsections 129(2) and (3A);

(170) Schedule 1, item 72, page 343 (after line 4), after Division 1, insert:

Division 1A—Entitlement to public holidays

170AE Definition of public holiday

In this Division:

public holiday means:

(a) each of these days:

(i) 1 January (New Year’s Day);
(ii) 26 January (Australia Day);
(iii) Good Friday;
(iv) Easter Monday;
(v) 25 April (Anzac Day);
(vi) 25 December (Christmas Day);
(vii) 26 December (Boxing Day); and

(b) any other day declared by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of that State or Territory, as a public holiday by people who work in that State, Territory or region, other than:

(i) a day declared by or under (or determined in accordance with a procedure under) the law of the State or Territory to be observed as a public holiday in substitution for a day named in paragraph (a); or

(ii) a union picnic day; or

(iii) a day, or kind of day, that is excluded by regulations made for the purposes of this paragraph from counting as a public holiday.

170AF Entitlement to public holidays

(1) An employee is entitled to a day off on a public holiday, subject to subsections (2) and (3).

(2) An employer may request an employee to work on a particular public holiday.

(3) The employee may refuse the request (and take the day off) if the employee has reasonable grounds for doing so.

(4) A term to the contrary in:

(a) a workplace agreement; or

(b) an award;

has no effect.

Note: Compliance with this section is dealt with in Part VIII.
**170AG Reasonableness of refusal**

In determining whether an employee has reasonable grounds for refusing a request to work on a public holiday, regard must be had to:

(a) the nature of the work performed by the employee; and
(b) the type of employment (for example, whether full-time, part-time, casual or shift work); and
(c) the nature of the employer’s workplace or enterprise (including its operational requirements); and
(d) the employee’s reasons for refusing the request; and
(e) the employee’s personal circumstances (including family responsibilities); and
(f) whether the employee is entitled to additional remuneration or other benefits as a consequence of working on the public holiday; and
(g) whether a workplace agreement, award, other industrial instrument, contract of employment or written guideline or policy that regulates the employee’s employment contemplates that the employer might require work on public holidays, or particular public holidays; and
(h) whether the employee has acknowledged or could reasonably expect that the employer might require work on public holidays, or particular public holidays; and
(i) the amount of notice in advance of the public holiday given by the employer when making the request; and
(j) the amount of notice in advance of the public holiday given by the employee in refusing the request; and
(k) whether an emergency or other unforeseen circumstances are involved; and
(l) any other relevant factors.

**170AH Model dispute resolution process**

The model dispute resolution process applies to a dispute under this Division.

Note: The model dispute resolution process is set out in Part VIIA.

**170AI Employer not to prejudice employee for reasonable refusal**

(1) An employer must not, for the reason, or for reasons including the reason, that an employee has refused on reasonable grounds to work on a particular public holiday, do or threaten to do any of the following:

(a) dismiss an employee;
(b) injure an employee in his or her employment;
(c) alter the position of an employee to the employee’s prejudice.

(2) Subsection (1) is a civil remedy provision.

**170AJ Penalties etc. for contravention of section 170AI**

(1) The Court, or the Federal Magistrates Court, on application by an eligible person, may make one or more of the following orders in relation to an employer who has contravened section 170AI:

(a) an order imposing a pecuniary penalty on the employer;
(b) an order requiring the employer to pay a specified amount to the employee as compensation for damage suffered by the employee as a result of the contravention;
(c) any other order that the court considers appropriate.

(2) The maximum pecuniary penalty under paragraph (1)(a) is 300 penalty units if the employer is a body corporate and otherwise 60 penalty units.

(3) The orders that may be made under paragraph (1)(c) include:

(a) injunctions; and
(b) any other orders that the court considers necessary to stop the conduct or remedy its effects.

(4) In this section:
eligible person means any of the following:
(a) a workplace inspector;
(b) an employee affected by the contravention;
(c) an organisation of employees that:
    (i) has been requested in writing, by the employee concerned, to apply on the employee’s behalf; and
    (ii) has a member employed by the employee’s employer; and
    (iii) is entitled, under its eligibility rules, to represent the industrial interests of the employee in relation to work carried on by the employee for the employer;
(d) a person prescribed by the regulations for the purposes of this paragraph.

(5) A regulation prescribing persons for the purposes of paragraph (d) of the definition of eligible person may provide that a person is prescribed only in relation to circumstances specified in the regulation.

170AK Burden of proof in relation to reasonableness of refusal

In establishing, for the purposes of an application under section 170AJ, whether an employee’s refusal to work on a particular public holiday was on reasonable grounds, the burden of proof lies on the applicant.

170AL Proof not required of the reason for conduct

(1) If:
(a) in an application under section 170AJ relating to a person’s conduct, it is alleged that the conduct was, or is being, carried out for a particular reason; and
(b) for the person to carry out the conduct for that reason would constitute a contravention of section 170AI; it is presumed, in proceedings under this Division arising from the application, that the conduct was, or is being, carried out for that reason, unless the person proves otherwise.

(2) This section does not apply in relation to the granting of an interim injunction.
Note: See section 354A for interim injunctions.

170AM Extraterritorial extension

(1) This Division, and the rest of this Act so far as it relates to this Division, extend:
(a) to an employee outside Australia who meets any of the conditions in this section; and
(b) to the employee’s employer (whether the employer is in or outside Australia); and
(c) to acts, omissions, matters and things relating to the employee (whether they are in or outside Australia).

Note: In this context, Australia includes the Territory of Christmas Island, the Territory of Cocos (Keeling) Islands and the coastal sea. See section 15B and paragraph 17(a) of the Acts Interpretation Act 1901.

In Australia’s exclusive economic zone

(2) One condition is that the employee is in Australia’s exclusive economic zone and either:
(a) is an employee of an Australian employer and is not prescribed by the regulations as an employee to whom this subsection does not apply; or
(b) is an employee prescribed by the regulations as an employee to whom this subsection applies.
Note: The regulations may prescribe the employee by reference to a class. See subsection 13(3) of the Legislative Instruments Act 2003.

On Australia’s continental shelf outside exclusive economic zone

(3) Another condition is that the employee:
   (a) is outside the outer limits of Australia’s exclusive economic zone, but is in, on or over a part of Australia’s continental shelf that is prescribed by the regulations for the purposes of this subsection, in connection with the exploration of the continental shelf or the exploitation of its natural resources; and
   (b) meets the requirements that are prescribed by the regulations for that part.

Note: The regulations may prescribe different requirements relating to different parts of Australia’s continental shelf. The regulations may need to do so to give effect to Australia’s international obligations.

Definition

(4) In this section:
   this Act includes the Registration and Accountability of Organisations Schedule and regulations made under it.

(171) Schedule 1, item 74, page 344 (lines 25 and 26), omit “orders, determinations or decisions of the AFPC”, substitute “AFPC decisions and the Australian Fair Pay and Conditions Standard”.

(172) Schedule 1, item 74, page 344 (line 29) to page 345 (line 4), omit subsections 170BAC(2) and (3), substitute:

(2) The Commission must not deal with an application for an order under this Division, to the extent to which the application is for an order relating to a basic periodic rate of pay, a basic piece rate of pay or casual loading, if:

    (a) the group of employees who would be covered by the order applied for; and
    (b) the comparator group of employees; are both entitled to a rate of pay that is equal to the applicable guaranteed rate of pay under the provisions of the Australian Fair Pay and Conditions Standard contained in Division 2 of Part VA.

(3) To avoid doubt, subsection (2) does not apply if employees in one or both of the groups are entitled to a rate of pay higher than the applicable guaranteed rate.

(4) The Commission must not deal with an application for an order under this Division, to the extent to which the application is for an order relating to a basic periodic rate of pay, a basic piece rate of pay or casual loading, if:

    (a) the group of employees who would be covered by the order applied for is entitled to a rate of pay that is higher than the rate of pay the group would be entitled to under the provisions of the Australian Fair Pay and Conditions Standard contained in Division 2 of Part VA; and
    (b) the comparator group of employees is entitled to a rate of pay that is equal to the applicable guaranteed rate of pay under the provisions of the Australian Fair Pay and Conditions Standard contained in Division 2 of Part VA.

(5) To avoid doubt, subsection (4) does not apply if the comparator group of employees is entitled to a rate of pay higher than the applicable guaranteed rate.

(6) To avoid doubt, subsections (2) and (4) apply regardless of the source of the employee’s entitlement to be paid the rate of pay.

(7) In this section:
**basic periodic rate of pay** has the same meaning as in Division 2 of Part VA.

**basic piece rate of pay** has the same meaning as in Division 2 of Part VA.

**casual loading** has the same meaning as in Division 2 of Part VA.

**comparator group of employees** means employees whom the applicant contends are performing work of equal value to the work performed by the employees to whom the application relates.

(173) Schedule 1, page 355 (after line 2), after item 105, insert:

**105A After subsection 170CD(1B)**

> Insert:

(1C) For the purposes of this Division, the resignation of an employee is taken to constitute the termination of the employment of that employee at the initiative of the employer if the employee can prove, on the balance of probabilities, that the employee did not resign voluntarily but was forced to do so because of conduct, or a course of conduct, engaged in by the employer.

(174) Schedule 1, item 113, page 356 (after line 13), after subsection 170CE(5E), insert:

(5EA) For the purposes of calculating the number of employees employed by an employer as mentioned in subsection (5E), related bodies corporate (within the meaning of section 50 of the Corporations Act 2001) are taken to be one entity.

(175) Schedule 1, item 114, page 357 (lines 4 and 5), omit “that the application is not a valid”, substitute “dismissing the”.

(176) Schedule 1, item 114, page 357 (lines 6 and 7), omit “that the application is not a valid”, substitute “dismissing the”.

(177) Schedule 1, item 114, page 357 (after line 8), after subsection 170CEA(5), insert:

(5A) If:

(a) a respondent has moved for the dismissal of an application to which subsection (5) applies; and

(b) the Commission is not satisfied as mentioned in paragraph (5)(a), (b) or (c) in relation to the application;

the Commission must make an order refusing the motion for dismissal.

(178) Schedule 1, item 114, page 357 (line 10), at the end of subsection 170CEA(6), add “or (5A)”.

(179) Schedule 1, item 115, page 357 (line 20), omit “an”, substitute “the”.

(180) Schedule 1, item 115, page 357 (after line 31), after subsection 170CEB(1), insert:

(1A) If:

(a) an application is made, or purported to have been made, under subsection 170CE(1):

(i) on the ground referred to in paragraph 170CE(1)(a); or

(ii) on grounds that include that ground; and

(b) the respondent moves for dismissal of the application on the ground that it is frivolous, vexatious or lacking in substance; and

(c) the Commission is not satisfied that the application is frivolous, vexatious or lacking in substance, in relation to the ground referred to in paragraph 170CE(1)(a);

the Commission must:

(d) if subparagraph (a)(i) applies—make an order refusing the motion for dismissal; or

(e) if subparagraph (a)(ii) applies—make an order refusing the motion for dismissal, to the extent that the application is made on the ground referred to in paragraph 170CE(1)(a).

(181) Schedule 1, item 115, page 357 (line 33), at the end of subsection 170CEB(2), add “or (1A)”.

---

**CHAMBER**
(182) Schedule 1, item 115, page 358 (lines 19 and 20), omit "or 170CEB(1)", substitute "or (5A) or 170CEB(1) or (1A)".

(183) Schedule 1, item 115, page 359 (line 26), at the end of subsection 170CEE(1), add "; other than dealing with a matter on the papers as provided by section 170CEA, 170CEB, 170CEC or 170CED".

(184) Schedule 1, item 115, page 359 (lines 30 and 31), omit "that the application is not a valid"; substitute "discarding the".

(185) Schedule 1, item 115, page 359 (lines 32 and 33), omit "that the application is not a valid"; substitute "dismissing the".

(186) Schedule 1, item 115, page 360 (after line 2), after subsection 170CEE(3), insert:

(3A) To avoid doubt, this section does not require the Commission to hold a hearing in relation to an application that has been dismissed under subsection 170CEA(5) or 170CEB(1).

(187) Schedule 1, page 360 (after line 11), after item 118, insert:

118A Paragraph 170CFA(6)(b)

Repeal the paragraph, substitute:

(b) be lodged with the Commission:

(i) if the certificate given by the Commission under subsection 170CF(2) identifies the ground of an alleged contravention of section 170CK as a ground on which conciliation is, or is likely to be, unsuccessful (whether or not one or more other grounds are so identified)—not later than 28 days after the day of issue of the certificate; or

(ii) in any other case—not later than 7 days after the day of issue of the certificate.

(188) Schedule 1, item 120, page 360 (lines 16 to 18), omit subsection 170CFA(8), substitute:

(8) The Commission must not, under any provision of this Act, extend the period within which an election is required by subsection (6) to be lodged, other than as mentioned in subsection (8A).

(8A) The Commission may accept an election referred to in subparagraph (6)(b)(i) that is lodged out of time if the Commission considers that it would be unfair not to do so, and, if the Commission accepts such an election, the original application is taken not to have been discontinued in spite of subsection (7).

(189) Schedule 1, page 362 (after line 34), after item 131, insert:

131A After subsection 170CK(4)

Insert:

(4A) To avoid doubt, if:

(a) an employer terminates an employee's employment; and

(b) the reason, or a reason, for the termination is that the position held by the employee no longer exists, or will no longer exist; and

(c) the reason, or a reason, that the position held by the employee no longer exists, or will no longer exist, is the employee's absence, or proposed or probable absence, during maternity leave or other parental leave;

the employee's employment is taken, for the purposes of paragraph (2)(h), to have been terminated for the reason, or for reasons including the reason, of absence from work during maternity leave or other parental leave.

(190) Schedule 1, item 152, page 367 (after line 11), after subsection 170HB(3), insert:

(3A) Without limiting subsection (3), other termination proceedings includes an inquiry in respect of a complaint (the HREOC complaint):

(a) made under the Human Rights and Equal Opportunity Commission Act 1986; and

(b) that relates to the termination of employment of an employee
For the purposes of this section, an employee commences other termination proceedings of a kind referred to in subsection (3A):

(a) unless paragraph (b) applies—when the employee makes the HREOC complaint; or

(b) if the HREOC complaint constitutes, or would constitute, other termination proceedings only as a result of an amendment of the complaint—when the complaint is amended.

Schedule 1, item 153, page 368 (after line 26), at the end of section 170HC, add:

(4) Without limiting subsection (3), other termination proceedings includes an inquiry in respect of a complaint (the HREOC complaint):

(a) made under the Human Rights and Equal Opportunity Commission Act 1986; and

(b) that relates to the termination of employment of an employee (whether or not as a result of an amendment of the complaint).

For the purposes of this section, an employee commences other termination proceedings of a kind referred to in subsection (4):

(a) unless paragraph (b) applies—when the employee makes the HREOC complaint; or

(b) if the HREOC complaint constitutes, or would constitute, other termination proceedings as a result of an amendment of the complaint—when the complaint is amended.

Schedule 1, item 168, page 372 (lines 1 to 3), omit section 172, substitute:

**172 Court process**

The fact that the model dispute resolution process, an alternative dispute resolution process or any other dispute resolution process applies in relation to a dispute does not affect any right of a party to the dispute to take court action to resolve it.

Schedule 1, item 168, page 372 (lines 5 to 20), omit section 173, substitute:

**173 Model dispute resolution process**

(1) This Division sets out the model dispute resolution process.

(2) The model dispute resolution process does not apply in relation to a particular dispute, unless it applies in relation to that dispute because of a provision of this Act, other than one contained in this Division, or a term of an award, a workplace agreement or a workplace determination.

Note: The model dispute resolution process applies in relation to a variety of disputes, including:

(a) disputes about entitlements under the Australian Fair Pay and Conditions Standard (see section 89E); and

(b) disputes about the terms of a workplace agreement, where the agreement itself includes the model dispute resolution process or is taken to include that process (see section 101A); and

(c) disputes about the application of a workplace determination (see section 113D); and

(d) disputes about the application of awards (see section 116A); and

(e) disputes under Division 1 of Part VIA, which deals with meal breaks (see section 170AC); and

(f) disputes under Division 1A of Part VIA, which deals with public holidays (see section 170AH); and

(g) disputes under Division 5 of Part VIA, which deals with pa-
rental leave (see section 170KD).

(194) Schedule 1, item 168, page 375 (lines 14 to 16), omit subsection 176C(1), substitute:

(1) The Commission must refuse to conduct an alternative dispute resolution process under this Division in relation to a matter if:

(a) the dispute is not one that may be resolved using the model dispute resolution process; or

(b) the matter is the subject of proceedings or has already been settled as a result of proceedings, whether before a court or another body, under a law of the Commonwealth or of a State or Territory relating to the prevention of discrimination or to equal opportunity.

(195) Schedule 1, item 168, page 381 (lines 21 and 22), omit paragraph 176L(2)(c), substitute:

(c) be signed by the party to the dispute on that matter or those matters who is making the application; and

(196) Schedule 1, item 168, page 385 (after line 15), at the end of Division 6, add:

176S Where anti-discrimination or equal opportunity proceedings in progress

A person must not conduct an alternative dispute resolution process in relation to a dispute on a matter if the matter is the subject of proceedings or has already been settled as a result of proceedings, whether before a court or another body, under a law of the Commonwealth or of a State or Territory relating to the prevention of discrimination or to equal opportunity.

(197) Schedule 1, item 170, page 385 (after line 31), after paragraph (b) of the definition of applicable provision in section 177A, insert:

(ba) section 170AF (public holidays); and

(198) Schedule 1, item 171, page 387 (table item 3, 3rd column), after paragraph (d), insert:

(da) if the term is an outworker term (within the meaning of Division 6A of Part VI)—a person or eligible entity (within the meaning of Division 6A of Part VI) that is bound by the award;

(199) Schedule 1, item 171, page 388 (after table item 6), insert:

6A Section 170AF applies;

(b) an organisation of employees (subject to subsection (3));

(c) an inspector

(200) Schedule 1, item 171, page 388 (line 1), omit “Note”, substitute “Note 1”.

(201) Schedule 1, item 171, page 388 (after line 4), at the end of subsection 177AA(1), add:

Note 2: An outworker term is a protected award condition under section 101B.

(202) Schedule 1, item 171, page 388 (after line 4), after subsection 177AA(1), insert:

(1A) For the purposes of table items 2, 3, 4, 6, 6A and 7 in subsection (1), a reference to an employee is a reference to an employee who is affected by the breach of the applicable provision.

(1B) For the purposes of table items 3 and 4 in subsection (1), a reference to an employer is a reference to an employer that is affected by the breach of the applicable provision.

(1C) For the purposes of table item 5 in subsection (1), a reference to a person bound by the order is a reference to a person bound by the order who is affected by the breach of the order.

(203) Schedule 1, item 171, page 388 (after line 21), after paragraph 177AA(3)(c), insert:

(ca) section 170AF; or
(204) Schedule 1, item 193, page 403 (line 32), at the end of paragraph 208(1)(c), add “or”.

(205) Schedule 1, item 193, page 403 (after line 32), after paragraph 208(1)(c), insert:

(206) Schedule 1, item 193, page 411 (lines 12 and 13), omit the definition of employment record in subsection 218(4), substitute:

Employment record means a record relating to the employment of an employee:

(a) that relates to any of the following matters:

(i) hours of work;

(ii) overtime;

(iii) remuneration or other benefits;

(iv) leave;

(v) superannuation contributions;

(vi) termination of employment;

(vii) type of employment (for example, permanent, temporary, casual, full-time or part-time);

(viii) personal details of the employee;

(ix) any other matter prescribed by the regulations; or

(b) that sets out the kind of industrial instrument that regulates the employment of the employee (for example, an AWA, a collective agreement, an award or a contract of employment).

(207) Schedule 1, item 193, page 429 (line 20), omit “a registered”, substitute “an”.

(208) Schedule 1, item 193, page 429 (lines 21 and 22), omit “a registered”, substitute “an”.

(209) Schedule 1, item 193, page 430 (line 10), omit “a registered”, substitute “an”.

(210) Schedule 1, item 193, page 430 (lines 11 and 12), omit “a registered”, substitute “an”.

(211) Schedule 1, item 193, page 431 (line 7), omit “a registered”, substitute “an”.

(212) Schedule 1, item 193, page 431 (lines 8 and 9), omit “a registered”, substitute “an”.

(213) Schedule 1, item 193, page 433 (after line 18), after subsection 253(3), insert:

(3A) An employer does not contravene subsection (1) because of paragraph 254(1)(i) unless the entitlement described in that paragraph is the sole or dominant reason for the employer doing any of the things described in paragraphs (1)(a), (b), (c), (d) and (e) of this section.

(214) Schedule 1, item 193, page 434 (after line 3), at the end of section 253, add:

(7) A person does not contravene subsection (4) because of paragraph 254(1)(i) unless the entitlement described in that paragraph is the sole or dominant reason for the person doing any of the things described in paragraphs (4)(a), (b), (c), (d) and (e) of this section.

(215) Schedule 1, item 210, page 454 (lines 20 to 22), omit the item, substitute:

210 Paragraph 353A(1)(a)

Omit “persons under an award, a certified agreement or an AWA”, substitute “employees”.

210A Subsection 353A(2)

Omit “persons employed under an award, a certified agreement or an AWA to issue pay slips to those persons”, substitute “employees to issue pay slips to those employees”.

(216) Schedule 1, item 221, page 457 (lines 5 and 6), omit the item, substitute:

221 Paragraphs 359(2)(fa) and (g)

Repeal the paragraphs, substitute:

(g) penalties for offences against the regulations, not exceeding 10 penalty units; and

(h) civil penalties for contraventions of the regulations, not exceeding:

(i) 5 penalty units for an individual; or
(ii) 25 penalty units for a body corporate.

(217) Schedule 1, item 240, page 461 (line 12), omit “7J(2)(d)”, substitute “7J(d)”.

(218) Schedule 1, item 240, page 462 (line 8), omit subparagraph 492(1)(d)(iv), substitute:

(iv) item 3 of the table in subsection 90H(3);

(v) paragraph 90W(2)(b); and

(219) Schedule 1, item 240, page 470 (line 36), at the end of subsection 503(4), add “(except to the extent that this would be an expansion of the ordinary meaning of that expression)”.

(220) Schedule 1, item 240, page 473 (after line 11), after Division 5, insert:

Division 5A—Public holidays

507A Additional effect of Act—public holidays

Without affecting its operation apart from this section, Division 1A of Part VIA also has effect in relation to the employment of any employee in Victoria, and for this purpose:

(a) each reference in that Division to an employer (within the meaning of that Division) is to be read as a reference to an employer (within the meaning of this Division) in Victoria; and

(b) each reference in that Division to an employee (within the meaning of that Division) is to be read as a reference to an employee (within the meaning of this Division) in Victoria; and

(c) each reference in that Division to employment (within the meaning of that Division) is to be read as a reference to the employment of an employee (within the meaning of this Division) in Victoria; and

(d) section 170AH has effect as if Part VIA had been modified in a corresponding way to the way in which Division 1A of Part VIA is modified by paragraphs (a), (b) and (c).

507B Additional effect of Act—enforcement of, and compliance with, section 170AF

Without affecting its operation apart from this section, Part VIII also has effect in relation to section 170AF as that section applies because of section 507A, and for this purpose:

(a) each reference in that Part to an employer (within the meaning of that Part) is to be read as a reference to an employer (within the meaning of this Division) in Victoria; and

(b) each reference in that Part to an employee (within the meaning of that Part) is to be read as a reference to an employee (within the meaning of this Division) in Victoria; and

(c) each reference in that Part to employment (within the meaning of that Part) is to be read as a reference to the employment of an employee (within the meaning of this Division) in Victoria; and

(d) each reference in that Part to section 170AF is to be read as a reference to section 170AF as that section has effect because of section 507A.

(221) Schedule 1, item 240, page 475 (after line 18), after Division 8, insert:

Division 8A—Employee records and pay slips

512A Additional effect of Act—employee records and pay slips

Without affecting its operation apart from this section, section 353A also has effect in relation to the employment of any employee in Victoria, and for this purpose:

(a) each reference in that section to an employer (within the meaning of that section) is to be read as a reference to an employer (within the
meaning of this Division) in Victoria; and

(b) each reference in that section to an employee (within the meaning of that section) is to be read as a reference to an employee (within the meaning of this Division) in Victoria; and

(c) each reference in that section to employment (within the meaning of that section) is to be read as a reference to the employment of an employee (within the meaning of this Division) in Victoria.

(222) Schedule 1, item 240, page 481 (lines 11 to 24), omit section 523.

(223) Schedule 1, item 240, page 482 (line 26) to page 483 (line 14), omit section 527, substitute:

527 Additional effect of Act—exclusion of Victorian laws

(1) This Act is intended to apply to the exclusion of all the following laws of Victoria so far as they would otherwise apply in relation to an employee or employer:

(a) a law of Victoria that applies to employment generally and relates to one or more of the following matters:

(i) agreements about matters pertaining to the relationship between an employer or employers in Victoria and an employee or employees in Victoria;

(ii) minimum terms and conditions of employment (other than minimum wages) for employees in Victoria;

(iii) setting and adjusting of minimum wages for employees in Victoria within a work classification;

(iv) termination, or proposed termination, of the employment of an employee in Victoria;

(v) freedom of association;

(b) a law of Victoria that is prescribed by regulations made for the purposes of this paragraph.

Victorian laws that are not excluded

(2) However, subsection (1) does not apply to a law of Victoria so far as:

(a) the law deals with the prevention of discrimination and is neither a State or Territory industrial law nor contained in such a law; or

(b) the law is prescribed by the regulations as a law to which subsection (1) does not apply.

Definitions

(3) In this section:

freedom of association has the same meaning as in subsection 4(6) of the Commonwealth Powers (Industrial Relations) Act 1996 of Victoria.

minimum terms and conditions of employment has the same meaning as in subsection 4(4) of the Commonwealth Powers (Industrial Relations) Act 1996 of Victoria.

minimum wage has the same meaning as in subsection 4(7) of the Commonwealth Powers (Industrial Relations) Act 1996 of Victoria.

work classification has the same meaning as in section 496.

Note: See also clause 87 of Schedule 13 (common rules in Victoria), which has effect despite any other provision of this Act.

(224) Schedule 1, item 287, page 492 (line 5), at the end of subsection 7(3), add “(except to the extent that this would be an expansion of the ordinary meaning of that expression)”.

(225) Schedule 1, item 289, page 493 (lines 20 and 21), omit paragraphs 18A(3)(b) and (c), substitute:

(b) a person who was an employer when admitted to membership, but who has not resigned or whose membership has not been terminated;
(c) a person (other than an employee) who carries on business;
(d) an officer of the association.

(226) Schedule 1, page 502 (after line 20), after item 313, insert:

313A Subsection 93(1) of Schedule 1B
(subparagraph (b)(i) of the definition of constituent part)
Omit “Part 4”, substitute “Part 2”.

313B Subsection 94(1) of Schedule 1B
Omit “Federal Court”, substitute “Commission”.

Note: The heading to section 94 is altered by omitting “Federal Court” and substituting “Commission”.

(227) Schedule 1, page 502 (after line 33), after item 314, insert:

314A Paragraph 94(2)(a) of Schedule 1B
Omit “Court”, substitute “Commission”.

(228) Schedule 1, page 503 (after line 17), after item 317, insert:

317A Paragraph 95(1)(b) of Schedule 1B
Repeal the paragraph, substitute:
(b) address particulars of any proposal by the applicant for the apportionment of the assets and liabilities of the amalgamated organisation and the constituent part; and
(c) address such other matters as are prescribed.

317B Subsection 95(2) of Schedule 1B
Omit “Federal Court”, substitute “Commission”.

317C After subsection 95(3) of Schedule 1B
Insert:

(3A) If the applicant has insufficient information to prepare an outline that complies with subsection (3), the applicant may request the Industrial Registrar to:

(a) give the applicant all information in the possession of the Industrial Registrar that may be relevant in the preparation of the outline; or
(b) direct the amalgamated organisation to give the applicant all information in the possession of the organisation that may be relevant in the preparation of the outline.

(3B) The Industrial Registrar may provide that information, or direct the amalgamated organisation to provide that information.

(3C) The amalgamated organisation must comply with a direction of the Industrial Registrar under subsection (3B).

317D Subsection 95(4) of Schedule 1B
Omit “Federal Court”, substitute “Commission”.

317E Subsection 95(4) of Schedule 1B
Omit “the Court”, substitute “the Commission”.

317F Subsection 96(1) of Schedule 1B
Omit “Federal Court”, substitute “Commission”.

317G Paragraph 96(2)(b) of Schedule 1B
Omit “Court”, substitute “Commission”.

317H Subsection 96(3) of Schedule 1B
Omit “Court”, substitute “Commission”.

317I Subsection 97(1) of Schedule 1B
Omit “Federal Court”, substitute “Commission”.

317J Subsections 97(2) and (3) of Schedule 1B
Omit “Court” (wherever occurring), substitute “Commission”.

317K Subsection 98(1) of Schedule 1B
Omit “Federal Court”, substitute “Commission”.
317L Subsection 98(2) of Schedule 1B
Omit “Court” (wherever occurring), substitute “Commission”.

317M Subsection 99(1) of Schedule 1B
Omit “Registrar of the Federal Court”, substitute “Industrial Registrar”.

317N Subsection 100(1) of Schedule 1B
Omit “Federal Court”, substitute “Commission”.

317O Subsection 100(1) of Schedule 1B
Omit “the Court”, substitute “the Commission”.

317P Subparagraph 100(1)(b)(ii) of Schedule 1B
Omit “prescribed for the purposes of paragraph 95(1)(b)”, substitute “mentioned in paragraph 95(1)(b) or prescribed for the purposes of paragraph 95(1)(c)”.

317Q Subsections 100(2) and (3) of Schedule 1B
Omit “Court”, substitute “Commission”.

317R Paragraph 106(2)(a) of Schedule 1B
Repeal the paragraph.

317S Paragraph 107(1)(a) of Schedule 1B
Repeal the paragraph.

317T Subsection 108(1) of Schedule 1B
Omit “Federal Court”, substitute “Commission”.

317U Subsections 108(1), (2) and (3) of Schedule 1B
Omit “the Court” (wherever occurring), substitute “the Commission”.

317V At the end of Division 2 of Part 3 of Chapter 3 of Schedule 1B
Add:

108A Powers of the Commission to be exercised by President or Full Bench

The powers of the Commission under this Division are exercisable by:
(a) the President; or
(b) if the President directs—a Full Bench of which the President is a member.

319A Paragraph 109(2)(c) of Schedule 1B
Repeal the paragraph, substitute:

(c) any proposal for the apportionment of the assets and liabilities of the amalgamated organisation and the constituent part contained in the outline under section 95 relating to the application for the ballot; and
(d) if the constituent part is a separately identifiable constituent part—the proportion of the members of the amalgamated organisation that are included in the constituent part; and
(e) the interests of the creditors of the amalgamated organisation.

319B Subsection 111(2) of Schedule 1B
Omit “the amalgamated organisation” (first occurring), substitute “a Registrar”.

319C Subsection 111(2) of Schedule 1B
Omit all the words after “was”, substitute “a constituent member of the constituent part”.

319D Paragraph 111(6)(a) of Schedule 1B
After “effect from”, insert “the end of”.

319E Subsection 111(7) of Schedule 1B
Repeal the subsection, substitute:

(7) If a person referred to in subsection (2) gives written notice in accordance with paragraph (3)(b), within the notice period, that he or she wants to remain a member of the amalgamated organisa-
tion, he or she remains a member of the amalgamated organisation.

(7A) If a person referred to in subsection (2) fails to give written notice in accordance with paragraph (3)(b), he or she:

(a) ceases, by force of this subsection, to be a member of the amalgamated organisation with effect from the end of the day after the end of the notice period; and

(b) becomes, by force of this subsection and without payment of entrance fee, a member of the newly registered organisation with effect from the day after the day referred to in paragraph (a).

319F Subsection 111(9) of Schedule 1B
Omit “Notwithstanding paragraph (7)(b), if a person to whom that paragraph”, substitute “Despite subsection (7A), if a person to whom that subsection”.

319G Subsection 111(9) of Schedule 1B
Omit all the words after “wishes to”, substitute “remain a member of the amalgamated organisation after the registration of the constituent part as an organisation under section 110, that person remains a member of the amalgamated organisation.”.

(230) Schedule 1, page 511 (after line 17), after item 341, insert:

341A After paragraph 305(2)(b) of Schedule 1B
Insert:

(ba) subsection 95(3C) (direction to provide information);

(231) Schedule 1, page 512 (after line 21), after item 346, insert:

346A After paragraph 324(2)(o) of Schedule 1B
Insert:

(oa) a person who was a party to a proceeding under Part 3 of Chapter 3;

(232) Schedule 1, page 515 (after line 18), after item 348, insert:

348A After paragraph 340(1)(a) of Schedule 1B
Insert:

(aa) matters in relation to which applications are made to the Court under subsection 109(1) (giving effect to withdrawal of constituent part from amalgamated organisation); and

(ab) matters in relation to which applications are made to the Court under subsection 118(2) (giving effect to requirement to take necessary steps in relation to withdrawal from amalgamation); and

(ac) matters in relation to which applications are made to the Court under subsection 125(1) (resolving difficulties in relation to application of Part 3 of Chapter 3 to a matter); and

(ad) matters in relation to which applications are made to the Court under subsection 128(1) (validation of certain acts done for purposes of proposed or completed withdrawal from amalgamation); and

(ae) matters in relation to which applications are made to the Court under subsection 129(1) (invalidity in proposed or completed withdrawal from amalgamation); and

(233) Schedule 1, item 358, page 516 (line 29), omit paragraph 2(e).

(234) Schedule 1, item 359, page 521 (lines 6 to 10), omit all the words from and including “For” to the end of the definition of industrial dispute in subclause 2(1).

(235) Schedule 1, item 359, page 522 (after line 32), at the end of clause 2, add:

(5) A reference in this Schedule to an independent contractor is not confined to a natural person.

(236) Schedule 1, item 359, page 524 (line 36), at the end of subclause 3(3), add “(except to the extent that this would be an expansion of the ordinary meaning of that expression)”.

CHAMBER
(237) Schedule 1, item 359, page 525 (lines 9 to 12), omit all the words from and including “To” to and including “and”, substitute “An award that is continued in force by this clause”.

(238) Schedule 1, item 359, page 525 (lines 15 to 20), omit paragraph 4(2)(b), substitute:

(b) any transitional employer bound by the award under Part 6A of this Schedule (transmission of business);

(239) Schedule 1, item 359, page 525 (line 25), at the end of subclause 4(2), add:

; (e) each other entity that:

(i) is not an employer within the meaning of subsection 4AB(1) or an eligible entity within the meaning of Division 6A of Part VI; and

(ii) was bound by the award immediately before the reform commencement;

but only in relation to outworker terms.

(240) Schedule 1, item 359, page 525 (line 27), after “employer”, insert “or other entity”.

(241) Schedule 1, item 359, page 525 (line 29), after “employer”, insert “or other entity”.

(242) Schedule 1, item 359, page 525 (line 35), omit “that” (second occurring).

(243) Schedule 1, item 359, page 525 (after line 36), at the end of clause 4, add:

(5) In this clause:

outworker term means a term of a transitional award that is:

(a) about the matter referred to in paragraph 17(1)(q); or

(b) incidental to such a matter, and included in the award as permitted by clause 24; or

(c) a machinery provision in respect of such a matter included in the award as permitted by clause 24.

(244) Schedule 1, item 359, page 528 (line 20), omit “on the grounds of”. substitute “because of, or for reasons including,”.

(245) Schedule 1, item 359, page 531 (after line 18), after paragraph 17(1)(g), insert:

(ga) leave for the purpose of seeking other employment after the giving of a notice of termination by an employer to an employee;

(246) Schedule 1, item 359, page 531 (after line 25), after paragraph 17(1)(i), insert:

(i) days to be substituted for, or a procedure for substituting, days referred to in paragraph (i);

(247) Schedule 1, item 359, page 533 (lines 14 and 15), omit paragraph 18(1)(b), substitute:

(b) conversion from casual employment to another type of employment;

(248) Schedule 1, item 359, page 533 (line 34), at the end of paragraph 18(1)(j), add “in the meat industry”.

(249) Schedule 1, item 359, page 533 (line 37), omit paragraph 18(1)(m).

(250) Schedule 1, item 359, page 534 (after line 7), after subclause 18(2), insert:

(2A) Paragraph (1)(g) does not limit the operation of paragraph 17(1)(q).

(251) Schedule 1, item 359, page 534 (after line 20), at the end of subclause 18(3), add:

Note: In this Schedule, references to independent contractors are not confined to natural persons (see subclause 2(5)).

(252) Schedule 1, item 359, page 535 (line 15), after “a term”, insert “, or more than one term.”.

(253) Schedule 1, item 359, page 535 (after line 28), after subclause 22(4), insert:

(4A) If more than one term of a transitional award is about a matter referred to in subclause (3), then those terms, taken together, constitute the preserved transitional award term of that transitional award about that matter.

(254) Schedule 1, item 359, page 536 (after line 31), after subclause 24(2), insert:
(2A) However, to avoid doubt, paragraph 18(1)(g) does not limit the operation of subclauses (1) and (3) to the extent that those subclauses relate to the matter referred to in paragraph 17(1)(g).

(255) Schedule 1, item 359, page 546 (lines 13 and 14), omit the heading to clause 40, substitute:

40 Principles for varying transitional awards

(256) Schedule 1, item 359, page 546 (line 18), after “established”, insert “under subclause (1)”.

(257) Schedule 1, item 359, page 546 (after line 31), at the end of clause 40, add:

(5) To avoid doubt, principles established under subclause (1) must be consistent with, and cannot be such as to override, a provision of this Act that relates to the variation of transitional awards.

(258) Schedule 1, item 359, page 564 (lines 22 to 27), omit paragraph 69(1)(d), substitute:

(d) any transitional employer bound by the award under Part 6A of this Schedule (transmission of business);

(259) Schedule 1, item 359, page 565 (after line 23), after Part 6, insert:

PART 6A—TRANSMISSION OF TRANSITIONAL AWARDS

Division 1—Introductory

72A Object

The object of this Part is to provide for the transfer of obligations under transitional awards when the whole, or a part, of a transitional employer’s business is transmitted to another transitional employer.

72B Simplified outline

(1) Division 2 describes the transmission of business situation this Part is designed to deal with. It identifies the old transitional employer, the new transitional employer, the business being transferred, the time of transmission and the transferring transitional employees.

(2) Division 3 deals with the transmission of certain transitional awards.

(3) Division 4 deals with notification requirements, the lodging of notices with the Employment Advocate and the enforcement of the new transitional employer’s obligations by pecuniary penalties.

(4) Division 5 allows regulations to be made to deal with other transmission of business issues in relation to transitional awards.

72C Definitions

In this Part:

business being transferred has the meaning given by subclause 72D(2).

Court means the Federal Court of Australia or the Federal Magistrates Court.

new transitional employer has the meaning given by subclause 72D(1).

old transitional employer has the meaning given by subclause 72D(1).

operational reasons has the meaning given by subsection 170CE(5D).

time of transmission has the meaning given by subclause 72D(3).

transferring transitional employee has the meaning given by clauses 72E and 72F.

transmission period has the meaning given by subclause 72D(4).

Division 2—Application of Part

72D Application of Part

(1) This Part applies if a person (the new transitional employer) becomes the successor, transmi tee or assignee of the whole, or a part, of a business of another person (the old transitional employer).

(2) The business, or the part of the business, to which the new transitional employer is successor, transmi tee or assignee is the business being transferred for the purposes of this Part.
(3) The time at which the new transitional employer becomes the successor, transnitee or assignee of the business being transferred is the time of transmission for the purposes of this Part.

(4) The period of 12 months after the time of transmission is the transmission period for the purposes of this Part.

72E Transferring transitional employees

(1) A person is a transferring transitional employee for the purposes of this Part if:

(a) the person is employed by the old transitional employer immediately before the time of transmission; and

(b) the person:
   (i) ceases to be employed by the old transitional employer; and
   (ii) becomes employed by the new transitional employer in the business being transferred;
   within 2 months after the time of transmission.

(2) A person is also a transferring transitional employee for the purposes of this Part if:

(a) the person is employed by the old transitional employer at any time within the period of 1 month before the time of transmission; and

(b) the person’s employment with the old transitional employer is terminated by the old transitional employer immediately before the time of transmission for genuine operational reasons or for reasons that include genuine operational reasons; and

(c) the person becomes employed by the new transitional employer in the business being transferred within 2 months after the time of transmission.

(3) In applying clause 72F and Division 3 in relation to a person who is a transferring transitional employee under sub-clause (2) of this clause, a reference in those provisions to a particular state of affairs existing immediately before the time of transmission is to be read as a reference to that state of affairs existing immediately before the person last ceased to be an employee of the old transitional employer.

72F Transferring transitional employees in relation to particular transitional award

(1) A transferring transitional employee is a transferring transitional employee in relation to a particular transitional award if:

(a) the transitional award applied to the transferring transitional employee’s employment with the old transitional employer immediately before the time of transmission; and

(b) when the transferring transitional employee becomes employed by the new transitional employer, the nature of the transferring transitional employee’s employment with the new transitional employer is such that the transitional award is capable of applying to employment of that nature.

(2) The transferring transitional employee ceases to be a transferring transitional employee in relation to the transitional award if:

(a) the transferring transitional employee ceases to be employed by the new transitional employer after the time of transmission; or

(b) the nature of the transferring transitional employee’s employment with the new transitional employer changes so that the transitional award is no longer capable of applying to employment of that nature; or

(c) the transmission period ends.
Division 3—Transmission of transitional award

72G Transmission of transitional award

New transitional employer bound by transitional award

(1) If:

(a) the old transitional employer was, immediately before the time of transmission, bound by a transitional award that regulated the employment of employees of the old transitional employer; and

(b) there is at least one transferring transitional employee in relation to the transitional award; and

(c) but for this clause, the new transitional employer would not be bound by the transitional award in relation to the transferring transitional employees in relation to the transitional award; and

(d) the new transitional employer is a transitional employer at the time of transmission;

the new transitional employer is bound by the transitional award by force of this clause.

Note 1: Paragraph (c)—the transitional award might already bind the new transitional employer, for example, because the new transitional employer happens to be a respondent to the transitional award.

Note 2: The new transitional employer must notify transferring transitional employees and lodge a copy of a notice with the Employment Advocate (see clauses 72J and 72K).

Period for which new transitional employer remains bound

(2) The new transitional employer remains bound by the transitional award, by force of this clause, until whichever of the following first occurs:

(a) the transitional award is revoked;

(b) there cease to be any transferring transitional employees in relation to the transitional award;

(c) the new transitional employer ceases to be bound by the transitional award under Part 5;

(d) the transmission period ends;

(e) the transitional period ends.

New transitional employer bound only in relation to employment of transferring transitional employees

(3) The new transitional employer is bound by the transitional award, by force of this clause, only in relation to the employment of employees who are transferring transitional employees in relation to the transitional award.

Commission order

(4) Subclauses (1) and (2) have effect subject to any order of the Commission.

(5) To avoid doubt, the Commission cannot make an order under subclause (4) that would have the effect of extending the transmission period.

Old transitional employer’s rights and obligations that arose before time of transmission not affected

(6) This clause does not affect the rights and obligations of the old transitional employer that arose before the time of transmission.

72H Interaction rules

Transmitted award

(1) This clause applies if subclause 72G(1) applies to a transitional award (the transmitted award).

Division 3 pre-reform certified agreement

(2) If:

(a) the new transitional employer is bound by a Division 3 pre-reform certified agreement (within the meaning of Schedule 14); and
(b) a transferring transitional employee in relation to the transmitted award was not bound by that certified agreement immediately before the time of transmission; and

c) that certified agreement would, but for this subclause, apply to the transferring transitional employee’s employment with the new transitional employer and would prevail over the transmitted award to the extent of any inconsistency with the transmitted award;

the transmitted award, to the extent to which it relates to the transferring transitional employee’s employment with the new transitional employer, prevails over that certified agreement to the extent of any inconsistency with that certified agreement.

(3) Subclause (2) has effect despite section 170LY of the pre-reform Act (as applied by clause 2 of Schedule 14).

Division 4—Notice requirements and enforcement

72J Informing transferring transitional employees about transmitted award

(1) This clause applies if:

(a) a transitional employer is bound by a transitional award (the transmitted award) in relation to a transferring transitional employee by force of clause 72G; and

(b) a person is a transferring transitional employee in relation to the transmitted award.

(2) Within 28 days after the transferring transitional employee starts being employed by the transitional employer, the transitional employer must take reasonable steps to give the transferring transitional employee a written notice that complies with subclause (3).

Note: This is a civil remedy provision, see clause 72M.

(3) The notice must:

(a) identify the transmitted award; and

(b) state that the transitional employer is bound by the transmitted award; and

(c) specify the date on which the transmission period for the transmitted award ends; and

(d) state that the transitional employer will remain bound by the transmitted award until the end of the transmission period unless the transmitted award is revoked, or otherwise ceases to be in operation, before the end of that period.

72K Lodging copy of notice with Employment Advocate

Only one transferring transitional employee

(1) If a transitional employer gives a notice under subclause 72J(2) to the only person who is a transferring transitional employee in relation to a transitional award, the transitional employer must lodge a copy of the notice with the Employment Advocate within 14 days after the notice is given to the transferring transitional employee. The copy must be lodged in accordance with subclause (4).

Note 1: This is a civil remedy provision, see clause 72M.

Note 2: Sections 137.1 and 137.2 of the Criminal Code create offences for providing false or misleading information or documents.

Multiple transferring transitional employees and notices all given on the one day

(2) If:

(a) a transitional employer gives a number of notices under subclause 72J(2) to people who are transferring transitional employees in relation to a transitional award; and

(b) all of those notices are given on the one day;

the transitional employer must lodge a copy of one of those notices with the Employment Advocate within 14
days after that notice is given. The copy must be lodged in accordance with subclause (4).
Note 1: This is a civil remedy provision, see clause 72M.
Note 2: Sections 137.1 and 137.2 of the Criminal Code create offences for providing false or misleading information or documents.

Multiple transferring transitional employees and notices given on different days

(3) If:
(a) a transitional employer gives a number of notices under subclause 72J(2) to people who are transferring transitional employees in relation to a transitional award; and
(b) the notices are given on different days;
the transitional employer must lodge a copy of the notice, or one of the notices that was given on the earliest of those days, with the Employment Advocate within 14 days after that notice is given. The copy must be lodged in accordance with subclause (4).
Note 1: This is a civil remedy provision, see clause 72M.
Note 2: Sections 137.1 and 137.2 of the Criminal Code create offences for providing false or misleading information or documents.

Lodgment with Employment Advocate

(4) A notice is lodged with the Employment Advocate in accordance with this subclause only if it is actually received by the Employment Advocate.
Note: This means that section 29 of the Acts Interpretation Act 1901 (to the extent that it deals with the time of service of documents) does not apply to lodgment of a notice.

72L Employment Advocate must issue receipt for lodgment

(1) If a notice is lodged under clause 72K, the Employment Advocate must issue a receipt for the lodgment.
(2) The receipt must state that the notice was lodged under clause 72K on a particular day.
(3) The Employment Advocate must give a copy of the receipt to the person who lodged the notice under clause 72K.

72M Civil penalties

(1) The following are civil remedy provisions for the purposes of this section:
(a) subclause 72J(2);
(b) subclauses 72K(1), (2) and (3).
Note: Division 4 of Part VIII contains other provisions relevant to civil remedies.
(2) The Court may order a person who has contravened a civil remedy provision to pay a pecuniary penalty.
(3) The penalty cannot be more than 300 penalty units for a body corporate or 60 penalty units in other cases.
(4) An application for an order under subclause (2) in relation to a transitional award may be made by:
(a) a transferring transitional employee;
(b) an organisation of employees that is entitled, under its eligibility rules, to represent the industrial interests of a transferring transitional employee;
(c) a workplace inspector.

Division 5—Miscellaneous

72N Regulations

The regulations may make provision in relation to the effects that the succession, transmission or assignment of a business, or a part of a business, have on the obligations of transitional employers, and the terms and conditions
of transitional employees, under transitional awards.

Schedule 1, item 359, page 567 (lines 15 to 19), omit all the words from and including “For” to the end of the definition of industrial dispute in subclause 75(1).

Schedule 1, item 359, page 568 (after line 11), at the end of clause 77, add:

(3) The regulations may provide that for the purposes of subclause (1):

(a) parental leave does not include one or both of the following:
   (i) special maternity leave (within the meaning of section 94C);
   (ii) paid leave under subparagraph 94F(2)(b)(i) or (ii); and

(b) personal/carer’s leave does not include one or both of the following:
   (i) compassionate leave (within the meaning of section 93Q (as that section applies to an employee in Victoria because of section 492));
   (ii) unpaid carer’s leave (within the meaning of section 93D (as that section applies to an employee in Victoria because of section 492)).

Regulations under subclause (3) may be expressed to apply generally or in respect of employees engaged in specified types of employment, such as full-time employment, part-time employment, casual employment, regular part-time employment or shift work.

Schedule 1, item 359, page 575 (line 29), after “100B,”, insert “101B, 103R,”.

Schedule 1, item 359, page 576 (line 22) to page 577 (line 2), omit clause 94, substitute:

94 Transmission of business

Subclause 72J(3) has effect, in relation to a transitional Victorian reference award, as if the following paragraphs were added at the end:

(e) specify the kinds of instruments (if any) that can replace, or exclude the operation of, the transmitted award; and

(f) set out the source for the terms and conditions that the employer intends to apply to the matters that are dealt with by the transmitted award when the transmitted award ceases to bind the employer; and

(g) identify any collective agreement or award that binds:
   (i) the employer; and
   (ii) employees of the employer who are not transferring employees in relation to the transmitted award.

Schedule 1, item 359, page 577 (line 7), after “100B,”, insert “101B, 103R,.”.

Schedule 1, item 359, page 577 (after line 8), at the end of Division 1, add:

Subdivision H—Ceasing to be bound by transitional Victorian reference award

95A Ceasing to be bound by transitional Victorian reference award—inability to resolve industrial dispute under this Schedule

Clause 59 has effect, in relation to a transitional Victorian reference award, as if the reference in subclause 59(3) to must were read as a reference to may.

Schedule 1, item 359, page 577 (after line 28), at the end of clause 97, add:

(3) In this clause:

personal/carer’s leave includes war service sick leave, infectious diseases sick leave and other like forms of sick leave.

The regulations may provide that for the purposes of subclause (2):

(a) parental leave does not include one or both of the following:
   (i) special maternity leave (within the meaning of section 94C);
   (ii) paid leave under subparagraph 94F(2)(b)(i) or (ii); and

(b) personal/carer’s leave does not include one or both of the following:
(i) compassionate leave (within the meaning of section 93Q);
(ii) unpaid carer’s leave (within the meaning of section 93D).

(5) Regulations under subclause (4) may be expressed to apply generally or in respect of employees engaged in specified types of employment, such as full-time employment, part-time employment, casual employment, regular part-time employment or shift work.

(267) Schedule 1, item 359, page 580 (after line 27), after Subdivision B, insert:

Subdivision BA—Transmission of business

101A Transmission of business

(1) This clause applies to a transitional award (other than a Victorian reference award) to the extent that the award regulates excluded employers in respect of the employment of employees in Victoria.

(2) Subclause 72J(3) has effect, in relation to the award, as if the following paragraphs were added at the end:

(e) specify the kinds of instruments (if any) that can replace, or exclude the operation of, the transmitted award; and

(f) set out the source for the terms and conditions that the employer intends to apply to the matters that are dealt with by the transmitted award when the transmitted award ceases to bind the employer; and

(g) identify any collective agreement or award that binds:

(i) the employer; and

(ii) employees of the employer who are not transferring employees in relation to the transmitted award.

(268) Schedule 1, item 359, page 580 (line 34), after “100B,”, insert “101B, 103R.”.

(269) Schedule 1, item 359, page 580 (after line 35), at the end of Division 2, add:

Subdivision D—Ceasing to be bound by transitional award

102A Ceasing to be bound by transitional award—inaibility to resolve industrial dispute under this Schedule

(1) This clause applies to a transitional award (other than a Victorian reference award) to the extent that the award regulates excluded employers in respect of the employment of employees in Victoria.

(2) Clause 59 has effect, in relation to the award, as if the reference in subclause 59(3) to must were read as a reference to may.

(270) Schedule 1, item 359, page 581 (before line 3), before clause 103, insert:

102A Continuation of hearing by Commission

For the purposes of this Schedule, sub-section 34(4) applies as if the reference to any award were a reference to any transitional award.

(271) Schedule 1, item 359, page 581 (line 8), at the end of clause 103, add:

; and (c) “award or” were omitted from paragraph (4)(c).

(272) Schedule 1, item 359, page 582 (line 14), omit “4A”, substitute “5”.

(273) Schedule 1, item 359, page 582 (line 30), at the end of clause 107, add:

; and (e) paragraph (da) of table item 3 of subsection 177AA(1) were replaced by the following paragraph:

(da) if the term is an outworker term (within the meaning of subclause 4(5) of Schedule 13)—a person, or an entity referred to in paragraph 4(2)(c) of that Schedule, that is bound by the transitional award;

(274) Schedule 1, item 359, page 582 (after line 30), after clause 107, insert:
107A Application of provisions of Act relating to freedom of association

For the purposes of this Schedule, Part XA (Freedom of association) applies, to the extent possible, as if:

(a) a reference to an award were a reference to a transitional award; and
(b) a reference to an employee were a reference to a transitional employee; and
(c) a reference to an employer were a reference to a transitional employer; and
(d) section 241 had not been enacted; and
(e) the following section were inserted after section 244:

244A Industrial action

This Part applies to conduct carried out with a purpose or intent relating to a person’s participation or non-participation in industrial action within the meaning of clause 3 of Schedule 13.

107B Contracts entered into by agents of transitional employees

For the purposes of this Schedule, section 338 applies, to the extent possible, as if:

(a) a reference to an employee were a reference to a transitional employee; and
(b) a reference to an employer were a reference to a transitional employer; and
(c) a reference to employment were a reference to employment within the meaning of this Schedule.

107D Interpretation of transitional awards

For the purposes of this Schedule, section 413 applies as if a reference to an award were a reference to a transitional award.

(275) Schedule 1, item 359, page 582 (line 33), after “matters”, insert “or persons”.

(276) Schedule 1, item 360, page 593 (lines 4 to 6), omit clause 22, substitute:

22 Application of Part

This Part applies in relation to a section 170MX award that:

(a) was in force just before the reform commencement; or
(b) was made after the reform commencement because of Part 8 of this Schedule.

(277) Schedule 1, item 360, page 595 (after line 29), after Part 7, insert:

PART 7A—RELATIONSHIP BETWEEN PRE-REFORM AGREEMENTS ETC. AND PUBLIC HOLIDAY ENTITLEMENT

30A Relationship between pre-reform agreements etc. and public holiday entitlement

Division 1A of Part VIA (public holidays) does not apply to an employee if the employee’s employment is subject to any of the following instruments:

(a) a pre-reform certified agreement;
(b) a pre-reform AWA;
(c) a section 170MX award.

(278) Schedule 1, item 360, page 596 (after line 19), at the end of Part 8, add:
32A Approvals of section 170MX awards under pre-reform Act after the reform commencement

(1) This clause applies if the Commission has started to exercise arbitration powers in accordance with subsection 170MX(3) of the pre-reform Act before the reform commencement to make an award under that subsection.

(2) The pre-reform Act continues to apply, despite the repeals and amendments made by the Workplace Relations Amendment (WorkChoices) Act 2005, in relation to the making of the award.

(279) Schedule 1, item 360, page 597 (lines 13 to 15), omit the definition of Victorian reference section 170MX award in clause 33, substitute:

Victoria reference section 170MX award means a section 170MX award that:

(a) was made before the reform commencement under this Act in its operation in accordance with repealed Division 2 of Part XV; or
(b) was made after the reform commencement because of clause 32A of this Schedule (as that clause applies because of clause 38A of this Schedule).

(280) Schedule 1, item 360, page 598 (after line 23), after clause 38, insert:

38A Approvals of section 170MX awards under pre-reform Act after the reform commencement

Clause 32A has effect, in relation to the making of a section 170MX award under this Act in its operation in accordance with repealed Division 2 of Part XV, as if the reference in sub-clause 32A(1) to subsection 170MX(3) of the pre-reform Act were read as a reference to that subsection as it had effect because of repealed Division 2 of Part XV.

(281) Schedule 1, item 360, page 599 (after line 17), after the definition of notional agreement preserving State awards in sub-clause 1(1), insert:

preserved collective State agreement is an agreement that is taken to come into operation under clause 10.

preserved individual State agreement is an agreement that is taken to come into operation under clause 3.

(282) Schedule 1, item 360, page 599 (lines 21 and 22), omit the definition of preserved State agreement in sub-clause 1(1), substitute:

preserved State agreement means:
(a) a preserved individual State agreement; or
(b) a preserved collective State agreement.

(283) Schedule 1, item 360, page 599 (after line 22), at the end of clause 1, add:

(2) A reference in regulations made for the purposes of clause 9, subclause 19(1), clause 37 or subclause 42(1) to an independent contractor is not confined to a natural person.

(284) Schedule 1, item 360, page 600 (line 12) to page 604 (line 29), omit Divisions 1 and 2, substitute:

Division 1—Preserved individual State agreements

Subdivision A—What is a preserved individual State agreement?

3 Preserved individual State agreements

If, immediately before the reform commencement:

(a) the terms and conditions of employment of an employee were determined, in whole or in part, under a State employment agreement (the original individual agreement); and

(b) that employee was the only employee who was bound by the agreement, or whose employment was subject to the agreement;

a preserved individual State agreement is taken to come into operation on the reform commencement.
Subdivision B—Who is bound by or subject to a preserved individual State agreement?

Who is bound by or subject to a preserved individual State agreement?

(1) Any person who:
(a) immediately before the reform commencement, was bound by, or a party to, the original individual agreement, under the terms of that agreement or a State or Territory industrial law as in force at that time; and
(b) is one of the following:
(i) an employer;
(ii) an employee;
(iii) an organisation;

is bound by the preserved individual State agreement.

(2) The employment of a person is subject to the preserved individual State agreement if, immediately before the reform commencement, that employment was subject to the original individual agreement.

Subdivision C—Terms of a preserved individual State agreement

Terms of a preserved individual State agreement

(1) A preserved individual State agreement is taken to include the terms of the original individual agreement, as in force immediately before the reform commencement.

(2) If, immediately before the reform commencement, a term of another State employment agreement determined, in whole or in part, a term or condition of employment of the employee who was bound by, or whose employment was subject to, the original individual agreement, then, to that extent, that term, as in force at that time, is taken to be a term of the preserved individual State agreement.

(3) If, immediately before the reform commencement, a term of a State award determined, in whole or in part, a term or condition of the employment of the employee who was bound by, or whose employment was subject to, the original individual agreement, then, to that extent, that term, as in force at that time, is taken to be a term of the preserved individual State agreement.

(4) If, immediately before the reform commencement, a provision of a State or Territory industrial law determined, in whole or in part, a preserved entitlement of the employee who was bound by, or whose employment was subject to, the original individual agreement, then, to that extent, that provision, as in force at that time, is taken to be a term of the preserved individual State agreement.

(5) In this clause:

preserved entitlement means:
(a) an entitlement to:
(i) annual leave and annual leave loadings; or
(ii) parental leave, including maternity leave and adoption leave; or
(iii) personal/carer's leave; or
(iv) leave relating to bereavement; or
(v) ceremonial leave; or
(vi) notice of termination; or
(vii) redundancy pay; or
(viii) loadings for working overtime or shift work; or
(ix) penalty rates, including the rate of payment for work on a public holiday; or
(x) rest breaks; or
(b) another prescribed entitlement.

6 Nominal expiry date of a preserved individual State agreement

The nominal expiry date of a preserved individual State agreement is:
(a) the day on which the original individual agreement would nominally have expired under the relevant State or Territory industrial law; or
(b) if that day falls after the end of a period of 3 years beginning on the commencement of the original individual agreement—the last day of that 3 year period.

7 Powers of State industrial authorities

(1) If a preserved individual State agreement confers a function or power on a State industrial authority, that function must not be performed and that power must not be exercised by the State industrial authority on or after the reform commencement.

(2) However, the employer and the persons bound by the preserved individual State agreement may, by agreement, confer such a function or power on the Commission, provided it does not relate to the resolution of a dispute about the application of the agreement.

8 Dispute resolution processes

(1) A preserved individual State agreement is taken to include a term requiring disputes about the application of the agreement to be resolved in accordance with the model dispute resolution process.

(2) Any term of the preserved individual State agreement that would otherwise deal with the resolution of those disputes is void to that extent.

9 Prohibited content

A term of a preserved individual State agreement is void to the extent that it contains prohibited content of a prescribed kind.

Note: The Employment Advocate can alter the document recording the terms of a preserved State agreement to remove prohibited content of a prescribed kind (see clause 19).

Division 2—Preserved collective State agreements

Subdivision A—What is a preserved collective State agreement?

10 Preserved collective State agreements

If, immediately before the reform commencement:

(a) the terms and conditions of employment of an employee were determined, in whole or in part, under a State employment agreement (the original collective agreement); and

(b) that employee was one of a number of employees who were bound by the agreement, or whose employment was subject to the agreement;

a preserved collective State agreement is taken to come into operation on the reform commencement.

Subdivision B—Who is bound by or subject to a preserved collective State agreement?

11 Who is bound by a preserved collective State agreement?

Current employees

(1) Any person who:

(a) immediately before the reform commencement, was bound by, or a party to, the original collective agreement, under the terms of that agreement or a State or Territory industrial law as in force at that time; and

(b) is one of the following:

(i) an employer;
(ii) an employee;
(iii) an organisation;

is bound by the preserved collective State agreement.

Future employees

(2) If:

(a) an employer who is bound by a preserved collective State agreement employs a person after the reform commencement; and
(b) under the terms of the original collective agreement, as in force immediately before the reform commencement, the person would have been bound by that agreement;
that person is bound by the preserved collective State agreement.

12 Whose employment is subject to a preserved collective State agreement?

Current employees
(1) The employment of a person is subject to a preserved collective State agreement if that employment was, immediately before the reform commencement, subject to the original collective agreement.

Future employees
(2) If:
(a) an employer who is bound by a preserved collective State agreement employs a person after the reform commencement; and
(b) under the terms of the original collective agreement, as in force immediately before the reform commencement, that person’s employment would have been subject to that agreement;
that employment is subject to the preserved collective State agreement.

Subdivision C—Terms of a preserved collective State agreement

13 Terms of a preserved collective State agreement

(1) A preserved collective State agreement is taken to include the terms of the original collective agreement, as in force immediately before the reform commencement.

(2) If, immediately before the reform commencement, a term of a State award would have determined, in whole or in part, a preserved entitlement of a person who would have been bound by, or whose employment would have been subject to, the original collective agreement, then, to that extent, that term, as in force at that time, is taken to be a term of the preserved collective State agreement.

(3) If, immediately before the reform commencement, a provision of a State or Territory industrial law would have determined, in whole or in part, a preserved entitlement of a person who would have been bound by, or whose employment would have been subject to, the original collective agreement, then, to that extent, that provision, as in force at that time, is taken to be a term of the preserved collective State agreement.

(4) In this clause:

preserved entitlement means:
(a) an entitlement to:
   (i) annual leave and annual leave loadings; or
   (ii) parental leave, including maternity leave and adoption leave; or
   (iii) personal/carer’s leave; or
   (iv) leave relating to bereavement; or
   (v) ceremonial leave; or
   (vi) notice of termination; or
   (vii) redundancy pay; or
   (viii) loadings for working overtime or shift work; or
   (ix) penalty rates, including the rate of payment for work on a public holiday; or
   (x) rest breaks; or
(b) another prescribed entitlement.

14 Nominal expiry date of a preserved collective State agreement

The nominal expiry date of a preserved collective State agreement is:

(a) the day on which the original collective agreement would nominally have expired under the relevant State or Territory industrial law; or
(b) if that day falls after the end of a period of 3 years beginning on the
commencement of the original collective agreement—the last day of that 3 year period.

**15 Powers of State industrial authorities**

(1) If a preserved collective State agreement confers a function or power on a State industrial authority, that function must not be performed and that power must not be exercised by the State industrial authority on or after the reform commencement.

(2) However, the employer and the persons bound by the preserved collective State agreement may, by agreement, confer such a function or power on the Commission, provided it does not relate to the resolution of a dispute about the application of the agreement.

**15A Dispute resolution processes**

(1) A preserved collective State agreement is taken to include a term requiring disputes about the application of the agreement to be resolved in accordance with the model dispute resolution process.

(2) Any term of the preserved collective State agreement that would otherwise deal with the resolution of those disputes is void to that extent.

**15B Prohibited content**

A term of a preserved collective State agreement is void to the extent that it contains prohibited content of a prescribed kind.

Note: The Employment Advocate can alter the document recording the terms of a preserved State agreement to remove prohibited content of a prescribed kind (see clause 19).

**Division 2A—Effect and operation of a preserved State agreement**

**15C Effect of a preserved State agreement**

(1) Except as provided in or under this Part, or otherwise in or under this Act, a preserved State agreement has effect according to its terms.

(2) This Part has effect despite the terms of the preserved State agreement itself, or any State award or law of a State or Territory.

(3) None of the terms and conditions of employment included in the preserved State agreement are enforceable under the law of a State or Territory.

**15D Effect of awards while a preserved State agreement in operation**

An award has no effect in relation to an employee while the terms of a preserved State agreement operate in relation to the employee.

**15E Relationship between a preserved State agreement and the Australian Fair Pay and Conditions Standard**

The Australian Fair Pay and Conditions Standard does not apply to an employee if the employee is bound by a preserved State agreement, or the employee’s employment is subject to a preserved State agreement.

**15F Relationship between a preserved State agreement and public holiday entitlement**

Division 1A of Part VIA (public holidays) does not apply to an employee if the employee is bound by a preserved State agreement, or the employee’s employment is subject to a preserved State agreement.

**15G When preserved State agreements cease to operate**

(1) A preserved State agreement ceases to be in operation if it is terminated under clause 21.

(2) A preserved State agreement ceases to be in operation, in relation to an employee, when one of the following comes into operation in relation to the employee:

(a) a workplace agreement;

(b) a workplace determination;
even if the nominal expiry date of the preserved State agreement has not passed.

(3) If a preserved State agreement has ceased operating in relation to an employee because of subclause (2), the agreement can never operate again in relation to that employee.

Schedule 1, item 360, page 610 (lines 8 to 16), omit subclause 23(1), substitute:

(1) During the period beginning on the reform commencement day and ending on the nominal expiry date of a preserved collective State agreement, an employee, organisation or officer covered by subclause (2) must not organise or engage in industrial action (whether or not that action relates to a matter dealt with in the agreement).

Note 1: This subclause is a civil remedy provision: see subclause (4).

Note 2: Action that contravenes this subclause is not protected action (see clause 25).

Schedule 1, item 360, page 611 (line 13), omit paragraph 23(7)(c), substitute:

(c) any person affected by the industrial action; or

(d) any other person prescribed by the regulations.

Schedule 1, item 360, page 611 (line 24), omit paragraph 23(8)(d), substitute:

(d) any person affected by the industrial action; or

(e) any other person prescribed by the regulations.

Schedule 1, item 360, page 613 (line 16), after “Engaging in”, insert “or organising”.

Schedule 1, item 360, page 613 (after line 17), after Division 6, insert:

Division 6A—Protected conditions

25A Protected conditions where employment was subject to preserved State agreement

(1) This clause applies if:

(a) a person’s employment was subject to a preserved State agreement; and

(b) the agreement ceased to operate because a workplace agreement came into operation in relation to the employee.

(2) Protected preserved conditions:

(a) are taken to be included in the workplace agreement; and

(b) have effect in relation to the employment of that person; and

(c) have that effect subject to any terms of the workplace agreement that expressly exclude or modify all or part of them.

(3) Despite paragraph (2)(c), those protected preserved conditions have effect in relation to the employment of that person to the extent that those protected preserved conditions are about outworker conditions, despite any terms of the workplace agreement that provide, in a particular respect, a less favourable outcome for that person.

Schedule 1, item 360, page 613 (after line 17), after Division 6, insert:

Division 6A—Protected conditions

25A Protected conditions where employment was subject to preserved State agreement

(1) This clause applies if:

(a) a person’s employment was subject to a preserved State agreement; and

(b) the agreement ceased to operate because a workplace agreement came into operation in relation to the employee.

(2) Protected preserved conditions:

(a) are taken to be included in the workplace agreement; and

(b) have effect in relation to the employment of that person; and

(c) have that effect subject to any terms of the workplace agreement that expressly exclude or modify all or part of them.

(3) Despite paragraph (2)(c), those protected preserved conditions have effect in relation to the employment of that person to the extent that those protected preserved conditions are about outworker conditions, despite any terms of the workplace agreement that provide, in a particular respect, a less favourable outcome for that person.

(4) In this clause:

outworker means an employee who, for the purposes of the business of the employer, performs work at private residential premises or at other premises that are not business or commercial premises of the employer.

outworker conditions means conditions (other than pay) for outworkers, but only to the extent necessary to ensure that their overall conditions of employment are fair and reasonable in comparison with the conditions of employment specified in a relevant award or awards for employees who perform the same kind of work at an employer’s business or commercial premises.

protected allowable award matters means the following matters:

(a) rest breaks;

(b) incentive-based payments and bonuses;
(c) annual leave loadings;
(d) observance of days declared by or under a law of a State or Territory to be observed generally within that State or Territory, or a region of that State or Territory, as public holidays by employees who work in that State, Territory or region, and entitlements of employees to payment in respect of those days;
(e) days to be substituted for, or a procedure for substituting, days referred to in paragraph (d);
(f) monetary allowances for:
   (i) expenses incurred in the course of employment; or
   (ii) responsibilities or skills that are not taken into account in rates of pay for employees; or
   (iii) disabilities associated with the performance of particular tasks or work in particular conditions or locations;
(g) loadings for working overtime or for shift work;
(h) penalty rates;
(i) outworker conditions;
(j) any other matter specified in the regulations.

Note: These matters are the same as certain allowable award matters mentioned in section 116.

protected preserved condition, in relation to the employment of a person, means a term of a State award or a provision of a State or Territory industrial law, as in force immediately before the reform commencement, that would have determined a term or condition of that employment, had the person been employed at that time and that employment not been subject to a State employment agreement, to the extent that the term or provision:

(a) is:
   (i) about protected allowable award matters; or
   (ii) incidental to a protected allowable award matter and may be included in an award as permitted by section 116I; or
   (iii) a machinery provision that is in respect of a protected allowable award matter and may be included in an award as permitted by section 116I; and
(b) is not about:
   (i) matters that are not allowable award matters because of section 116B; or
   (ii) any other matters specified in the regulations.

(290) Schedule 1, item 360, page 614 (line 27) to page 619 (line 26), omit Divisions 1 and 2, substitute:

Division 1—What is a notional agreement preserving State awards?
Subdivision A—What is a notional agreement preserving State awards?
31 Notional agreements preserving State awards

If, immediately before the reform commencement, the terms and conditions of employment of one or more employees in a single business or a part of a single business:

(a) were not determined under a State employment agreement; and
(b) were determined, in whole or in part, under a State award (the original State award) or a State or Territory industrial law (the original State law);

a notional agreement preserving State awards is taken to come into operation on the reform commencement in respect of the business or that part of the business.
Subdivision B—Who is bound by or subject to a notional agreement preserving State awards?

32 Who is bound by a notional agreement preserving State awards?

Current employees

(1) Any person who:
(a) immediately before the reform commencement, was bound by, or a party to, the original State award or original State law; and
(b) is one of the following:
   (i) an employer in the business, or that part of the business;
   (ii) an employee who is employed in the business, or that part of the business, who was so employed immediately before the reform commencement, who was not bound by, or a party to, a State employment agreement at that time and whose employment was not subject to such an agreement at that time;
   (iii) an organisation that has at least one member who is such an employee, and that is entitled to represent the industrial interests of at least one such employee;

is bound by the notional agreement.

Future employees

(2) If:
(a) a person is employed in the business or that part of the business after the reform commencement; and
(b) under the terms of the original State award or the original State law, as in force immediately before the reform commencement, the person would have been bound by that award or law; and
(c) the person is not bound by a preserved State agreement;

the person is bound by the notional agreement.

Subdivision C—Terms of a notional agreement preserving State awards

33 Whose employment is subject to a notional agreement preserving State awards?

Current employees

(1) The employment of a person in the business or that part of the business is subject to the notional agreement, if:
(a) that employment was, immediately before the reform commencement, subject to the original State award or the original State law; and
(b) that employment was not subject to a State employment agreement at that time.

Future employees

(2) If:
(a) a person is employed in the business, or that part of the business, after the reform commencement; and
(b) under the terms of the original State award or the original State law, that employment would have been subject to that award or that law; and
(c) that employment is not subject to a preserved State agreement;

that employment is subject to the notional agreement.

34 Terms of a notional agreement preserving State awards

(1) If, immediately before the reform commencement, a term of the original State award would have determined, in whole or in part, a term or condition of employment in the business or that part of the business of a person who was not bound by or a party to a State employment agreement, or whose employment was not subject to such an agreement, then to that extent, that term, as in force at that time, is taken to be a term of the notional agreement.

(2) If, immediately before the reform commencement, a provision of a State or Territory industrial law would have
determined, in whole or in part, a preserved entitlement of a person employed in the business or that part of the business who was not bound by or a party to a State employment agreement, or whose employment was not subject to such an agreement, then to that extent, that provision, as in force at that time, is taken to be a term of the notional agreement.

(3) In this clause:

preserved entitlement means:

(a) an entitlement to:
   (i) annual leave and annual leave loadings; or
   (ii) parental leave, including maternity leave and adoption leave; or
   (iii) personal/carer’s leave; or
   (iv) leave relating to bereavement; or
   (v) ceremonial leave; or
   (vi) notice of termination; or
   (vii) redundancy pay; or
   (viii) loadings for working overtime or shift work; or
   (ix) penalty rates, including the rate of payment for work on a public holiday; or
   (x) rest breaks; or
   (b) another prescribed entitlement.

35 Powers of State industrial authorities

(1) If a notional agreement preserving State awards confers a function or power on a State industrial authority, that function must not be performed and that power must not be exercised by the State industrial authority on or after the reform commencement.

(2) However, the employer and the persons bound by the notional agreement may, by agreement, confer such a function or power on the Commission, provided it does not relate to the resolution of a dispute about the application of the agreement.

36 Dispute resolution processes

(1) A notional agreement preserving State awards is taken to include a term requiring disputes about the application of the agreement to be resolved in accordance with the model dispute resolution process.

(2) Any term of the notional agreement that would otherwise deal with the resolution of those disputes is void to that extent.

37 Prohibited content

A term of a notional agreement preserving State awards is void to the extent that it contains prohibited content of a prescribed kind.

Division 2—Effect and operation of a notional agreement preserving State awards

38 Effect of a notional agreement preserving State awards

(1) Except as provided in or under this Part, or otherwise in or under this Act, a notional agreement preserving State awards has effect according to its terms.

(2) This Part has effect despite the terms of the original State award, the original State law or any other law of a State or Territory.

(3) None of the terms and conditions of employment included in the notional agreement are enforceable under the law of a State or Territory.

38A Operation of a notional agreement preserving State awards

(1) A notional agreement preserving State awards ceases to be in operation at the end of a period of 3 years beginning on the reform commencement.

(2) A notional agreement preserving State awards ceases to be in operation in relation to an employee if a workplace agreement comes into operation in relation to the employee.

Note: The reference in subsection (2) to a workplace agreement in-
cludes a reference to a workplace determination (see section 113F).

(3) A notional agreement preserving State awards ceases to be in operation in relation to an employee if the employee becomes bound by an award.

(4) If the notional agreement has ceased operating in relation to an employee because of subclause (2) or (3), the agreement can never operate again in relation to that employee.

(291) Schedule 1, item 360, page 624 (line 9), after “term”, insert “, or more than one term,”.

(292) Schedule 1, item 360, page 624 (after line 25), after subclause 45(3), insert:

(3A) If more than one term of a notional agreement preserving State awards is about a matter referred to in subclause (2), then those terms, taken together, constitute the preserved notional term of that notional agreement about that matter.

(293) Schedule 1, item 360, page 624 (lines 30 and 31), omit paragraph 45(5)(a), substitute:

(a) the matter referred to in paragraph (1)(c) does not include one or both of the following:

(i) special maternity leave (within the meaning of section 94C);

(ii) the entitlement under section 94F to transfer to a safe job or to take paid leave; and

(294) Schedule 1, item 360, page 625 (lines 5 to 7), omit the note, substitute:

Note: The effect of excluding a form of leave or an entitlement in relation to a matter is that the entitlement in relation to that form of leave or matter under the Australian Fair Pay and Conditions Standard will automatically apply.

(295) Schedule 1, item 360, page 629 (after line 14), after subclause 52(2), insert:

(2A) Despite paragraph (2)(c), those protected notional conditions have effect in relation to the employment of that person to the extent that those protected notional conditions are about outworker conditions, despite any terms of the workplace agreement that provide, in a particular respect, a less favourable outcome for that person.

(296) Schedule 1, item 360, page 629 (after line 35), after paragraph (d) of the definition of protected allowable award matters in subclause 52(3), insert:

(da) days to be substituted for, or a procedure for substituting, days referred to in paragraph (d);

(297) Schedule 1, item 360, page 630 (line 15), omit paragraph (a) of the definition of protected notional conditions in subclause 52(3), substitute:

(a) are:

(i) about protected allowable award matters; or

(ii) incidental to protected allowable award matters and may be included in an award as permitted by section 116I; or

(iii) machinery provisions that are in respect of protected allowable award matters and may be included in an award as permitted by section 116I; and

(298) Schedule 1, item 360, page 630 (line 17), omit subparagraph (b)(i) of the definition of protected notional conditions in subclause 52(3), substitute:

(i) matters that are not allowable award matters because of section 116B; or

(299) Schedule 1, item 360, page 630 (after line 18), after Division 6, insert:
Division 6A—Industrial action during the life of an enterprise award

52AA Action taken during life of enterprise award not protected

(1) Engaging in or organising industrial action is not protected action if:

(a) either:

(i) the person engaging in the industrial action is bound by a notional agreement preserving State awards that includes terms and conditions from an enterprise award; or

(ii) the employment of the person engaging in the industrial action is subject to such a notional agreement; and

(b) a term or condition of the enterprise award included in the notional agreement relates to industrial action; and

(c) engaging in the industrial action would breach that term or condition; and

(d) the nominal expiry date of the enterprise award has not yet passed.

(2) In this clause:

enterprise award means a State award:

(a) that regulates a term or condition of employment of a person or persons by an employer in a single business or a part of a single business specified in the award; and

(b) that is specified to have effect for a period, either by reference to an actual or nominal expiry date or by reference to an actual or nominal period; and

(c) a term of which provides that one or more of the parties will not make further claims before the nominal expiry date for the award.

nominal expiry date for an enterprise award, means the last day of the actual or nominal period during which the enterprise award is specified to have effect.

(300) Schedule 1, item 360, page 632 (line 10), omit “Division 2”.

(301) Schedule 1, item 360, page 632 (line 31), omit “(within the meaning of Schedule 14)”.

(302) Schedule 1, item 360, page 632 (after line 33), after the definition of Division 2 pre-reform certified agreement in clause 3, insert:

Division 3 pre-reform certified agreement means a pre-reform certified agreement that was made under Division 3 of Part VIB of this Act before the reform commencement.

(303) Schedule 1, item 360, page 633 (after line 10), after the definition of pre-reform AWA in clause 3, insert:

pre-reform certified agreement has the same meaning as in Schedule 14.

(304) Schedule 1, item 360, page 633 (after line 10), after the definition of pre-reform AWA in clause 3, insert:

preserved collective State agreement has the same meaning as in Schedule 15.

preserved individual State agreement has the same meaning as in Schedule 15.

(305) Schedule 1, item 360, page 633 (line 21), omit “Division 2”.

(306) Schedule 1, item 360, page 633 (after line 25), after the definition of transitional industrial instrument in clause 3, insert:

transitional instrument means:

(a) a pre-reform AWA; or

(b) a pre-reform certified agreement; or

(c) a notional agreement preserving State awards; or

(d) a preserved State agreement.

(307) Schedule 1, item 360, page 634 (after line 24), at the end of subclause 5(1), add:

Note: Clause 6A of this Schedule provides that references to employer
ees and employment have their ordinary meanings in relation to a Division 3 pre-reform certified agreement if the old employer is not an employer (within the meaning of subsection 4AB(1)).

(308) Schedule 1, item 360, page 635 (after line 3), at the end of subclause 5(2), add:

Note: Clause 6A of this Schedule provides that references to employees and employment have their ordinary meanings in relation to a Division 3 pre-reform certified agreement if the old employer is not an employer (within the meaning of subsection 4AB(1)).

(309) Schedule 1, item 360, page 635 (after line 18), at the end of subclause 6(1), add:

Note: Clause 6A of this Schedule provides that references to employees and employment have their ordinary meanings in relation to a Division 3 pre-reform certified agreement if the old employer is not an employer (within the meaning of subsection 4AB(1)).

(310) Schedule 1, item 360, page 635 (after line 26), at the end of subclause 6(2), add:

Note: Clause 6A of this Schedule provides that references to employees and employment have their ordinary meanings in relation to a Division 3 pre-reform certified agreement if the old employer is not an employer (within the meaning of subsection 4AB(1)).

(311) Schedule 1, item 360, page 635 (after line 28), at the end of Part 2, add:

6A Application of Schedule to certain Division 3 pre-reform certified agreements

(1) This clause applies if the old employer in relation to a Division 3 pre-reform certified agreement is not an employer (within the meaning of subsection 4AB(1)).

(2) In applying this Schedule to the Division 3 pre-reform certified agreement, references in this Schedule to:

(a) an employee; or

(b) employment;

have their ordinary meanings.

(312) Schedule 1, item 360, page 637 (line 13) to page 643 (line 34), omit Part 4, substitute:

PART 4—TRANSMISSION OF PRE-REFORM CERTIFIED AGREEMENTS

Division 1—General

10 Transmission of pre-reform certified agreement

New employer bound by Division 2 pre-reform certified agreement

(1) If:

(a) immediately before the time of transmission:

(i) the old employer; and

(ii) employees of the old employer;

were bound by a Division 2 pre-reform certified agreement; and

(b) there is at least one transferring employee in relation to the Division 2 pre-reform certified agreement;

the new employer is bound by the Division 2 pre-reform certified agreement by force of this subclause.

Note 1: The new employer must notify transferring employees and lodge a copy of the notices with the Employment Advocate (see clauses 28 and 29).

Note 2: See also clause 11 for the interaction between the Division 2 pre-reform certified agreement and other industrial instruments.

New employer bound by Division 3 pre-reform certified agreement

(2) If:
(a) the old employer is an employer (within the meaning of subsection 4AB(1)); and

(b) immediately before the time of transmission:
   (i) the old employer; and
   (ii) employees of the old employer;

(c) there is at least one transferring employee in relation to the Division 3 pre-reform certified agreement;

the new employer is bound by the Division 3 pre-reform certified agreement by force of this subclause.

Note 1: The new employer must notify transferring employees and lodge a copy of the notices with the Employment Advocate (see clauses 28 and 29).

Note 2: See also clause 11 for the interaction between the Division 3 pre-reform certified agreement and other industrial instruments.

Period for which new employer remains bound

(4) The new employer remains bound by the pre-reform certified agreement, by force of subclause (1), (2) or (3), until whichever of the following first occurs:

(a) the pre-reform certified agreement ceases to be in operation because it is terminated under section 170MG of the pre-reform Act (as applied by subclause 2(1) of Schedule 14);

(b) there cease to be any transferring employees in relation to the pre-reform certified agreement;

(c) the new employer ceases to be bound by the pre-reform certified agreement in relation to all the transferring employees in relation to the agreement;

(d) the transmission period ends;
(e) if:

(i) the pre-reform certified agreement is a Division 3 pre-reform certified agreement; and

(ii) the new employer is an excluded employer (within the meaning of Schedule 13) when the period of 5 years beginning on the reform commencement ends;

the period referred to in subparagraph (ii) ends.

Note: Paragraph (c)–see subclause (6).

(5) Paragraph (4)(d) does not apply if:

(a) the pre-reform certified agreement is a Division 3 pre-reform certified agreement; and

(b) the old employer is not an employer within the meaning of subsection 4AB(1) immediately before the time of transmission; and

(c) the new employer is an employer within the meaning of subsection 4AB(1) at the time of transmission; and

(d) the transmission occurs as part of the process of the employer in relation to the business being transferred becoming an employer within the meaning of subsection 4AB(1).

Period for which new employer remains bound in relation to particular transferring employee

(6) The new employer remains bound by the pre-reform certified agreement in relation to a particular transferring employee, by force of subclause (1), (2) or (3), until whichever of the following first occurs:

(a) the pre-reform certified agreement ceases to be in operation in relation to the transferring employee’s employment with the new employer because the new employer makes an AWA with the transferring employee (see subclause 12(2));

(b) the pre-reform certified agreement ceases to be in operation in relation to the transferring employee’s employment with the new employer because a collective agreement comes into operation in relation to the transferring employee in relation to that employment (see subclause 3(1) of Schedule 14);

(c) the employer ceases to be bound by the pre-reform certified agreement under subclause (4).

New employer bound only in relation to employment of transferring employees in business being transferred

(7) The new employer is bound by the pre-reform certified agreement, by force of subclause (1), (2) or (3), only in relation to the employment, in the business being transferred, of employees who are transferring employees in relation to the pre-reform certified agreement.

New employer bound subject to Commission order

(8) Subclauses (1), (2), (3), (4) and (6) have effect subject to any order of the Commission under clause 14.

Old employer’s rights and obligations that arose before time of transmission not affected

(9) This clause does not affect the rights and obligations of the old employer that arose before the time of transmission.

11 Interaction rules

Transmitted certified agreement

(1) This clause applies if subclause 10(1), (2) or (3) applies to a pre-reform certified agreement (the transmitted certified agreement).

Existing collective agreements

(2) If:

(a) the new employer is bound by a collective agreement (the existing collective agreement); and
(b) the existing collective agreement would, but for this subclause, apply, according to its terms, to a transferring employee in relation to the transmitted certified agreement when the transferring employee becomes employed by the new employer;
the existing collective agreement does not apply to the transferring employee.

(3) Subclause (2) ceases to apply when whichever of the following first occurs:
(a) the transmission period ends;
(b) if:
(i) the pre-reform certified agreement is a Division 3 pre-reform certified agreement; and
(ii) the new employer is an excluded employer (within the meaning of Schedule 13) when the period of 5 years beginning on the reform commencement ends;
the period referred to in subparagraph (ii) ends.

(4) Subclause (3) does not apply if:
(a) the pre-reform certified agreement is a Division 3 pre-reform certified agreement; and
(b) the old employer is not an employer within the meaning of subsection 4AB(1) immediately before the time of transmission; and
(c) the new employer is an employer within the meaning of subsection 4AB(1) at the time of transmission; and
(d) the transmission occurs as part of the process of the employer in relation to the business being transferred becoming an employer within the meaning of subsection 4AB(1).

Modified operation of sections 170MH and 170MHA of the pre-reform Act

(3) The transmitted certified agreement cannot be terminated under section 170MH or 170MHA of the pre-reform Act during the transmission period (even if the transmitted certified agreement has passed its nominal expiry date).
Division 2—Commission’s powers

13 Application and terminology

(1) This Division applies if:
   (a) a person is bound by a pre-reform certified agreement; and
   (b) another person:
      (i) becomes at a later time; or
      (ii) is likely to become at a later time;
          the successor, transmittee or assignee of the whole, or a part, of the business of the person referred to in paragraph (a).

(2) For the purposes of this Division:
   (a) the outgoing employer is the person referred to in paragraph (1)(a); and
   (b) the incoming employer is the person first referred to in paragraph (1)(b); and
   (c) the business concerned is the business, or the part of the business, to which the incoming employer becomes, or is likely to become, the successor, transmittee or assignee; and
   (d) the transfer time is the time at which the incoming employer becomes, or is likely to become, the successor, transmittee or assignee of the business concerned.

14 Commission may make order

(1) The Commission may make an order that the incoming employer:
   (a) is not, or will not be, bound by the pre-reform certified agreement; or
   (b) is, or will be, bound by the pre-reform certified agreement, but only to the extent specified in the order.

The order must specify the day from which the order takes effect. That day must not be before the day on which the order is made or before the transfer time.

(2) Without limiting paragraph (1)(b), the Commission may make an order under that paragraph that the incoming employer is, or will be, bound by the pre-reform certified agreement but only for the period specified in the order.

(3) To avoid doubt, the Commission cannot make an order under subclause (1) that would have the effect of extending the transmission period.

15 When application for order can be made

An application for an order under subclause 14(1) may be made before, at or after the transfer time.

16 Who may apply for order

(1) Before the transfer time, an application for an order under subclause 14(1) may be made only by the outgoing employer.

(2) At or after the transfer time, an application for an order under subclause 14(1) may be made only by:
   (a) the incoming employer; or
   (b) a transferring employee in relation to the pre-reform certified agreement; or
   (c) an organisation of employees that is bound by the pre-reform certified agreement; or
   (d) an organisation of employees that:
      (i) is entitled, under its eligibility rules, to represent the industrial interests of a transferring employee in relation to the pre-reform certified agreement; and
      (ii) has been requested by the transferring employee to apply for the order on the transferring employee’s behalf.

17 Applicant to give notice of application

The applicant for an order under subclause 14(1) must take reasonable steps to give written notice of the application to the persons who may make submis-
18 Submissions in relation to application

(1) Before deciding whether to make an order under subclause 14(1) in relation to the pre-reform certified agreement, the Commission must give the following an opportunity to make submissions:

(a) the applicant;  
(b) before the transfer time—the persons covered by subclause (2);  
(c) at and after the transfer time—the persons covered by subclause (3).

(2) For the purposes of paragraph (1)(b), this subclause covers:

(a) an employee of the outgoing employer:
   (i) who is bound by the pre-reform certified agreement; and  
   (ii) who is employed in the business concerned; and  
(b) the incoming employer; and  
(c) an organisation of employees that is bound by the pre-reform certified agreement; and  
(d) an organisation of employees that:
   (i) is entitled, under its eligibility rules, to represent the industrial interests of a transferring employee in relation to the pre-reform certified agreement; and  
   (ii) has been requested by the transferring employee to make submissions on the transferring employee’s behalf in relation to the application for the order under subclause 14(1).

(3) For the purposes of paragraph (1)(c), this subclause covers:

(a) the incoming employer; and  
(b) a transferring employee in relation to the pre-reform certified agreement; and  
(c) an organisation of employees that is bound by the pre-reform certified agreement; and  
(d) an organisation of employees that:
   (i) is entitled, under its eligibility rules, to represent the industrial interests of a transferring employee in relation to the pre-reform certified agreement; and  
   (ii) has been requested by the transferring employee to make submissions on the transferring employee’s behalf in relation to the application for the order under subclause 14(1).

(313) Schedule 1, item 360, page 644 (line 29), omit “clauses 5 and 21”, substitute “clauses 15G and 21”.

(314) Schedule 1, item 360, page 644 (line 33), omit “subclause 33(1)”, substitute “subclause 38A(1)”.

(315) Schedule 1, item 360, page 645 (line 17), omit “subclause 5(2)”, substitute “subclause 15G(2)”.

(316) Schedule 1, item 360, page 645 (line 24), omit “subclause 33(2)”, substitute “subclause 38A(2)”.

(317) Schedule 1, item 360, page 645 (line 29), omit “subclause 33(3)”, substitute “subclause 38A(3)”.

(318) Schedule 1, item 360, page 651 (lines 10 and 11), omit subparagraph 28(1)(a)(ii), substitute:  
   (ii) subclause 10(1), (2) or (3) (pre-reform certified agreement); or  

(319) Schedule 1, item 360, page 651 (line 34) to page 652 (line 2), omit paragraph 28(3)(f), substitute:  
   (f) identify:  
      (i) any provisions of the Australian Fair Pay and Conditions Standard; or  
      (ii) any other instrument; that the employer intends to be the source for terms and conditions that will apply to the matters that are dealt with by the transmitted in-
instrument when the transmitted instrument ceases to bind the employer; and

(320) Schedule 1, item 360, page 652 (after line 8), after subclause 28(3), insert:

(3A) Subject to subclause (3B), if the notice under subclause (3) identifies an instrument under paragraph (3)(g), the employer must give the transferring employee a copy of the instrument together with the notice.

Note: This is a civil remedy provision, see clause 31.

(3B) Subclause (3A) does not apply if:

(a) the transferring employee is able to easily access a copy of the instrument in a particular way; and

(b) the notice under subclause (3) tells the transferring employee that a copy of the instrument is accessible in that way.

Note: Paragraph (a)—the copy may be available, for example, on the Internet.

(321) Schedule 1, item 360, page 652 (line 23), omit “Division 2”.

(322) Schedule 1, item 360, page 653 (line 3), omit “Division 2”.

(323) Schedule 1, item 360, page 653 (line 17), omit “Division 2”.

(324) Schedule 1, item 360, page 654 (line 8), omit paragraph 31(1)(a), substitute:

(a) subclauses 28(2) and (3A);

(325) Schedule 1, item 360, page 655 (table item 2, 2nd column), omit “Division 2”.

(326) Schedule 1, item 360, page 656 (after line 11), after the definition of this Schedule in clause 32, insert:

Victorian reference Division 3 pre-reform certified agreement has the same meaning as in Part 9 of Schedule 14.

(327) Schedule 1, item 360, page 657 (after line 23), after clause 33, insert:

### Victorian reference Division 3 pre-reform certified agreements

(1) Clause 6A, subclauses 10(2), (3) and (5), paragraph 11(3)(b) and subclause 11(4) do not apply to a Victorian reference Division 3 pre-reform certified agreement.

(2) Division 1 of Part 4 of this Schedule applies to a Victorian reference Division 3 pre-reform certified agreement as if the agreement had been made under section 170LJ of the pre-reform Act in that section’s operation in accordance with repealed Division 2 of Part XV.

(328) Schedule 1, item 360, page 658 (line 13), omit “clause 7”, substitute “clause 15D”.

(329) Page 658 (after line 25), after Schedule 1, insert:

**Schedule IA—Establishment of Australian Fair Pay Commission**

Workplace Relations Act 1996

1 After Part I

Insert:

**PART IA—AUSTRALIAN FAIR PAY COMMISSION**

**Division 1—Preliminary**

**7F Definitions**

In this Part:

*AFPC* means the Australian Fair Pay Commission established by section 7G

*AFPC Chair* means the AFPC Chair appointed under section 7P.

*AFPC Commissioner* means an AFPC Commissioner appointed under section 7Y.

*AFPC Secretariat* means the AFPC Secretariat established under section 7ZG.

*Director of the Secretariat* means the Director of the Secretariat appointed under section 7ZK.

*wage review* means a review conducted by the AFPC to determine whether it
should exercise any of its wage-setting powers.

wage-setting decision means a decision made by the AFPC in the exercise of its wage-setting powers.

wage-setting function has the meaning given by subsection 7I(1).

wage-setting powers means the powers of the AFPC under Division 2 of Part VA.

Division 2—Australian Fair Pay Commission

Subdivision A—Establishment and functions

7G Establishment

(1) The Australian Fair Pay Commission is established by this section.

(2) The AFPC is to consist of:

(a) the AFPC Chair; and

(b) 4 AFPC Commissioners.

7H Functions of the AFPC

The functions of the AFPC are as follows:

(a) its wage-setting function as set out in subsection 7I(1);

(b) any other functions conferred on the AFPC under this Act or any other Act;

(c) any other functions conferred on the AFPC by regulations made under this Act or any other Act;

(d) to undertake activities to promote public understanding of matters relevant to its wage-setting and other functions.

Subdivision B—AFPC’s wage-setting function

7IAFC’s wage-setting function

The AFPC’s wage-setting function

(1) The AFPC’s wage-setting function is to:

(a) conduct wage reviews; and

(b) exercise its wage-setting powers as necessary depending on the outcomes of wage reviews.

Note: The main wage-setting powers of the AFPC cover the following matters (within the meaning of Division 2 of Part VA):

(a) adjusting the standard FMW (short for Federal Minimum Wage);

(b) determining or adjusting special FMWs for junior employees, employees with disabilities or employees to whom training arrangements apply;

(c) determining or adjusting basic periodic rates of pay and basic piece rates of pay payable to employees or employees of particular classifications;

(d) determining or adjusting casual loadings.

(2) During the period (the interim period) from the commencement of this Part to the commencement of Division 2 of Part VA, the AFPC has the function of gathering information (including by undertaking or commissioning research, or consulting with any person or body) for the purpose of assisting it to perform its wage-setting function after that Division has commenced. When performing its wage-setting function, the AFPC may have regard to any information so gathered during the interim period.

7JAFPC’s wage-setting parameters

The objective of the AFPC in performing its wage-setting function is to promote the economic prosperity of the people of Australia having regard to the following:

(a) the capacity for the unemployed and low paid to obtain and remain in employment;

(b) employment and competitiveness across the economy;
(c) providing a safety net for the low paid;
(d) providing minimum wages for junior employees, employees to whom training arrangements apply and employees with disabilities that ensure those employees are competitive in the labour market.

7K Wage reviews and wage-setting decisions
(1) The AFPC may determine the following:
(a) the timing and frequency of wage reviews;
(b) the scope of particular wage reviews;
(c) the manner in which wage reviews are to be conducted;
(d) when wage-setting decisions are to come into effect.
(2) For the purposes of performing its wage-setting function, the AFPC may inform itself in any way it thinks appropriate, including by:
(a) undertaking or commissioning research; or
(b) consulting with any other person, body or organisation; or
(c) monitoring and evaluating the impact of its wage-setting decisions.
(3) Subsections (1) and (2) have effect subject to this Act and any regulations made under this Act.
(4) The AFPC’s wage-setting decisions must:
(a) be in writing; and
(b) be expressed as decisions of the AFPC as a body; and
(c) include reasons for the decisions, expressed as reasons of the AFPC as a body.
A wage-setting decision is not a legislative instrument.

7L Constitution of the AFPC for wage-setting powers
(1) For the purposes of exercising its wage-setting powers, the AFPC must be constituted by:
(a) the AFPC Chair; and
(b) the 4 AFPC Commissioners.
(2) However, if the AFPC Chair considers it necessary in circumstances where AFPC Commissioners are unavailable, the AFPC Chair may determine that, for the purposes of exercising its wage-setting powers in those circumstances, the AFPC is to be constituted by:
(a) the AFPC Chair; and
(b) no fewer than 2 AFPC Commissioners.

7M Publishing wage-setting decisions etc.
(1) The AFPC must publish its wage-setting decisions.
(2) The AFPC may, as it thinks appropriate, publish other information about wages or its wage-setting function.
(3) Publishing under subsection (1) or (2) may be done in any way the AFPC thinks appropriate.

Subdivision C—Operation of the AFPC

7N AFPC to determine its own procedures
(1) The AFPC may determine the procedures it will use in performing its functions.
(2) Subsection (1) has effect subject to Subdivision B and any regulations made under subsection (3).
(3) The regulations may prescribe procedures to be used by the AFPC for all or for specified purposes.

7O Annual report
The AFPC must, as soon as practicable after the end of each financial year, give to the Minister a report on the operation of the AFPC for presentation to the Parliament.
Subdivision D—AFPC Chair

7P Appointment
(1) The AFPC Chair is to be appointed by the Governor-General by written instrument.
(2) The AFPC Chair may be appointed on a full-time or part-time basis and holds office for the period specified in his or her instrument of appointment. The period must not exceed 5 years.
(3) To be appointed as AFPC Chair, a person must have a high level of skills and experience in business or economics.

7Q Remuneration
(1) The AFPC Chair is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the AFPC Chair is to be paid the remuneration that is prescribed.
(2) The AFPC Chair is to be paid the allowances that are prescribed.
(3) This section has effect subject to the Remuneration Tribunal Act 1973.

7R Leave of absence
(1) If the AFPC Chair is appointed on a full-time basis:
   (a) the AFPC Chair has the recreation leave entitlements that are determined by the Remuneration Tribunal; and
   (b) the Minister may grant the AFPC Chair leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Minister determines.
(2) If the AFPC Chair is appointed on a part-time basis, the Minister may grant leave of absence to the AFPC Chair on the terms and conditions that the Minister determines.

7S Engaging in other paid employment
If the AFPC Chair is appointed on a full-time basis, the AFPC Chair must not engage in paid employment outside the duties of his or her office without the Minister’s approval.

7T Disclosure of interests
The AFPC Chair must give written notice to the Minister of all interests (financial or otherwise) that the AFPC Chair has or acquires and that could conflict with the proper performance of his or her duties.

7U Resignation
(1) The AFPC Chair may resign his or her appointment by giving the Governor-General a written resignation.
(2) The resignation takes effect on the day it is received by the Governor-General or, if a later day is specified in the resignation, on that later day.

7V Termination of appointment
(1) The Governor-General may terminate the appointment of the AFPC Chair if:
   (a) the AFPC Chair:
      (i) becomes bankrupt; or
      (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
      (iii) compounds with his or her creditors; or
      (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
   (b) the AFPC Chair fails, without reasonable excuse, to comply with section 7T; or
   (c) the AFPC Chair has or acquires interests (including by being an employer or employee) that the Minister considers conflict unacceptably with the proper performance of the AFPC Chair’s duties; or
   (d) if the AFPC Chair is appointed on a full-time basis:
      (i) the AFPC Chair engages, except with the Minister’s approval, in paid employment outside the duties of his or her office; or
(ii) the AFPC Chair is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months; or

(e) if the AFPC Chair is appointed on a part-time basis—the AFPC Chair is absent, except on leave of absence, to an extent that the Minister considers excessive.

(2) Subject to subsections (3), (4) and (5), the Governor-General may terminate the appointment of the AFPC Chair for misbehaviour or physical or mental incapacity.

(3) If the AFPC Chair:

(a) is an eligible employee for the purposes of the Superannuation Act 1976; and

(b) has not reached his or her maximum retiring age within the meaning of that Act;

his or her appointment cannot be terminated for physical or mental incapacity unless the CSS Board has given a certificate under section 54C of that Act.

(4) If the AFPC Chair:

(a) is a member of the superannuation scheme established by deed under the Superannuation Act 1990; and

(b) is under 60 years of age;

his or her appointment cannot be terminated for physical or mental incapacity unless the PSS Board has given a certificate under section 13 of that Act.

(5) If the AFPC Chair:

(a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the Superannuation Act 2005; and

(b) is under 60 years of age;

his or her appointment cannot be terminated on the ground of physical or mental incapacity unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

7W Other terms and conditions

The AFPC Chair holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

7X Acting AFPC Chair

(1) The Minister may appoint a person who meets the requirements set out in subsection 7P(3) to act as the AFPC Chair:

(a) during a vacancy in the office of the AFPC Chair (whether or not an appointment has previously been made to the office); or

(b) during any period, or during all periods, when the AFPC Chair is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.

(2) Anything done by or in relation to a person purporting to act under an appointment is not invalid merely because:

(a) the occasion for the appointment had not arisen; or

(b) there was a defect or irregularity in connection with the appointment; or

(c) the appointment had ceased to have effect; or

(d) the occasion to act had not arisen or had ceased.

Subdivision E—AFPC Commissioners

7Y Appointment

(1) An AFPC Commissioner is to be appointed by the Governor-General by written instrument.

(2) An AFPC Commissioner holds office on a part-time basis for the period specified in his or her instrument of appointment. The period must not exceed 4 years.

(3) To be appointed as an AFPC Commissioner, a person must have experience in one or more of the following areas:
(a) business;
(b) economics;
(c) community organisations;
(d) workplace relations.

7Z Remuneration

(1) An AFPC Commissioner is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, an AFPC Commissioner is to be paid the remuneration that is prescribed.

(2) An AFPC Commissioner is to be paid the allowances that are prescribed.

(3) This section has effect subject to the Remuneration Tribunal Act 1973.

7ZA Leave of absence

The AFPC Chair may grant leave of absence to an AFPC Commissioner on the terms and conditions that the AFPC Chair determines.

7ZB Disclosure of interests

An AFPC Commissioner must give written notice to the Minister of all interests (financial or otherwise) that the AFPC Commissioner has or acquires and that could conflict with the proper performance of his or her duties.

7ZC Resignation

(1) An AFPC Commissioner may resign his or her appointment by giving the Governor-General a written resignation.

(2) The resignation takes effect on the day it is received by the Governor-General or, if a later day is specified in the resignation, on that later day.

7ZD Termination of appointment

(1) The Governor-General may terminate the appointment of an AFPC Commissioner if:

(a) the AFPC Commissioner:
   (i) becomes bankrupt; or
   (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
   (iii) compounds with his or her creditors; or
   (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or
   (b) the AFPC Commissioner fails, without reasonable excuse, to comply with section 7ZB; or
   (c) the AFPC Commissioner has or acquires interests (including by being an employer or employee) that the Minister considers conflict unacceptably with the proper performance of the AFPC Commissioner’s duties; or
   (d) the AFPC Commissioner is absent, except on leave of absence, to an extent that the Minister considers excessive.

(2) Subject to subsections (3), (4) and (5), the Governor-General may terminate the appointment of an AFPC Commissioner for misbehaviour or physical or mental incapacity.

(3) If an AFPC Commissioner:

(a) is an eligible employee for the purposes of the Superannuation Act 1976; and
(b) has not reached his or her maximum retiring age within the meaning of that Act;

his or her appointment cannot be terminated for physical or mental incapacity unless the CSS Board has given a certificate under section 54C of that Act.

(4) If an AFPC Commissioner:

(a) is a member of the superannuation scheme established by deed under the Superannuation Act 1990; and
(b) is under 60 years of age;

his or her appointment cannot be terminated for physical or mental in-
capacity unless the PSS Board has given a certificate under section 13 of that Act.

(5) If an AFPC Commissioner:

(a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the Superannuation Act 2005; and

(b) is under 60 years of age;

his or her appointment cannot be terminated on the ground of physical or mental incapacity unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

Division 3—AFPC Secretariat

Subdivision A—Establishment and function

7ZG Establishment

(1) The AFPC Secretariat is established by this section.

(2) The AFPC Secretariat is to consist of:

(a) the Director of the Secretariat; and

(b) the staff of the Secretariat.

7ZH Function

The function of the AFPC Secretariat is to assist the AFPC in the performance of the AFPC’s functions.

Subdivision B—Operation of the AFPC Secretariat

7ZI AFPC Chair may give directions

(1) The AFPC Chair may give directions to the Director of the Secretariat about the performance of the function of the AFPC Secretariat.

(2) The Director of the Secretariat must ensure that a direction given under subsection (1) is complied with.

(3) To avoid doubt, the AFPC Chair must not give directions under subsection (1) in relation to the performance of functions, or exercise of powers, under the Financial Management and Accountability Act 1997 or the Public Service Act 1999.

7ZJ Annual report

The Director of the Secretariat must, as soon as practicable after the end of each financial year, give to the Minister a report on the operation of the AFPC Secretariat for presentation to the Parliament.

Subdivision C—The Director of the Secretariat

7ZK Appointment

(1) The Director of the Secretariat is to be appointed by the Minister by written instrument.
(2) The Director of the Secretariat holds office on a full-time basis for the period specified in his or her instrument of appointment. The period must not exceed 5 years.

7ZL Remuneration

(1) The Director of the Secretariat is to be paid the remuneration that is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the Director of the Secretariat is to be paid the remuneration that is prescribed.

(2) The Director of the Secretariat is to be paid the allowances that are prescribed.

(3) This section has effect subject to the Remuneration Tribunal Act 1973.

7ZM Leave of absence

(1) The Director of the Secretariat has the recreation leave entitlements that are determined by the Remuneration Tribunal.

(2) The Minister may grant the Director of the Secretariat leave of absence, other than recreation leave, on the terms and conditions as to remuneration or otherwise that the Minister determines.

7ZN Engaging in other paid employment

The Director of the Secretariat must not engage in paid employment outside the duties of his or her office without the Minister’s approval.

7ZO Disclosure of interests

The Director of the Secretariat must give written notice to the Minister of all interests (financial or otherwise) that the Director of the Secretariat has or acquires and that could conflict with the proper performance of his or her duties.

7ZP Resignation

(1) The Director of the Secretariat may resign his or her appointment by giving the Minister a written resignation.

(2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

7ZQ Termination of appointment

(1) The Minister may terminate the appointment of the Director of the Secretariat if:

(a) the Director of the Secretariat:
   (i) becomes bankrupt; or
   (ii) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
   (iii) compounds with his or her creditors; or
   (iv) makes an assignment of his or her remuneration for the benefit of his or her creditors; or

(b) the Director of the Secretariat fails, without reasonable excuse, to comply with section 7ZO; or

(c) the Director of the Secretariat has or acquires interests that the Minister considers conflict unacceptably with the proper performance of the Director of the Secretariat’s duties; or

(d) the Director of the Secretariat engages, except with the Minister’s approval, in paid employment outside the duties of his or her office; or

(e) the Director of the Secretariat is absent, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months.

(2) The Minister must terminate the appointment of the Director of the Secretariat if the Minister is of the opinion that the performance of the Director of the Secretariat has been unsatisfactory for a significant period of time.

(3) Subject to subsections (4), (5) and (6), the Minister may terminate the appointment of the Director of the Secretariat for misbehaviour or physical or mental incapacity.

(4) If the Director of the Secretariat:
(a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
(b) has not reached his or her maximum retiring age within the meaning of that Act;

his or her appointment cannot be terminated for physical or mental incapacity unless the CSS Board has given a certificate under section 54C of that Act.

(5) If the Director of the Secretariat:

(a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and

(b) is under 60 years of age;

his or her appointment cannot be terminated for physical or mental incapacity unless the PSS Board has given a certificate under section 13 of that Act.

(6) If the Director of the Secretariat:

(a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and

(b) is under 60 years of age;

his or her appointment cannot be terminated on the ground of physical or mental incapacity unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

7ZR Other terms and conditions

The Director of the Secretariat holds office on the terms and conditions (if any) in relation to matters not covered by this Act that are determined by the Minister.

7ZS Acting Director of the Secretariat

(1) The Minister may appoint a person to act as the Director of the Secretariat:

(a) during a vacancy in the office of the Director of the Secretariat (whether or not an appointment has previously been made to the office); or

(b) during any period, or during all periods, when the Director of the Secretariat is absent from duty or from Australia, or is, for any reason, unable to perform the duties of the office.

(2) Anything done by or in relation to a person purporting to act under an appointment is not invalid merely because:

(a) the occasion for the appointment had not arisen; or

(b) there was a defect or irregularity in connection with the appointment; or

(c) the appointment had ceased to have effect; or

(d) the occasion to act had not arisen or had ceased.

Subdivision D—Staff and consultants

7ZT Staff

(1) The staff of the AFPC Secretariat are to be persons engaged under the *Public Service Act 1999*.

(2) For the purposes of the *Public Service Act 1999*:

(a) the Director of the Secretariat and the staff of the AFPC Secretariat together constitute a Statutory Agency; and

(b) the Director of the Secretariat is the Head of that Statutory Agency.

7ZU Consultants

The Director of the Secretariat may, on behalf of the Commonwealth, engage persons having suitable qualifications and experience as consultants to the AFPC or the AFPC Secretariat. The terms and conditions of the engagement of a person are those determined by the Director of the Secretariat in writing.
Financial Management and Accountability Regulations 1997

2 Part 1 of Schedule 1 (after table item 110)

Insert:

110A Australian Fair Pay Commission Secretariat (the AFPC Secretariat), comprising:

(a) the Director of the AFPC Secretariat; and

(b) the staff of the AFPC Secretariat; and

(c) consultants engaged by the Director of the AFPC Secretariat under section 7ZU of the Workplace Relations Act 1996.

See Note B

(330) Schedule 2, item 2, page 660 (line 5), after “clause 3”, insert “or 10”.

(331) Schedule 2, item 2, page 661 (lines 11 to 13), omit paragraph 2(1)(a).

(332) Schedule 2, item 2, page 661 (lines 16 and 17), omit “the State award, the State employment agreement”, substitute “a State award, a State employment agreement”.

(333) Page 673 (after line 27), after Schedule 3, insert:

Schedule 3A—Redundancy pay by small business employers

Workplace Relations Act 1996

1 Paragraph 89A(2)(m)

Repeal the paragraph, substitute:

(2) redundancy pay by an employer of 15 or more employees;

2 Subsection 89A(7)

Omit “Subsection (1)”, substitute “Subject to subsection (7A), subsection (1)”.

3 After subsection 89A(7)

Insert:

(7A) In spite of subsection (7), subsection (1) excludes from an industrial dispute the matter of redundancy pay by an employer of fewer than 15 employees.

4 After subsection 89A(8)

Insert:

Interpretation—redundancy pay provisions

(8A) For the purposes of paragraph (2)(m) and subsection (7A):

(a) whether an employer employs 15 or more employees, or fewer than 15 employees, is to be worked out as at the time (the relevant time):

(i) when notice of the redundancy is given by the employer or by the employee who becomes redundant; or

(ii) when the redundancy occurs; whichever happens first; and

(b) a reference to employees includes a reference to:

(i) the employee who becomes redundant and any other employee who becomes redundant at the relevant time; and

(ii) any casual employee who, at the relevant time, has been engaged by the employer on a regular and systematic basis for at least 12 months (but not including any other casual employee).

5 After Part VI

Insert:

PART VIAAA—STATE AND TERRITORY LAWS ETC. ABOUT REDUNDANCY PAYMENTS BY SMALL BUSINESSES

167 Certain small businesses not bound by requirement to pay redundancy pay

(1) This section applies to a State law, a State award, a State authority order or a Territory law (each of which is an eligible instrument).
(2) If an eligible instrument would, apart from this section, have the effect of requiring a relevant employer that employs fewer than 15 employees to pay redundancy pay, the eligible instrument does not have that effect.

(3) For the purposes of subsection (2):
(a) whether a relevant employer employs fewer than 15 employees is to be worked out as at the time (the relevant time):
(i) when notice of the redundancy is given by the employer or by the employee who becomes redundant; or
(ii) when the redundancy occurs; whichever happens first; and
(b) a reference to employees includes a reference to:
(i) the employee who becomes redundant and any other employee who becomes redundant at the relevant time; and
(ii) any casual employee who, at the relevant time, has been engaged by the relevant employer on a regular and systematic basis for at least 12 months (but not including any other casual employee).

(4) In this section:
relevant employer means:
(a) in the case of a State law, a State award or a State authority order—a constitutional corporation; or
(b) in the case of a Territory law—any employer.

State authority order means an order made, or any other thing done, by a State industrial authority.

State law means a law of a State (including any regulations or other instruments made under a law of a State), but does not include a State employment agreement.

Territory law means a law of a Territory (including any regulations or other instruments made under a law of a Territory).

6 At the end of section 170FA
Add:
(3) In so far as an order is made for the purposes of Article 12 of that Convention, the Commission must not make an order in relation to the matter of redundancy pay by an employer of fewer than 15 employees.

(4) For the purposes of subsection (3):
(a) whether an employer employs fewer than 15 employees is to be worked out as at the time (the relevant time):
(i) when notice of the redundancy is given by the employer or by the employee who becomes redundant; or
(ii) when the redundancy occurs; whichever happens first; and
(b) a reference to employees includes a reference to:
(i) the employee who becomes redundant and any other employee who becomes redundant at the relevant time; and
(ii) any casual employee who, at the relevant time, has been engaged by the employer on a regular and systematic basis for at least 12 months (but not including any other casual employee).

7 Application
(1) The amendments made by items 1 to 4 apply to:
(a) dealing with an industrial dispute by arbitration after the commencement of this Schedule; and
(b) preventing or settling an industrial dispute by making an award or order after the commencement of this Schedule; and
(c) maintaining the settlement of an industrial dispute by varying an award or order after the commencement of this Schedule;

whether the industrial dispute arose before or arises after the commencement of this Schedule.

(2) The amendment made by item 5 applies to:

(a) an eligible instrument made after the commencement of this Schedule that has the effect mentioned in subsection 167(2) of the Workplace Relations Act 1996 as inserted by that item; and

(b) an eligible instrument, made before or after the commencement of this Schedule, that is amended or varied after the commencement of this Schedule with the result that it has that effect.

(3) The amendment made by item 6 applies to the making of orders after the commencement of this Schedule.

8 Transitional—awards and orders of the Commission

(1) If, during the period from the start of 26 March 2004 until the commencement of this Schedule, the Commission:

(a) made an award or order that had the effect of requiring an employer of fewer than 15 employees to pay redundancy pay; or

(b) varied an award or order, made before or during that period, with the result that it had that effect;

then, from the commencement of this Schedule, the award or order ceases to have that effect.

(2) For the purposes of paragraph (1)(a):

(a) whether an employer employs fewer than 15 employees is to be worked out as at the time (the relevant time):

(i) when notice of the redundancy is given by the employer or by the employee who becomes redundant; or

(ii) when the redundancy occurs;

whichever happens first; and

(b) a reference to employees includes a reference to:

(i) the employee who becomes redundant and any other employee who becomes redundant at the relevant time; and

(ii) any casual employee who, at the relevant time, has been engaged by the employer on a regular and systematic basis for at least 12 months (but not including any other casual employee).

9 Transitional—eligible instruments

Item applies to eligible instruments with small business redundancy pay requirements just before commencement

(1) This item applies if, just before the commencement of this Schedule, an eligible instrument contained provisions requiring some or all relevant employers (the affected employers) that employ fewer than 15 employees to pay redundancy pay.

Eligible instruments that began to provide for small business redundancy pay between 26 March 2004 and commencement

(2) If:

(a) the eligible instrument was made before 26 March 2004 and just before 26 March 2004 the eligible instrument did not contain provisions requiring the affected employers to pay redundancy pay; or

(b) the eligible instrument was made on or after 26 March 2004;

then, from the commencement of this Schedule, the provisions do not have the effect of requiring any affected employers to pay redundancy pay.
Eligible instruments where Federal award suppressed a small business redundancy pay requirement that was present just before 26 March 2004

(3) If:
   (a) just before 26 March 2004, the eligible instrument contained provisions requiring the affected employers to pay redundancy pay; and
   (b) only because of a Federal award, the provisions did not, just before the commencement of this Schedule, have the effect of requiring a particular affected employer to pay redundancy pay;

then the provisions do not, at or at any time after the commencement of this Schedule, have that effect in relation to the particular affected employer.

Eligible instruments where certified agreement or AWA suppressed a small business redundancy pay requirement that was present just before 26 March 2004, and a Federal award would also have had that effect

(4) If:
   (a) just before 26 March 2004, the eligible instrument contained provisions requiring the affected employers to pay redundancy pay; and
   (b) just before the commencement of this Schedule:
      (i) only because of a certified agreement or an AWA, the provisions did not have the effect of requiring a particular affected employer to pay redundancy pay; and
      (ii) disregarding the certified agreement or the AWA, the provisions would still not have had that effect, and this would have been so only because of a Federal award;

then the provisions do not, at or at any time after the commencement of this Schedule, have that effect in relation to the particular affected employer.

Eligible instruments where small business redundancy pay requirement was present just before 26 March 2004 and a future Federal award starts to apply

(5) If:
   (a) just before 26 March 2004, the eligible instrument contained provisions requiring the affected employers to pay redundancy pay; and
   (b) neither subitem (3) nor subitem (4) applies; and
   (c) the eligible instrument contains the provisions from the commencement of this Schedule until a later time (the award time) when a particular affected employer becomes bound by a Federal award; and
   (d) the Federal award applies in relation to some or all of the particular affected employer’s employees (the affected employees) to whom the requirement to pay redundancy pay relates;

then, from the award time, the provisions do not have the effect of requiring the particular affected employer to pay redundancy pay in respect of the affected employees.

Definitions

(6) In this item:

eligible instrument has the meaning given by subsection 167(1) of the Workplace Relations Act 1996 as inserted by item 5 of this Schedule.

Federal award means an award under the Workplace Relations Act 1996.

relevant employer has the meaning given by subsection 167(4) of the Workplace Relations Act 1996 as inserted by item 5 of this Schedule.
10 Protection of existing entitlements

Nothing in this Schedule, or an amendment made by this Schedule, affects any entitlement to a payment that had arisen before the commencement of this Schedule.

(334) Schedule 4, item 4, page 675 (after line 16), after the definition of award in subitem 4(1), insert:

eligible entity has the same meaning as in Division 6A of Part VI of the amended Act.

(335) Schedule 4, item 4, page 675 (after line 20), after the definition of employer in subitem 4(1), insert:

outworker term has the same meaning as in Division 6A of Part VI of the amended Act.

(336) Schedule 4, item 4, page 675 (lines 22 and 23), omit “, to the extent that the original award regulates employers in respect of the employment of their employees”.

(337) Schedule 4, item 4, page 675 (lines 27 and 28), omit “in respect of matters relating to the employment of employees”.

(338) Schedule 4, item 4, page 676 (line 2), at the end of paragraph 4(3)(c), add “, to the extent that the original award regulates work performed by the employee”.

(339) Schedule 4, item 4, page 676 (line 2), at the end of subitem 4(3), add:

; (d) each eligible entity that was bound immediately before the reform commencement by the original award, but only in relation to outworker terms.

(340) Schedule 4, item 4, page 676 (line 3), after “employer”, insert “or eligible entity”.

(341) Schedule 4, item 4, page 676 (line 5), after “employer”, insert “or eligible entity”.

(342) Schedule 4, item 4, page 676 (line 10), after “employer”, insert “, an eligible entity”.

(343) Schedule 4, item 4, page 676 (line 13), after “employer”, insert “, eligible entity”.

(344) Schedule 4, page 676 (after line 22), after item 5, insert:

5A Saving provision relating to awards and orders made before 26 March 2004

If:

(a) before the start of 26 March 2004, a term of an award or order had the effect of requiring an employer of fewer than 15 employees to pay redundancy pay (within the meaning of the amended Act); and

(b) that term of the award or order continued in effect until immediately before the reform commencement; and

(c) immediately after the reform commencement, that term of the award or order:

(i) became a term of a pre-reform award because of the operation of item 4 of this Schedule; or

(ii) continued in operation as a term of a transitional award because of the operation of clause 4 of Schedule 13 to the amended Act; section 116L of the amended Act, or clause 27 of Schedule 13 to the amended Act, as the case requires, does not affect the operation of that term of the award or order and the term continues in effect as a term of the pre-reform award or the transitional award.

(345) Schedule 4, item 18, page 681 (line 24), omit paragraph (b) of the definition of 170MX award, substitute:

(b) in operation immediately before that commencement, or made after that commencement because of Part 8 of Schedule 14 to the amended Act.

(346) Schedule 4, item 20, page 682 (after line 18), after subitem (1), insert:

(1A) This item applies subject to:

(a) Parts 4 and 8 of Schedule 14 to the amended Act; and

(b) item 20A of this Schedule.
That the amendments be agreed to.

On Friday, 2 December the Workplace Relations Amendment (Work Choices) Bill 2005 passed the Senate with a number of amendments. These amendments must now be considered by the House. The government has always maintained that it is open to sensible amendments that do not undermine the integrity of the Work Choices bill. The amendments enhance the Work Choices bill, mostly through technical changes, with some minor changes to policy. A number of sensible changes were suggested as part of the Senate inquiry into the bill, which reported on 22 November 2005. The government took on board these sensible amendments and moved a series of government amendments in the Senate. These amendments are now before the House for consideration.

The minor policy amendments will, firstly, ensure that people who are employed for a specific number of hours a week will be paid at least for those hours each week, irrespective of whether the actual number of hours worked each week fluctuates. Secondly, the amendments guarantee that employees who are engaged for a fixed number of hours accrue annual and personal or carers leave based on those fixed number of hours, regardless of the number of hours actually worked in a given week. Thirdly, the amendments protect award provisions relating to the timing of payment for award-covered employees. Fourthly, they guarantee that employees will be paid at least fortnightly in arrears, unless they are covered by an Australian pay and classification scale or an arrangement or agreement that provides for frequency of payment. Fifthly, they provide for the averaging of hours only by way of an award agreement or contract. Sixthly, the amendments change the medical certificate requirements for personal leave. Seventhly, there is a provision that allows employees to provide a statutory declaration as
an alternative to a medical certificate where it is not practical to provide a medical certificate. Eighthly, the amendments provide employees with the right to refuse to work on a public holiday on reasonable grounds.

Further amendments extend the notional expiry date for union greenfields agreements to five years, clarify that the only circumstance in which accepting an AWA as a condition of employment is not duress is when it applies to prospective employees, clarify that the 90-day notice of the unilateral termination of an agreement can be given only after nominal expiry date of the agreement, introduce a regulation-making power to widen scope for awards and agreements to override state and territory laws in relation to apprenticeships and traineeships—the provisions do not currently refer specifically to traineeships—treat traineeships on the same basis as apprenticeships, prevent companies restructuring to have fewer than 100 employees to avoid unfair dismissal laws based on section 50 of the Corporations Law, extend the time for election to proceed to bring court proceedings for an unlawful termination matter from seven days to 28 days to accommodate the new $4,000 financial assistance scheme and maintain existing protections for outworkers to prevent exploitation of this vulnerable group of workers.

The Senate also accepted one non-government amendment to the Work Choices bill—the Australian Democrats amendment R17A—which aligned the Australian Industrial Relations Commission’s obligations in relation to equal remuneration with those of the Australian Fair Pay Commission. The government will be accepting this amendment, which was in the same terms as an amendment the government had proposed. As a consequence, the government proposes to accept all amendments to the Work Choices bill made by the Senate.

The bulk of the substantive amendments made by the bill will commence on proclamation. Schedule 3, which relates to school based apprentices and trainees, will commence on royal assent. So too will provisions dealing with redundancy pay for small business employers. The Australian Fair Pay Commission will also be able to begin consultations about wages issues from royal assent.

Schedule 4, part 1, which permits the making of regulations for transitional and consequential amendments, will also commence on royal assent to allow for preparations to be made for the introduction of the new system. All other schedules will commence on a date fixed by proclamation, which will occur during the course of the first half of 2006.

Ten years ago the union movement and the Labor Party predicted that the Workplace Relations Act would drive down wages, destroy working conditions, increase unemployment and slash working conditions. How wrong they were. They were wrong when they said this in 1996 and they are still wrong in 2005. The passage of this bill sets the scene for the implementation of significant reforms to the workplace relations system, such as moving towards a national workplace scheme. These reforms will give Australia a workplace relations system designed for the 21st century—a system which looks to the future, not to the past. (Extension of time granted)

Contrary to what the critics suggest, the bill will not usher in a system that exposes employees to exploitation. Rather, the bill as amended will make the workplace relations system fairer. Fairness does not require complexity. In fact, fairness is impeded by complexity. Fairness is best ensured by a system which is easily understood by both employers and employees—when they know what
they have in the system. Work Choices will put in place a clear set of minimum wages and conditions and a less confusing and bureaucratic process for agreement making in the workplace. The government will enshrine in law minimum conditions of employment, ensure that award wages and basic working conditions, including the right to be represented by a union, are protected by law, and that there are comprehensive transitional arrangements to assist employers and employees in the move to a new system.

The government wants to give more Australians a chance at a job and to drive down our unemployment rate even further. We are determined to put economic reality back at the centre of workplace regulation, where it should have been all along, and give more Australians the choice to participate in Australia’s workplaces. It is important to note that even after these reforms are implemented, Australia’s workplace relations system will still be more regulated than that of New Zealand or the United States. Importantly, what this bill does is provide a framework to improve productivity, encourage participation, create more jobs and secure a prosperous future for Australia. Work Choices does this by accommodating the greater demand for choice and flexibility in our workplaces. It continues a process of evolution begun over a decade ago towards a system that trusts Australian men and women to make their own decisions in the workplace and to do so in a way which best suits them.

This bill makes the necessary changes to move away from an outdated and inefficient system that no longer meets the needs of a modern Australian economy. For it is a strong economy which enables employers to pay their workers more, it is a strong economy that reduces unemployment and it is a strong economy that delivers, just as it has done over the last decade, more jobs and higher wages for all Australians. Work Choices is founded on the principle that the best arrangements are those developed by employees and employers at the workplace. The government recognises that the time to turn this idea into law and move to a better system is now. I commend the amendments to the House.

Mr STEPHEN SMITH (Perth) (9.55 am)—I move:

That in place of Senate amendments 5 to 328, the following amendment be made:

Schedule 1, omit the Schedule, and, as a consequence, schedules 1A, 2, 3, 3A, 4 and 5 be omitted.

The House should adopt my amendment because the adoption of the amendment kills the bill. No tinkering amendments—even if there are 330 or 340 of them—by the government can rescue this bill. The Prime Minister said to his party room yesterday that the government had lost some bark so far as public opinion was concerned as a result of these measures. Well, you might think you are losing bark now, but we will take an axe to these proposals and we will take an axe to the Liberal Party. When we are elected to government we will kill this bill and replace it with a system that is underpinned by fairness, that treats people with civility and dignity and makes sure that there are sensible safety nets, minimum standards and a strong independent umpire. We will do things the Australian way, not the un-Australian way that the Prime Minister is proceeding with.

We heard nothing about these proposals in the run-up to the last election, but we will hear plenty about them in the run-up to the next. When did we start to hear about these proposals? We started to hear about these proposals when John Howard, the Prime Minister, realised that he had total control of the parliament—that he had all power under the sun. Where did he revert to when he discovered that? He reverted to the John Howard Jobsback October 1992 policy. That
Jobsback policy, released in October 1992, was resoundingly rejected by the Australian public because it was a massive attack on living standards and a massive attack on the Australian way of life. That Jobsback policy became the briefing instructions for the 1,500 pages of legislation and associated material that we now find. You will find a lot in the 1,500 pages and the 534,000 words in this legislation and its associated materials, but there are two things you will not find: you will not find a guarantee that individual Australian employees will not be worse off and you will not find fairness. As a consequence of that, this is a massive attack on the living standards and conditions of Australian working families and a massive attack on the Australian way of life.

The 10 million Australian employees in the workforce should do one thing today: they should write down very carefully the full extent of their conditions and entitlements in the workplace. They should make a checklist and come back in 2007 and see where they have ended up—see what has happened to their penalty rates, their overtime, their redundancy pay, their shift allowances, their leave loadings, roster times and holidays. They should see what has happened to their way of life—their capacity to spend and share time with their family and their capacity to balance work and family.

The Prime Minister and the minister often say, ‘In 1996’—when you had Peter Reith and alsatians and balaclavas—‘Labor said the same thing.’ There are a couple of qualitative differences. Firstly, in 1996 the Australian Senate and about 230 amendments stood between you and what you wanted to do. Now that you have total control of the parliament and total control of the Senate, you are doing it for yourself. We will hold you to account.

John Howard has said that as a result of the adoption of these measures unemployment will decrease, employment will increase, our productivity will improve and our international competitiveness will increase. We will hold John Howard and the Liberal Party to account on the promises and assertions they have made. These measures are a massive attack on the Australian way of life—on our values and virtues and character and on the Australian notion of a fair go. They are a massive attack on the living standards, the entitlements and the conditions of working Australian families. This House should do nothing except reject the bill resoundingly—and kill the bill.

Mr ROBB (Goldstein) (10.00 am)—I stand to support the passing of the Workplace Relations Amendment (Work Choices) Bill 2005 and to oppose the amendments put by the opposition. The legislation will be fundamentally good for Australia for years to come—for decades to come. What has happened in the last few months in regard to workplace relations on the other side of the House has been nothing but a totally cynical political exercise. Opposition members have frightened people. Opposition members have talked down the economy. They have denigrated employers en masse with the sole intent of kick-starting their 2007 election campaign. That is all it is—an exercise in kick-starting their 2007 election campaign. It is not about the workers. If the opposition were about the workers, they would not have remained mute over the last few months on any alternative set of policies. Not one alternative has been put to us.

Today what did we hear? ‘Kill the bill’. There was no suggestion of any alternative. They base their campaign solely on ‘the vulnerable’. We have heard about nothing but their concern about the vulnerable. The current system has failed the vulnerable. Your system has failed the vulnerable. To be
credible with the vulnerable, they must present an alternative solution. But we have heard no word of any alternative. The current system is excruciatingly complex, with hundreds of pages of unintelligible provisions in every award. Employers and employees alike have no understanding of all these rules, especially the hundreds of thousands of small and medium sized businesses. As a result, around two million workers today are in workplaces that effectively operate outside the system. Have we heard any mention of this on the other side of the House? Who does this expose—the two million operating outside the system? It exposes the vulnerable. Who has said nothing about this system’s failure over recent months? It is the Labor Party and their union cronies. Under Work Choices, for the first time five strong minimum conditions must be paid by law—not just for those on awards and not just for those in workplace agreements but by every employer and to every employee.

What about the two million outside the system? The opposition ignore them because they are not good union fodder—they do not pay dues. Go for the big workplaces, where you can feather your nests—that is what it is all about. If employers do not pay these five minimum conditions the Workplace Services Inspectorate can be contacted, and these employers will be charged. Casuals get a 20 per cent loading, which more than compensates them for their lack of sick leave and public holidays. It is called protecting the vulnerable. That is what we have done.

The campaign on the other side is all about politics. It is all about unionists getting themselves elected to parliament and about protecting the 80 per cent already there who have a union background. That is what it is about. In the process the unions have had a lovely time, floating around. Instead of doing the hard yakka and representing their members, they are running around the country amusing themselves. They have discovered campaigning. They are like a kid with a new toy, and aren’t they pleased with themselves! What is it all costing? Walk past any fine restaurant in Canberra and who do you see there? You see Sharan Burrows, Greg Combet, Bill Shorten et al, sitting up having a lovely time, toasting their success with fine wines. You don’t find a schooner—there is no-one with a schooner in their hands. They are there toasting their great success.

The opposition do not like the truth; they hate it. They have played politics for months. Why don’t they provide some alternative and look after the vulnerable, instead of looking after themselves? They are feeling vulnerable. That is why they are running a political campaign. They are trying to get their mates in here with them—80 or 90 per cent of them are unionists. They are protecting themselves, not the vulnerable. This is good legislation. It will stimulate the economy, protect jobs and will help Australia to prosper for years to come. (Time expired)

Mr BEAZLEY (Brand—Leader of the Opposition) (10.05 am)—The government defends the Workplace Relations Amendment (Work Choices) Bill 2005 with lies and corruption because they cannot defend it with the truth. They may have acknowledged 337 mistakes in this bill, but they have not had the humility or guts to recognise their greatest mistake—that they will not give a guarantee that this bill will not make Australian workers worse off—because it will. Now is the final chance for this parliament to kill this bill entirely, to rip it up and toss it in the bin. John Howard may think that this is his Austerlitz, but it is, in fact, his Waterloo. This is not the first bad idea the Prime Minister has had, and it is not the first bad law he has passed. It is not the first time he has abused public funds, misled the Australian people or diminished the living standards of Australian families. But it is the Prime Min-
ister’s most un-Australian act. It is the law that will define him and his prime ministership. It embodies the ideological poison and prejudice that has driven him for three decades. It is the defining act of an out-of-touch government, an elite that governs for itself and not for the country and protects its mates and persecutes its citizens.

In this legislation, the government have simply gone too far. They are now riding roughshod over the will of the Australian people, destroying rights that generations of Australians have fought hard for over the last 100 years. Let us stop the pretence that this has anything to do with economic reform; it does not. The government have been unable to demonstrate any convincing evidence of that, and they have even muzzled their own Treasury research on the impacts of the bill. This is not about economic reform or the good of the country; it is about one man having the power to impose his extreme ideology on the nation.

This bill should be ripped up but it will not be because power has gone to their heads. Now that the government have absolute control they are out of control. They think they can get away with anything they like, and that is why they have gagged debate and rammed through these laws. Unless you were a senator with a Liberal or National Party badge, you had just 40 minutes to read the amendments before they started bulldozing them through the Senate. Yet again they look after themselves and to hell with the rest of us. To hell with the 55 per cent of Australians who did not vote for this government in the Senate.

This is an absolute disgrace, absolute arrogance. These changes are un-Australian, nothing less than a frontal attack on the Australian way of life. They will eat away at the foundations of job security, family life and wage fairness. In the years to come, this bill will slowly erode our way of life. We will see our nation become more like America, where millions of people work in full-time jobs but stay in poverty and where there has been no increase in the minimum wage since 1996. Six months ago the government snubbed seven million Australians by rewarding themselves with whopping big tax cuts and breaks while they threw a few scraps to the rest of us. Now they are passing a law that takes away basic work rights from every Australian worker. They are ripping into the welfare safety net that helps give our nation’s kids protection from poverty.

Only one thing can come out of this bill, and that is the beginning of the end for this government. If you do not trash this legislation this morning, we will hold every single Liberal Party and National Party member of this House personally responsible for their vote to take away the rights of Australian workers. For the sake of working families, we will fight you every day in your electorates until your government is brought down for this vicious, unnecessary and completely un-Australian law.

Mr BARRESI (Deakin) (10.10 am)—Out of the mouth of the Leader of the Opposition, there is confirmation of exactly what the member for Goldstein was talking about in his contribution. The opposition’s position here has nothing to do with workers’ rights or protecting workers’ rights. This is a political campaign. We have heard members of the union movement saying that they are going to attack, with $8 million in marginal seats. Bring it on.

At the end of the day, the fear campaign by the Labor Party has not worked in the past and it will not work in the future. Who do we turn to? Who said:

The Howard model is quite simple. It is all about lower wages; it is about worse conditions; it is
about a massive rise in industrial disputation; it is about the abolition of safety nets.

Who said that? Stephen Smith said that in 1995. And what have we seen since 1995? We have seen unemployment driven down, and we have seen real wages go up by 14 per cent. Do not be a fortune teller, Member for Perth, because you have no idea how to predict the future. You were wrong then and you will be wrong again in the future.

The Leader of the Opposition has admitted that this is all about politics. Where is the argument about some of the specific issues? Show me an employer out there at the moment who, when recruitment takes place, says to a prospective employee, ‘Here, read the 400 pages of the award to make sure your conditions are there.’ Show me an employer who says that, or show me an employee who asks for the same thing, an employee who says: ‘I need to know my rights. Show me the award—the whole 400 pages—before I sign off on this employment contract.’ That does not occur now, but what will occur through the Workplace Relations Amendment (Work Choices) Bill 2005 is a guarantee that every employer by law has to meet at least five minimum conditions. A whole lot of other conditions can be negotiated and, if they are not negotiated, they default to the standard position. That will happen now under this legislation.

An employer who breaches the fair pay conditions under our legislation is in breach of the law. You show me where an employer today who has not shown an employee the 400 pages of an award is then taken up and breached. It does not happen, and that is why we have over two million people out there in the community who are working outside awards and agreements.

Ms King interjecting—

The DEPUTY SPEAKER (Mr Jenkins)—Order! The honourable member for Ballarat has had a good go without getting the call. The honourable member should sit there quietly.

Mr BARRESI—Does the union movement protect those people? No. Does the Labor Party protect those people? No, it does not. It has ignored those two million people. This government is about making sure that five minimum conditions are included in legislation, making sure that the conditions are in law as a bare minimum. You know that, and so do your mates over in New Zealand and the United Kingdom. They all know that. That is why they have deregulated their industrial relations systems. They have done it and reaped the benefits of it. But what do we have here? We have an opposition that just wants to oppose at every opportunity. There is no discussion about how we can introduce far greater deregulation into the work force and still provide protection. This government has done it, and this government is very proud of the fact that this legislation has been introduced. You know as well as we do that there are safeguards in this legislation. There are safeguards for the vulnerable, and the amendments introduced in the Senate provide even further safeguards.

It is about time the opposition looked at themselves and said: ‘Are we really genuine about opposing this? Is this about protecting our financial coffers in the union movement?’ And, of course, that is what it is all about. It is about making sure that their union mates still have relevance in the new world order. The fact is that they do have relevance, but if they are smart they will take up the opportunity to reinvent themselves and become bargaining agents for those they believe are vulnerable, rather than simply opposing this legislation. The prophecy from the past has been seen to be simply hot air, and the prophecy of today will also be hot air. (Time expired)
Ms MACKLIN (Jagajaga) (10.15 am)—From this day, this campaign will go out of the parliament and into the streets and workplaces of Australia. We will be down at the Blackburn shops, taking this matter into the electorate of the previous speaker—the electorate of Deakin—telling the people exactly what the Workplace Relations Amendment (Work Choices) Bill 2005 will do to their family lives, to their working conditions and to their capacity to pay their mortgages. We know that this legislation will make it harder and harder for the people of Blackburn, for the people of Templestowe, for the people of Goldstein and for the people of Corangamite. The people of Geelong know what they pay for their mortgages. They know that they depend on penalty rates and shift allowances to pay their mortgages.

When we have been out in the workplaces of Australia, we have been told time after time, day after day, that without those shift allowances, without those penalty rates, people will not be able to pay their mortgages. People in Deakin, in Corangamite, in Menzies and in Goldstein all know that they will not be able to afford their mortgages because they are about to lose their penalty rates and their shift allowances. Talk to the nurses in the hospitals. They will lose $260 a week as a result of this legislation. That is how much their shift and penalty rates are worth. They say to us—and I am sure they will be saying it to the member for Deakin, if ever he goes down to the Blackburn shops—that they will not work these family-unfriendly hours if they are not guaranteed their shift allowances. We are not going to have nurses in our aged care homes and in our hospitals if they are not guaranteed their shift allowances and their penalty rates to compensate them for working family-unfriendly hours. All those around Australia that we rely on—whether they are nurses in hospitals, police or firefighters—deserve to get shift allowances and penalty rates for protecting our community and for looking after the sick and the aged.

But what does this legislation do? Go back to the real minister for industrial relations over there, the guy who is sitting in the back stalls waiting. He is just waiting until the member for Menzies is moved on for cutting the wages and working conditions of the entire Australian population. Down will come the member for Goldstein, who has made it absolutely plain in this place today that only five conditions are protected now. Here in this parliament, he has given it away and made it absolutely plain to the people of Australia that only five conditions are protected now. All the other things that workers rely on—their shift penalties, overtime rates and other extra payments, which ensure that they can pay their mortgages—have been given away by the member for Goldstein.

Mortgages are pretty expensive in Goldstein. It is a pretty nice part of Melbourne and very expensive. Perhaps those in Goldstein will be able to continue to pay their mortgages, as they will be getting their benefits from somewhere else. But it will not be like that for the pay-as-you-earn taxpayers in Deakin.

Opposition members interjecting—

Ms MACKLIN—Is that bloke up there from Hasluck? I have no idea whether he is from Hasluck. But, if he is, I can tell him that we had a great member for Hasluck. She stood up for the people of Hasluck, who know what it means to work for a living. She knew and understood the people of Hasluck because, before she came into the parliament, she also knew what it meant to work for a living. We know that the people of Hasluck know exactly what happened in Western Australia. They know that the working conditions of Western Australians were stripped. That is exactly what this legislation does. It brings into play for the whole of Australia...
what happened in Western Australia. (Time expired)

Mr McARTHUR (Corangamite) (10.20 pm)—The workers and the small businesses of Corangamite will be delighted with the Workplace Relations Amendment (Work Choices) Bill 2005. Unlike all the members opposite, including the member for Ballarat, the people of Corangamite—the workers and the small businesses—will welcome this legislation. They know that it is not extreme legislation. I totally reject the Leader of the Opposition and other speakers saying that this is extreme legislation. That terminology is completely wrong on the basis that we have been arguing this case for some 20 years. We put up the argument in 1996 and this legislation is a continuation of that proposition. The Leader of the Opposition and those opposite continue to run the argument that this is extreme legislation, but they have no evidence to support their argument.

Further, I put to the member for Corio, who is entering the chamber, that, unlike him, I have met with the workers of Geelong. I have had discussions with members of the Trades Hall Council and they have put no argument to me about this legislation being not in their best interests. They know that jobs will be created in Corangamite and in Corio, where the honourable member lives. They know that jobs will be created in the electorate of Reid, in the electorate of Cowan and in the electorate of Bendigo—as I would say to that honourable member, were he to come into the chamber. They know that this legislation will create a more flexible position.

I note the untimely passing in recent days of former Senator Cook. I have read very carefully a number of the accolades and obituaries about Senator Cook. Senator Cook is on the public record as saying that he advocated an alternative system, a decentralised industrial relations system.

Mr Edwards interjecting—

Mr McARTHUR—It is on the public record. Even Senator Cook, Member for Cowan, supported a decentralised system, because—

Mr Edwards interjecting—

The DEPUTY SPEAKER (Mr Jenkins)—Order! If the honourable member for Cowan wishes to vote later on, he will settle down and get back to his Christmas cards or I will put him on his bike.

Mr McARTHUR—he knew in 1993 that, even under a Labor government, we had to have a more flexible system.

Mr Edwards interjecting—

The DEPUTY SPEAKER—Order! If the honourable member for Cowan wants the call, he can get it in the proper way.

Mr McARTHUR—We have heard a lot of rhetoric from those opposite. The member for Corio and others talk about ripping up the legislation. They talk about it being ‘extreme’. They talk about workers’ rights. I put it to the Leader of the Opposition and those opposite: what is your policy? What are you actually advocating? Leader of the Opposition, you have no position as to what your alternative policy is, because you know fundamentally that this is correct. You know fundamentally that we need a more flexible system in Australia. You know that enterprise bargaining was something that your government started, Leader of the Opposition. When you were in government in 1993, you advocated a similar position. We have built on that. All this rhetoric from those members opposite does not stand up.

When I spoke to those Trades Hall people from Geelong, they had absolutely no argument about what was wrong with this legislation. They had similar arguments to those put
up by the members opposite about overtime, about the reduction in wages. Let us be quite clear: wages for Australian workers have gone up 14 per cent over the last nine years, and those opposite have no track record similar to that. So those members opposite who represent the trade unions, all my friends on the other side of the parliament, have come in here day after day, and they—the shadow spokesmen—come here again today and talk about extreme legislation. They talk about overtime rates. But they have no alternative. They know that, in the UK, Tony Blair adopted the flexible arrangements of the Thatcherite government. They know that that will be the case in Australia. They know that when they go to the next election the rollback of the industrial relations legislation will be a similar situation to that of the rollback of the GST.

The Leader of the Opposition, the spokesmen and all those opposite stand condemned on their lack of argument. They have no position. They have no alternative policy to make a change for the betterment of Australian workers, the betterment of Australian businesses and the long-term future of Australia. Every commentator knows, the OECD knows—everyone knows—that you need to make a change to this hundred-year-old system with the industrial relations club. I commend the legislation. I commend the Minister for Employment and Workplace Relations, the minister at the table. I invite those opposite to put up a sensible proposition. To date they have made no contribution to this debate.

Mr STEPHEN SMITH (Perth) (10.25 am)—The House should adopt my amendment, because the effect of my amendment is to delete the schedules to the Workplace Relations Amendment (Work Choices) Bill 2005. That has the effect of killing this extreme, unfair and divisive piece of legislation. No other amendments can rescue this piece of legislation. Do you know what the first amendment in the Senate was? The first amendment in the Senate, rejected by the government, was to ensure that the word ‘fair’ was included in the objects of the act. So you are quite happy to rort, to politically corrupt, an advertising campaign using taxpayers’ funds to put the word ‘fair’ on the cover sheet of your material and propaganda, but you reject an amendment to insert the word ‘fair’ into the objects of the act.

Where does this massive attack on the living standards of Australian families come from? First, it comes from the attack on the minimum wage. If the Prime Minister had had his way in the course of his term of office, those on the minimum wage would currently be $50 a month or $2,600 a year worse off. The objects and public policy purpose of this legislation are to reduce the minimum wage in real terms, and that has a cascading effect upwards—which the Prime Minister well knows, as he comes into this place to preen himself in his arrogance, with proposals never put before the Australian people in the run-up to the last election.

The last time you put these proposals to the Australian electorate was in 1992 with Jobssback—this is the briefing instruction for the 1,500 pages of material that we now find. You were soundly rejected on that occasion by the Australian people, and you have been soundly rejected by the Australian parliament.

As you come in today to preen yourself in your arrogance, you are not worried about the nation’s future, just concerned about your past and your place in history, so that you can go to the Liberal Party Christmas party this year and stand up and say, ‘It wasn’t me who squandered the last Senate majority. It was Malcolm who squandered it; it wasn’t me. Look what I’ve done, something I’ve been trying to do for 30 years, to rip away at
the wages of Australian workers, to rip away at their conditions, their entitlements and their penalty rates.’

You will be condemned, because in the end the Australian people know that what you are doing here is un-Australian. The social and economic effect of this legislation—
as you rip away at wages, penalty rates, overtime, leave loading and shift allowances; as you shift the total factor income sector of the economy further from wages to profit—
will be to create an American-style working poor. People will not just struggle to make ends meet; they will be reliant upon the American tipping bowl to survive as you
create in this country a divided society where people are dependent upon the tips they get in the tipping bowl to try and make ends meet.

When did we hear about this monstrous attack on living standards and the Australian way of life in the run-up to the last election? The Prime Minister now stands up and says:
‘If we don’t adopt these proposals now, our economy will crumble.’ When was the last time I read that? Jobsback. You can read the words now: ‘Unless these proposals are adopted immediately, our economy will crumble.’ You have been saying it for 20 years, and you have always been wrong.

You also assert that the mere adoption of these proposals will see four things happen to our economy, as you sit there and preen yourself with your arrogance. The last time you brought proposals, at least you had Peter Reith with dogs and balaclavas. On this occasion, you bring the minister—alsatians and balaclavas are not his style; opera glasses and poodles are more his style. You assert that the mere adoption of these proposals will see unemployment decrease, employment increase, our international competitiveness improve and productivity increase. We and the Australian people will hold you to account for the way you have dishonestly pursued these proposals.

Some of us have been around long enough to remember that ‘Honest John’ was always an ironic expression. As you rip away at the wages, conditions and entitlements of Australian families and at the Australian way of life, the House should adopt my amendment and tear up this bill, rip up these proposals and rip up your political future.

Mr HOWARD (Bennelong—Prime Minister) (10.30 am)—I hope the member for Perth now feels a bit better. In the short time available to me, let me remind this place that nine years ago, when the amendments to the workplace relations bill were returned to this place, the same doomsday predictions were made, the same emotional attack was made on the government and a number of questions were asked.

I turn to the speech of the member for Fraser, the then opposition shadow minister and member for Canberra. He will remember the speech in which he asked the question:
Will there be fewer industrial disputes over this three-year term under this regime than there were in the last three years under the old regime?
The answer to that question was a resounding yes. He said:
Perhaps more importantly, will there be more jobs created in this parliamentary term under this regime than there were in the last term of the parliament?
As every Australian knows, there is no prouder boast of this government than that, in the time that we have been in office, 1.7 million more jobs have been created. There has been a lot of rhetoric and emotion in this debate. The heaviest burden carried by the Australian Labor Party throughout this whole debate is the fact that the government I have led over the last 9½ years has been a better friend of the workers of Australia than the Labor Party has ever been.
No matter what events may cross my political path in the years ahead, all I can say is this: of all the things to which I may have in a small way made a contribution, there is none of which I am more proud than the fact that my government has lifted the living standards of the men and women of Australia. We have given the workers of Australia more jobs, higher wages, lower interest rates and lower levels of taxation. We have brought to the working men and women of Australia hope and opportunity. All the Labor Party has brought to the working men and women of Australia is a harking back to a bygone age that was never as golden as they painted it—

Ms King interjecting—

The SPEAKER—Order! The member for Ballarat will calm down.

Mr HOWARD—The working men and women of Australia are now enjoying better wages and better conditions than they have ever enjoyed in the past. That has all occurred despite the doomsday predictions of the member of the Australian Labor Party.

As this debate comes to its closing phases, let us remember that in the end the only guarantee of job security and higher wages in the Australian economy is a strong economy. You cannot legislate job security in the face of a failing economy. We saw that in the early 1990s when we had a much more regulated economy. We had an economy regulated according to the Labor model, yet more than one million people lost their jobs and real wages were in free fall. That is the reality.

The test of any industrial relations system, whether it is proposed by us or by those who sit opposite, is the contribution it makes to the strength of the economy. The test of the Workplace Relations Amendment (Work Choices) Bill 2005 is whether it will result in a stronger economy, whether it will further unleash the productive efforts and resources of the men and women of Australia and whether it will further encourage the risk takers and entrepreneurs of Australia to invest in jobs and the future of this country.

This is not a debate about the past in Australia; it is a debate about the future. It is a debate about which industrial relations system will better strengthen the Australian economy in the years ahead. This bill is an investment by the government of this country in the future hopes and aspirations of the working men and women of this country. It is not an investment in negativity and looking back. The Labor Party has again fallen into the trap of pledging itself to repeal the bill lock, stock and barrel, just as it pledged itself to oppose the GST. Once again the Labor Party is looking to the past and not to the future. Once again the Labor Party and its attitudes have failed the future aspirations of the working men and women of Australia. (Time expired)

Mr BEAZLEY (Brand—Leader of the Opposition) (10.35 am)—Why doesn’t the Prime Minister, if he is so proud of this legislation, the Workplace Relations Amendment (Work Choices) Bill 2005, and so confident about it, have the courage to debate me in public? Why have you absolutely no ticker for a fight with me in public on this issue, to stand before the Australian people and make your claims about the economy and about what will happen to middle Australia? You do not have the courage. You do not have the ticker. You have been too long in the job and do not think you can do it anymore. You do not think you can get up and canter around the paddock on this issue, Prime Minister. You want to run away and hide behind the looting of the taxpayers’ purse of some $55 million to promote this wretched legislation.

Understand this, Prime Minister: the modern work force in the modern era is not about
persecuting workers and sending them back to 19th century master-servant relationships, even though you have craved that since the 1970s. The modern work force which succeeds and will drive a regeneration of Australian exports is the highly skilled work force that has the opportunity to get decent training and a decent education, which are now being routinely denied them by this government.

That is what generates productivity. That is what generates wealth. And that is what the government will not address. Instead of dealing with skills—making sure that our work force have the skills they need—as the OECD has told you you must do and as the Reserve Bank has told you you must do, you decide that the way you will go about this is to lift the profit share—at a very historically high level now—even further.

What you Liberals have to understand is this. We are talking here not simply about vulnerable Australians. We are talking about middle Australians and their values. One of the problems that the Liberal Party has in this place is that its members of parliament do not represent its base vote. You do not see in this parliament the electricians, the fitters and turners and the plumbers who represent the bulk of the Liberal Party vote.

As I go around this country and talk at large numbers of meetings of thousands of workers, I am conscious that at the last election a substantial minority of those workers voted Liberal. They make that point to me. There is nothing new in that. For the last 100 years, a good 40 per cent of Australian workers have voted conservative. For the ordinary Australian work force, we have always been in contest with you. In the days when I first joined the Labor Party and was fighting the Communist Party people who then existed in the community, the Socialist Workers Party and the rest of them outside the Labor Party, I always pointed this out to them: ‘We are not competing with you for the working-class vote. You haven’t got any votes at all. We are competing with the Liberal Party for workers’ votes in this community. We are competing with them.’ There has always been a substantial minority of workers who have voted for you. That substantial minority is a substantial majority of your vote, and you have spat on them. You have turned your backs on them and you have spat on them. You have told them that, if they want a Christmas holiday, they have to go and give a reasonable explanation.

Mr Tuckey—Mr Speaker, on a point of order: I stand to protect you, sir, from being accused of spitting on people. He was using the word ‘you’ every second.

The SPEAKER—I remind the Leader of the Opposition that he should address his remarks through the chair.

Mr BEAZLEY—You are going to lose on this—all of you—because you have turned your backs on the people who vote for you—

The SPEAKER—The Leader of the Opposition will address his remarks through the chair.

Mr BEAZLEY—who need these penalty rates to pay their mortgages. The Liberal Party and the National Party will pay a very heavy price for this. They will pay a very heavy price for taking Australia backwards, for taking Australia back to the 19th century. We are going to be talking about skills. You are going to be talking—(Time expired)

Mr ANDREWS (Menzies—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (10.40 am)—At the end of this parliamentary year, the overblown rhetoric from the Leader of the Opposition demonstrates one simple fact, and that is that the Australian Labor Party has no ideas and no
policy. The reality of its attack on this legislation, its so-called policy to roll back this legislation, is no policy whatsoever. This is a party that has reached the sad state where it is not able to bring some policies forward to the Australian people in the contest of ideas in Australia. That is the reality of what we have seen from the Australian Labor Party today.

It is well known and well understood that these reforms are needed for Australia. We have had the OECD, the IMF, the Governor of the Reserve Bank and the Productivity Commission all saying that these further changes to workplace relations in Australia are needed to ensure that we set up this country as best we can for a prosperous future. The reality is that some of these changes have been supported in the past by Labor luminaries in Australia. We can go back to Gough Whitlam, talking about the need for a national system. We know that Neville Wran supported a national system. As long ago as 1991 we saw Mr Carr, the previous Premier of New South Wales, write that there was a need for a national system of industrial relations in Australia.

But it is not only those. What we have is this hypocritical stance from the Australian Labor Party, having supported what Paul Keating belatedly recognised in the early 1990s as the need to make a change away from the rigidities and the inflexibilities of the old award system to a system based on agreement making at the workplace. The Leader of the Opposition was the passenger then, following Paul Keating; he is the passenger today, simply following the bosses of the union movement. Yesterday we had Sharran Burrow down here telling him what to do. But it was Paul Keating who said back in 1993 that this is the way in which we need to go. Let me remind the Leader of the Opposition and the people of Australia what Paul Keating said about the changes that were needed in 1993. He said:

... let me describe the model of industrial relations we are working towards. It is a model which places primary emphasis on bargaining at the workplace level ...

He continued:

We need to accelerate workplace or enterprise bargaining ...

And he said:

We need to find a way of extending the coverage of agreements from being add-ons to awards, as they sometimes are today, to being full substitutes for awards.

This man who is now the Leader of the Opposition is always a passenger. He was a passenger when Paul Keating was driving reform; he is simply a passenger today when the union bosses, for their own sakes, are saying, ‘We are opposed to these reforms in Australia.’

For example, there are provisions in this bill that the Australian Labor Party voted against that provide further protection for outworkers—some of the most vulnerable workers in Australia. The Australian Labor Party voted against those in the Senate. In the Senate, they voted down protections for outworkers. That is an indication that the reality is that the Australian Labor Party, as far as this debate is concerned, are not about protecting ordinary Australian workers; they are simply about protecting their jobs and protecting their union mates, who pay millions of dollars to ensure that they stay in this place. That is the reality of the opposition.

As a real Labour leader, Tony Blair, once said, ‘You should remember that fairness in the workplace starts with the chance of a job.’ That is what he told the Trades Union Congress; that is what he had the courage to do. This Leader of the Opposition does not have the courage to stand up and put forward some policies for the good of the Australian
work force. He simply does what he has been
told. Tony Blair told the Trades Union Con-
gress, ‘We have nothing to lose but our
dogma,’ and that can be applied equally to
the Australian Labor Party. They have got
nothing to lose but their dogma. This bill is
for the good of Australia. It is for the good of
Australian workers. It is about setting up this
country for prosperity in the future. I move:

That the question be now put.

Question put.

The House divided. [10.50 am]

(The Speaker—Hon. David Hawker)

<table>
<thead>
<tr>
<th>Ayes</th>
<th>82</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noes</td>
<td>60</td>
</tr>
<tr>
<td>Majority</td>
<td>22</td>
</tr>
</tbody>
</table>

**AYES**

Abbott, A.J.  Anderson, J.D.  Richardson, K.  Robb, A.
Andrews, K.J. Bailey, F.E.  Ruddock, P.M.  Schultz, A.
Baird, B.G. Baker, M.  Scott, B.C.  Secker, P.D.
Baldwin, R.C. Barresi, P.A.  Slipper, P.N.  Smith, A.D.H.
Bartlett, K.J. Billson, B.F.  Somlyay, A.M.  Stone, S.N.
Bishop, B.K. Bishop, J.I.  Thompson, C.P.  Ticehurst, K.V.
Broadbent, R. Brough, M.T.  Tollner, D.W.  Truss, W.E.
Cadman, A.G. Causley, I.R.  Tacry, M.  Turnbull, M.
Ciobo, S.M. Cobb, J.K.  Danby, M. *  Vale, D.S.
Costello, P.H. Draper, P.  Ellis, A.L.  Wake, B.H.
Dutton, P.C. Elson, K.S.  Entsch, W.G.  Wood, J.
Entsch, W.G. Farmer, P.F.  Fitzgibbon, J.A.  Garrett, P.
Fawcett, D. Ferguson, M.D.  Geogiana, S.  George, J.
Forrest, J.A. * Gambaro, T.  Gibbons, S.W.  Garrett, P.
Gash, J. Giambaro, T.  Grierson, S.J.  Garrett, P.
Haase, B.W. Georgiou, P.  Hall, J.G. *  Georganas, S.
Hartsuyker, L. Hardgrave, G.D.  Hayes, C.P.  Gillard, J.E.
Hockey, J.B. Henry, S.  Hall, J.G. *  Gillard, J.E.
Hull, K.E. Hunt, G.A.  Hayes, C.P.  Gillard, J.E.
Jensen, D. Johnson, M.A.  Irwin, J.  Gillard, J.E.
Jull, D.F. Keenan, M.  Irwin, J.  Gillard, J.E.
Kelly, D.M. Kelly, J.M.  Katter, R.C.  King, C.F.
Laming, A. Ley, S.P.  Knuckey, L.  King, C.F.
Lindsay, P.J. Lloyd, I.E.  Katter, R.C.  King, C.F.
Macfarlane, I.E. Markus, L.  Knuckey, L.  King, C.F.
May, M.A. McArthur, S. *  Knox, J.  King, C.F.
McGauran, P.J. Moylan, J.E.  Knox, J.  King, C.F.
Nairn, G.R. Neville, P.C.  Knox, J.  King, C.F.
Panopoulos, S. Pearce, C.J.  Knox, J.  King, C.F.
Prosser, G.D. Pyne, C.  Richardson, K.  Robb, A.

**NOES**

Beazley, K.C. Bevis, A.R.  Burke, A.S.  Bowen, C.
Bird, S. Corcoran, A.K.  Byrne, A.M.  Crean, S.F.
Burke, A.S. Corcoran, A.K.  Byrne, A.M.  Crean, S.F.
Corcoran, A.K. Danby, M. *  Edwards, G.J.  Ellis, A.L.
Cobb, J.K. Draper, P.  Ellis, A.L.  Emerson, C.A.
Costello, P.H. Draper, P.  Ferguson, L.D.T.  Emerson, C.A.
Dutton, P.C. Elson, K.S.  Fitzgibbon, J.A.  Emerson, C.A.
Entsch, W.G. Farmer, P.F.  Fitzgibbon, J.A.  Emerson, C.A.
Fawcett, D. Ferguson, M.D.  Fitzgibbon, J.A.  Emerson, C.A.
Forrest, J.A. * Gambaro, T.  Fitzgibbon, J.A.  Emerson, C.A.
Gash, J. Giambaro, T.  Fitzgibbon, J.A.  Emerson, C.A.
Haase, B.W. Georgiou, P.  Fitzgibbon, J.A.  Emerson, C.A.
Hartsuyker, L. Hardgrave, G.D.  Fitzgibbon, J.A.  Emerson, C.A.
Hockey, J.B. Howard, J.W.  Fitzgibbon, J.A.  Emerson, C.A.
Hull, K.E. Hunt, G.A.  Fitzgibbon, J.A.  Emerson, C.A.
Jensen, D. Johnson, M.A.  Fitzgibbon, J.A.  Emerson, C.A.
Jull, D.F. Keenan, M.  Fitzgibbon, J.A.  Emerson, C.A.
Kelly, D.M. Kelly, J.M.  Fitzgibbon, J.A.  Emerson, C.A.
Laming, A. Ley, S.P.  Fitzgibbon, J.A.  Emerson, C.A.
Lindsay, P.J. Lloyd, I.E.  Fitzgibbon, J.A.  Emerson, C.A.
Macfarlane, I.E. Markus, L.  Fitzgibbon, J.A.  Emerson, C.A.
May, M.A. McArthur, S. *  Knox, J.  King, C.F.
McGauran, P.J. Moylan, J.E.  Knox, J.  King, C.F.
Nairn, G.R. Neville, P.C.  Knox, J.  King, C.F.
Panopoulos, S. Pearce, C.J.  Knox, J.  King, C.F.
Prosser, G.D. Pyne, C.  Richardson, K.  Robb, A.

* denotes teller

Question agreed to.

Question put:

That the motion (Mr Stephen Smith's) be agreed to.

The House divided. [10.57 am]
Wednesday, 7 December 2005  HOUSE OF REPRESENTATIVES  103

(The Speaker—Hon. David Hawker)

Ayes............  60
Noes............  82
Majority........  22

AYES

Adams, D.G.H.  Andren, P.J.
Beasley, K.C.  Bevis, A.R.
Bird, S.  Bowen, C.
Burke, A.S.  Byrne, A.M.
Corcoran, A.K.  Crean, S.F.
Darby, M.  Edwards, G.J.
Elliot, J.  Ellis, A.L.
Ellis, K.  Emerson, C.A.
Ferguson, L.D.T.  Ferguson, M.J.
Fitzgibbon, J.A.  Garrett, P.
Georganas, S.  George, J.
Gibbons, S.W.  Gillard, J.E.
Grierson, S.J.  Griffin, A.P.
Hall, J.G.  Hatton, M.J.
Hayes, C.P.  Hoare, K.J.
Irwin, J.  Jenkins, H.A.
Katter, R.C.  King, C.F.
Lawrence, C.M.  Livermore, K.F.
Macklin, J.L.  McClelland, R.B.
McMullan, R.F.  Melham, D.
Murphy, J.P.  O’Connor, B.P.
O’Connor, G.M.  Price, L.R.S.
Plibersek, T.  Ripoll, B.F.
Quick, H.V.  Rudd, K.M.
Roxon, N.L.  Sercombe, R.C.G.
Sawford, R.W.  Snowdon, W.E.
Smith, S.F.  Tanner, L.
Swan, W.M.  Vamvakouinis, M.
Thomson, K.J.  Windsor, A.H.C.
Wilkie, K.

NOES

Abbott, A.J.  Anderson, J.D.
Andrews, K.J.  Bailey, F.E.
Baird, B.G.  Baker, M.
Baldwin, R.C.  Barresi, P.A.
Bartlett, K.J.  Billson, B.F.
Bishop, B.K.  Bishop, J.I.
Broadbent, R.  Brough, M.T.
Cadman, A.G.  Causer, I.R.
Ciobo, S.M.  Cobb, J.K.
Costello, P.H.  Draper, P.
Dutton, P.C.  Elson, K.S.
Entsch, W.G.  Farmer, P.F.
Fawcett, D.  Ferguson, M.D.
Forrest, J.A.  Gambi, T.
Gash, J.  Georgiou, P.
Haase, B.W.  Hardgrave, G.D.
Hartley, L.  Henry, S.
Hockey, J.B.  Howard, J.W.
Hull, K.E.  Hunt, G.A.
Jensen, D.  Johnson, M.A.
Jull, D.F.  Keenan, M.
Kelly, D.M.  Kelly, J.M.
Laming, A.  Ley, S.P.
Lindsay, P.J.  Lloyd, J.E.
Macfarlane, I.E.  Markus, L.
May, M.A.  McArthur, S. *
McGauran, P.J.  Moylan, J.E.
Nairn, G.R.  Nevile, P.C.
Panopoulos, S.  Pearce, C.J.
Prosser, G.D.  Pyne, C.
Richardson, K.  Robb, A.
Ruddock, P.M.  Schultz, A.
Scott, B.C.  Secker, P.D.
Sliper, P.N.  Smith, A.D.H.
Smyth, A.M.  Stone, S.N.
Thompson, C.P.  Ticehurst, K.V.
Tollner, D.W.  Truss, W.E.
Turney, C.W.  Turnbull, M.
Vail, M.A.J.  Vale, D.S.
Vasta, R.  Wakelin, B.H.
Washer, M.J.  Wood, J.

* denotes teller

Question negatived.

Question put:

That the amendments be agreed to.

The House divided.  [11.04 am]

(The Speaker—Hon. David Hawker)

Ayes............  82
Noes............  60
Majority........  22

AYES

Abbott, A.J.  Anderson, J.D.
Andrews, K.J.  Bailey, F.E.
Baird, B.G.  Baker, M.
Baldwin, R.C.  Barresi, P.A.
Bartlett, K.J.  Billson, B.F.
Bishop, B.K.  Bishop, J.I.
Broadbent, R.  Brough, M.T.
Cadman, A.G.  Causer, I.R.
Ciobo, S.M.  Cobb, J.K.
Question agreed to.

Reference to Committee

Mr STEPHEN SMITH (Perth) (11.09 am)—I seek leave to move the following motion:

That:

(a) as the bill originally considered by the House contained 687 pages and an explanatory memorandum of 565 pages, 1252 pages in total, the largest single amendment bill in the Commonwealth’s history;

(b) as the Senate amendments contain 347 amendments covering 94 pages;

(c) as there has been insufficient time for either the Senate or the House of Representatives to properly scrutinise the detail of the 94 pages of 347 amendments, as well as the 133 pages of supplementary explanatory memorandum;

(d) given that in the now 1479 pages of Government legislation and associated explanatory memoranda, there is no guarantee that no individual Australian employee will be worse off, and there is no fairness in the legislation;

the provision of Standing Order 175 not be applied in respect of the Workplace Relations Amendment (Work Choices) Bill and the provisions of the bill be referred to the House of Representatives Standing Committee on Employment and Workplace Relations for inquiry and subsequent report to the House and advice to the Speaker as to any further action on this bill.

Leave not granted.
Mr STEPHEN SMITH—I move:

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

That:

(a) as the bill originally considered by the House contained 687 pages and an explanatory memorandum of 565 pages, 1252 pages in total, the largest single amendment bill in the Commonwealth’s history;

(b) as the Senate amendments contain 347 amendments covering 94 pages;

(c) as there has been insufficient time for either the Senate or the House of Representatives to properly scrutinise the detail of the 94 pages of 347 amendments, as well as the 133 pages of supplementary explanatory memorandum; and

(d) given that in the now 1479 pages of Government legislation and associated explanatory memoranda, there is no guarantee that no individual Australian employee will be worse off, and there is no fairness in the legislation;

the provision of Standing Order 175 not be applied in respect of the Workplace Relations Amendment (Work Choices) Bill and the provisions of the bill be referred to the House of Representatives Standing Committee on Employment and Workplace Relations for inquiry and subsequent report to the House and advice to the Speaker as to any further action on this bill.

You are happy to ride roughshod but you will not be put to the test.

Mr ABBOTT (Warringah—Leader of the House) (11.12 am)—I move:

That the member be no longer heard.

Question put.

The House divided. [11.16 am]

(The Speaker—Hon. David Hawker)

Ayes…………….. 82
Noes…………….. 57
Majority.......... 25

AYES


NOES


CHAMBER
Question agreed to.

The SPEAKER—Is the motion seconded?

Ms GILLARD (Lalor) (11.21 am)—I second the motion. This bill is rancid and you are trying to hide the stench. That is why you do not want it inquired into. It is rancid and you are trying to—

Mr ABBOTT (Warringah—Minister for Health and Ageing) (11.21 am)—I move:

That the member be no longer heard.

Question put.

The House divided. [11.22 am]

(The Speaker—Hon. David Hawker)

Ayes ............. 81
Noes ............. 57
Majority ....... 24

AYES

NOES

* denotes teller
|------------|--------------|---------------|---------------|---------------|-------------|---------------|--------------|-------------|-------------|-------------|------------|-----------|-------------|---------|

* denotes teller

**Question agreed to.**

Original question put:

That the motion *(Mr Stephen Smith’s)* be agreed to.

The House divided.  **[11.28 am]**

(The Speaker—Hon. David Hawker)

<table>
<thead>
<tr>
<th>Ayes.........</th>
<th>57</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noes.........</td>
<td>81</td>
</tr>
<tr>
<td>Majority.....</td>
<td>24</td>
</tr>
</tbody>
</table>

**AYES**

<table>
<thead>
<tr>
<th>Adams, D.G.H.</th>
<th>Beazley, K.C.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bevis, A.R.</td>
<td>Bird, S.</td>
</tr>
<tr>
<td>Bowen, C.</td>
<td>Burke, A.S.</td>
</tr>
<tr>
<td>Byrne, A.M.</td>
<td>Corcoran, A.K.</td>
</tr>
<tr>
<td>Clean, S.F.</td>
<td>Danby, M.</td>
</tr>
<tr>
<td>Edwards, G.J.</td>
<td>Elliott, J.</td>
</tr>
<tr>
<td>Ellis, A.L.</td>
<td>Ellis, K.</td>
</tr>
<tr>
<td>Emerson, C.A.</td>
<td>Ferguson, L.D.T.</td>
</tr>
<tr>
<td>Ferguson, M.J.</td>
<td>Fitzgibbon, J.A.</td>
</tr>
<tr>
<td>Garrett, P.</td>
<td>Georganas, S.</td>
</tr>
<tr>
<td>George, J.</td>
<td>Gibbons, S.W.</td>
</tr>
<tr>
<td>Gillard, J.E.</td>
<td>Grierson, S.J.</td>
</tr>
<tr>
<td>Griffin, A.P.</td>
<td>Hall, J.G.</td>
</tr>
<tr>
<td>Hatton, M.J.</td>
<td>Hayes, C.P.</td>
</tr>
<tr>
<td>Hoare, K.J.</td>
<td>Irwin, J.</td>
</tr>
<tr>
<td>Jenkins, H.A.</td>
<td>King, C.F.</td>
</tr>
<tr>
<td>Lawrence, C.M.</td>
<td>Livermore, K.F.</td>
</tr>
<tr>
<td>Macklin, J.L.</td>
<td>McClelland, R.B.</td>
</tr>
<tr>
<td>McMullan, R.F.</td>
<td>Melham, D.</td>
</tr>
<tr>
<td>Murphy, J.P.</td>
<td>O’Connor, B.P.</td>
</tr>
<tr>
<td>O’Connor, G.M.</td>
<td>Owens, J.</td>
</tr>
<tr>
<td>Plibersek, T.</td>
<td>Quick, H.V.</td>
</tr>
<tr>
<td>Quick, H.V.</td>
<td>Roxon, N.L.</td>
</tr>
<tr>
<td>Roxon, N.L.</td>
<td>Sawford, R.W.</td>
</tr>
<tr>
<td>Smith, S.F.</td>
<td>Swan, W.M.</td>
</tr>
<tr>
<td>Swan, W.M.</td>
<td>Thomson, K.J.</td>
</tr>
<tr>
<td>Thomson, K.J.</td>
<td>Wilkie, K.</td>
</tr>
</tbody>
</table>

**NOES**

<table>
<thead>
<tr>
<th>Abbott, A.J.</th>
<th>Andrews, K.J.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Andrews, K.J.</td>
<td>Baird, B.G.</td>
</tr>
<tr>
<td>Baker, M.</td>
<td>Baldwin, R.C.</td>
</tr>
<tr>
<td>Bartlett, K.J.</td>
<td>Bishop, B.K.</td>
</tr>
<tr>
<td>Bishop, B.K.</td>
<td>Broadbent, R.</td>
</tr>
<tr>
<td>Cadman, A.G.</td>
<td>Ciobo, S.M.</td>
</tr>
<tr>
<td>Ciobo, S.M.</td>
<td>Draper, P.</td>
</tr>
<tr>
<td>Elson, K.S.</td>
<td>Farmer, P.F.</td>
</tr>
<tr>
<td>Farmer, P.F.</td>
<td>Ferguson, M.D.</td>
</tr>
<tr>
<td>Ferguson, M.D.</td>
<td>Gambero, T.</td>
</tr>
<tr>
<td>Gambero, T.</td>
<td>Georgiou, P.</td>
</tr>
<tr>
<td>Georgiou, P.</td>
<td>Hardgrave, G.D.</td>
</tr>
<tr>
<td>Henry, S.</td>
<td>Howard, J.W.</td>
</tr>
<tr>
<td>Howard, J.W.</td>
<td>Hunt, G.A.</td>
</tr>
<tr>
<td>Hunt, G.A.</td>
<td>Johnson, M.A.</td>
</tr>
<tr>
<td>Johnson, M.A.</td>
<td>Keenan, M.</td>
</tr>
<tr>
<td>Keenan, M.</td>
<td>Kelly, J.M.</td>
</tr>
<tr>
<td>Kelly, J.M.</td>
<td>Ley, S.P.</td>
</tr>
<tr>
<td>Ley, S.P.</td>
<td>Lloyd, J.E.</td>
</tr>
<tr>
<td>Lloyd, J.E.</td>
<td>Markus, L.</td>
</tr>
<tr>
<td>Markus, L.</td>
<td>McArthur, S. *</td>
</tr>
<tr>
<td>McArthur, S.*</td>
<td>Moylan, J.E.</td>
</tr>
<tr>
<td>Moylan, J.E.</td>
<td>Nelson, B.J.</td>
</tr>
<tr>
<td>Nelson, B.J.</td>
<td>Panopoulos, S.</td>
</tr>
<tr>
<td>Panopoulos, S.</td>
<td>Prosser, G.D.</td>
</tr>
<tr>
<td>Prosser, G.D.</td>
<td>Robb, A.</td>
</tr>
<tr>
<td>Robb, A.</td>
<td>Schultz, A.</td>
</tr>
<tr>
<td>Schultz, A.</td>
<td>Secker, P.D.</td>
</tr>
<tr>
<td>Secker, P.D.</td>
<td>Smith, A.D.H.</td>
</tr>
<tr>
<td>Smith, A.D.H.</td>
<td>Stone, S.N.</td>
</tr>
<tr>
<td>Stone, S.N.</td>
<td>Ticehurst, K.V.</td>
</tr>
<tr>
<td>Ticehurst, K.V.</td>
<td>Truss, W.E.</td>
</tr>
<tr>
<td>Truss, W.E.</td>
<td>Turnbull, M.</td>
</tr>
<tr>
<td>Turnbull, M.</td>
<td>Vale, D.S.</td>
</tr>
<tr>
<td>Vale, D.S.</td>
<td>Wakelin, B.H.</td>
</tr>
<tr>
<td>Wakelin, B.H.</td>
<td>Wood, J.</td>
</tr>
<tr>
<td>Wood, J.</td>
<td></td>
</tr>
</tbody>
</table>

* denotes teller

---

**CHAMBER**
Debate resumed from 6 December, on motion by Dr Nelson:

That this bill be now read a second time.

Mrs HULL (Riverina) (11.33 am)—Yesterday I spoke on the Higher Education Support Amendment (Abolition of Compulsory Up-front Student Union Fees) Bill 2005 and today I would like to continue my speech on this issue. For five years I have been one of the very few people who have continually fought to get a sensible balance on this issue. Whilst I have never supported compulsory unionism, I have argued the case for the provision of a service fee or a funding pool to enable universities such as the university that I represent, Charles Sturt University, to offer valuable and viable services. Year after year I have argued against my Young Nationals at The Nationals’ New South Wales state conference, because the Young Nationals have strongly supported this legislation.

I would like to give thanks to the Minister for Education, Science and Training, Brendan Nelson, for his patience and for always agreeing to meet with me to discuss my views. Nobody could say I have not had entry to meaningful discussions with this minister. Again, I sincerely thank him. Whilst I recognise the concerns of the many constituents who feel aggrieved at having to pay the compulsory fee, I do hope they realise that, to date, students who have attended Charles Sturt University and who have paid this fee have received value for money.

I support the provision of funding to cover services such as bus services, child care, can-
circumstance where we do not have a minister present, and I hope someone will make an early arrangement to be here. To facilitate the ongoing debate I am prepared to let it continue, but I hope someone will make a prompt arrangement to ensure that we do have a minister present as soon as possible.

Mr GRIFFIN—Thank you, Mr Deputy Speaker. I guess it says something about the way the government is treating this House. Along with the way it has been treating the other house and the operation of the parliament, it really says something about the way they are treating the institution.

As I said, the Higher Education Support Amendment (Abolition of Compulsory Upfront Student Union Fees) Bill 2005 will destroy the social and cultural fabric of Australian higher education institutions if enacted without amendment. With no compulsory services and amenities fees in universities and TAFEs, the services and activities that student associations provide will be reduced to the bare minimum. The ability of student organisations to provide extensive welfare services, subsidised health and child care, academic appeals, student loans, welfare support and assistance in the transition to university life. These services could not exist without a compulsory services and amenities fee.

Attending university for the first time can certainly be one of the biggest challenges for any person. University can be a lonely time. No longer is a student guided by a teacher in a school of 800; a student is now a very small fish in a very big ocean. A student has to find their own way in a large institution of sometimes more than 15,000 students. During orientation week, many students are able to develop their friendship circle and support network by participating in the activities offered by the student organisations. The development of a network of friends enables a student to settle into the university or TAFE more quickly and hence improve their educational outcomes. This bill will reduce orientation programs conducted by student associations. This in turn will impact on a student’s ability to successfully participate in the higher education system.
In particular, the removal of a broad transition program which is offered by student organisations will impact significantly upon international students. For many international students, the transition programs that student organisations provide during the orientation period are essential to their success in higher education in Australia. In a Senate Employment, Workplace Relations and Education References Committee report entitled ‘Hacking Australia’s future’, Mr Trevor White, a representative of the Australasian Campus Union Managers Association, believed that services provided by student organisations were ‘part of the total educational experience in coming to Australia’. In relation to the abolition of a compulsory service and amenities fee, Mr White stated:

It is an outrageous comment by the government to say that these services are not important.

International students use a wide range of services from student organisations as part of their transition to university life in Australia. Apart from the vital program that occurs for international students during orientation week, many student organisations have an international students department. The international students department provides an important support base and friendship network for overseas students on campus.

At Monash University Clayton, a university situated close to my electorate, Monash University International Student Services offers a variety of activities and services for international students, including a lounge, affordable day trips, political advocacy, international newspapers and cheap faxing. In addition to the services provided by Monash University International Student Services, international students are able to access the standard services provided by student organisations, including clubs and societies, which can often include clubs of their countries of origin. It was concluded in the report by the Senate Employment, Workplace Relations and Education References Committee that there was a clear danger that foreign students would be deterred from enrolling in Australian universities if these services were not available.

The abolition of the compulsory services and amenities fee will also impact severely upon the higher educational outcomes of minority groups, including mature age students, women and students who attend regional universities and satellite campuses. For mature age students, going back to university can be a challenging time. Mature age students find going back to study and upgrading their qualifications a tough experience, and they are often juggling home life with studying on a limited income. In student organisations across Australia, there are often mature age student departments. At Monash University Clayton, the Mature Age and Part-time Students Association, otherwise known as MAPS, provides a strong support base for students aged 23 and above. They provide a quiet and comfortable lounge with free computer access, coffee- and tea-making facilities, reading rooms and regular social events. They also play a strong advocacy role for mature age and part-time students within the university. This department would almost certainly not exist without a compulsory services and amenities fee.

The participation of women in Australia’s higher education institutions is greater than ever before, yet women still face discrimination and harassment on campus. The level of success that they experience from participating in higher education can be dependent on how safe they feel on campus. With many universities today having classes late at night, women can often feel unsafe walking to and from class at this time. Student organisations have played a vital role in lobbying university administrations to ensure that campuses are well lit. They have also helped to ensure that many campuses have security
guards on campus. Security guards will walk students to and from class and to car parks to ensure their safety. In addition, many student organisations now provide shuttle buses for students to get to their car park at night.

Apart from safety on campus at night, women can face discrimination in the classroom. Many women feel intimidated by tutorial environments and feel unable to engage in classroom discussions, with male students often dominating. In addition, women enrolled in non-traditional professions such as engineering will often feel totally excluded in these predominantly male courses. In cases like these, the women’s department, which is part of the student organisation, plays an important role in providing support for women on campus.

Women’s departments are often one of the strongest departments of a student association. Women’s departments can be advocacy bodies that raise campus awareness regarding issues such as discrimination in the classroom and sexual assault and discrimination on campus. Women’s departments often also provide a whole range of activities, including self-defence classes and practical workshops. In addition, many campus student organisations have a women’s room, a women-only space that can provide important time-out periods. It is fair to say that the women’s department can play an important role in the retention of women at university. Without a compulsory services and amenities fee, the number of activities that the women’s department would be able to operate would be severely diminished. In some associations, they would be forced to close down. Women will be the losers on campus.

While student organisations are important for all universities, there is no doubt about the importance they play in the lives of students who attend regional universities. Student organisations at regional universities are the lifeblood on campus, providing activities and support for students almost 24 hours a day. The wide variety of services that student organisations provide in regional towns, including in some cases free transport to and from the local towns, have enabled students to have an active student life and a fruitful university experience. Without such services, students would be less likely to select regional universities as their higher education provider of choice. This has significant implications not only for the university but also for the local economy of the town itself.

For regional towns, student associations often own a variety of facilities used by the local people; at the University of New England, the student union owns the town’s cinema. These facilities add to the vibrancy and life of regional centres. The functions that are provided by student organisations are vital parts of a student’s experience in higher education. Even the Minister for Education, Science and Training acknowledged that:

... student organisations enrich university life and provide a whole range of services, from the very commercial right through to support and counselling—services which are all ... valued by students.

Despite these comments, the minister now is trying to destroy the very institutions he praised. What hypocrisy! The minister must know that this bill, without amendment, will mean the cessation of many of the services he regarded as ‘valued by students’. It will lead also to a massive loss of jobs. This was shown by the experience of Western Australia.

In 1994, when the Court government introduced voluntary student unionism in Western Australia, student organisations were forced to the brink of collapse. University administrations recognised the irreplaceable value and role of student associations and were regularly forced to financially prop up student organisations to ensure their con-
continued existence. Under VSU, student organisations in Western Australia were forced to lay off services staff, as they did not have the funds to maintain their employment. If the legislation is passed without amendment, the Australasian Campus Unions Managers Association, the peak body for services providing organisations on campus, estimates that at least 4,200 jobs will be lost, including hundreds in regional areas. How can this government claim to support regional Australia when attempting to legislate hundreds of regional jobs out of existence?

The minister has argued that many of the services operated by student organisations could be operated by commercial enterprises and that this would be a more efficient and cheaper way to go. However, this is not viable for all services, as students are on campus for only six months of the year. In order to make their business commercially viable, many commercial providers who decide to operate on campus need to boost their prices to compensate for the six months they are not there. Many student organisations currently subsidise food outlets; however, without a compulsory services and amenities fee, this would not be able to continue and, in reality, students would face higher costs.

The government fails to recognise that student organisations provide for more than just food and drink outlets. As I mentioned earlier, services such as the provision of welfare and student advocacy would not or could not be taken up by commercial providers. Even if services such as student counselling were to be offered by private providers, it is very unlikely that they would be offered free, as is often the case currently.

In Western Australia, as a result of the voluntary student unionism legislation introduced by the Court government, students who worked unpaid for the guilds found themselves using all their energy in recruiting students as members to their guild rather than representing their members. The students had no choice but to do this, as without the financial resources provided through memberships the student associations would almost definitely cease to operate.

As announced, Labor will be introducing a compromise amendment to outlaw compulsory student union membership and to allow universities to charge a compulsory services and amenities fee. Labor’s amendment provides a practical and sensible way to protect vital campus services. Labor has moved beyond the Liberals’ tired old debate about compulsory student unionism, where Liberal members are still fighting the campus battles they lost in the 1970s.

In conclusion, if its amendment is not adopted, Labor will strongly oppose this bill. Without a compulsory services and amenities fee, vital student services such as welfare provision, subsidised health and child care, academic appeals and advocacy will be significantly diminished; in some cases, they will cease to exist.

I note that in the next few minutes we will see, once again, a gag come into effect—another gag by this government so that it can ram through legislation without proper debate. Watching the gag being used for a range of legislation over the last few days, we have seen the real nature of the way this government intends to deal with issues this term.

I am absolutely fascinated by what my friend the member for Fisher might have to say on this legislation. I hope that it is not the usual ideological rant that has come from many on his side. However, as it has been so many years since he was at university, as it has been for me, the chances are that he does not have quite the painful memories of some of his colleagues with respect to what occurred on campus. I am not sure whether we
will value his contribution in the time that is left, but we will certainly listen to it—if not here, in our offices.

But I certainly note that, once again, this government is gagging debate on important legislation that will impact on the community. Part of what it is trying to do, I am sure, is to put this legislation through and send it up to the Senate while it thinks it might be able to get it through. The question then will be: what will happen in the Senate; what will happen with Senator Joyce from Queensland—‘Backdown Barnaby’—who, once again, has been talking about being prepared to stand up and fight the good fight on this legislation? I guess we will have to wait and see whether he does. But, with the number of times we have had an argument from a National Party member about legislation put up being bad and then not having them vote against it, you have to wonder about what they say versus what they do. Again, I will be very interested to hear the member for Fisher on this particular issue. I know that he has an involvement historically in the National Party. He could probably explain to the House what is wrong with those National Party members much better than I could. I certainly look forward to hearing what he might say about that point, if he should address it.

Mr SLIPPER (Fisher) (11.51 am)—As I think Billy Hughes said when he was accused, at a significant celebration, of having been a member of all political parties in the parliament bar one, ‘You’ve got to draw the line somewhere.’ If one were referring to the Australian Labor Party, I must confess that in 2005 I would have to echo the words of the former distinguished Prime Minister of Australia Billy Hughes. One would have to draw the line at the possibility of joining the Australian Labor Party.

I think it is particularly important to recognise that the Higher Education Support Amendment (Abolition of Compulsory Upfront Student Union Fees) Bill 2005 is all about freedom of association and freedom of choice. The ALP has long been a supporter of compulsory student unionism. While the member for Jagajaga is now seeking to vary that longstanding support for compulsory student unionism into a form of compulsory services fee, one ought not to lose sight of the fact that it is the Australian Labor Party that wants to compel students at Australian tertiary institutions to be part of an organisation and to pay money which will be used for certain purposes.

I have listened very carefully to the members opposite—to their remarks about many of the virtues of the services provided by student unions and student guilds. I have listened to their claim that many services would not be provided were it not for the presence of those student guilds, associations or unions. I really do not have a problem if someone wants to join those associations, if that person voluntarily elects to do so and, as part of doing so, naturally pays a fee. My difficulty with the proposition being proposed by the member for Jagajaga is the element of compulsion. As a person who takes a libertarian approach to some matters, I very strongly support the right of someone to join a union, whether it be a student union, a student association, a student guild or, for that matter, a trade union, but equally I believe that in a democratic nation we ought not compel anyone, we ought not conscript anyone, to be a member of a union, and we ought not to conscript the fees that that person would have to pay to be used for certain purposes, however desirable.

We all know of the large numbers of external students who never visit the university campus. The honourable member for New England represents the University of New
England. The University of New England has quite an admirable program of external degrees, giving many people right throughout the nation the opportunity of a tertiary education. But many of those external students would never visit the campus at Armidale or, if they did so, they would do so rarely. In my view, it would be entirely inequitable for those students to be forced to make a contribution to the costs of running facilities at the University of New England. I only mention that particular university because the member for New England is here, but a similar rule and a similar arrangement could apply to other tertiary institutions throughout the country.

I find it amazing that in 2005 the Australian Labor Party could actually stand up and support compulsory membership or a compulsory contribution towards the provision of services for students at institutions. The government does remain committed to genuine freedom of association—the right to join a union or not to join a union—and the same rule applies not only to trade unions but also to educational unions or student unions, term them as you wish. I believe in true freedom of association, and it is important that those associations in the student arena should be able to provide services of a sufficient standard to make people want to join them, but I do not believe in the element of compulsion. If people want to vote with their feet, if they are dissatisfied with the services provided or, for that matter, if they are not going to use the services, then I believe it is entirely inequitable that those students should be compelled to write cheques to benefit people who will use those facilities, when they themselves have chosen not to or are unable to do so.

I have long been on the record as supporting the principle of voluntary student unionism. We all know about some of the appalling misuses of student funds by student associations and unions over the years. Those funds have been used for political purposes, quite foreign in many cases to the attitude of their student body. Many students are forced to pay a compulsory membership fee to a student union. They play no role in the activities of the union, and often a militant minority is able to hijack the agenda of the student union and use the funds compulsorily acquired from the student body for purposes diametrically opposed to the principles of the bulk of that student body. We have had a situation where people have had to pay up to $600 a year for membership of a student union and there are great penalties for those who do not pay, such as enrolments being cancelled or results being withheld. It does seem almost unbelievable that a student who has studied hard for a number of years and has endured the other hardships of tertiary study—such as, in many cases, separation from their family and financial struggles—can have their goal of a tertiary qualification blocked at the last hurdle by a dubious debt from an unrelated, unrequested and unwanted membership fee.

The bill before the House, the Higher Education Support Amendment (Abolition of Compulsory Up-front Student Union Fees) Bill 2005, seeks to put fairness back into the tertiary arena. Those who wish to join a union may do so and those who do not wish to join a union do not have to join. As I said earlier, I am impressed with many of the facilities provided by student unions, but there ought to be no element of compulsion on the part of students either to join the union or to pay a fee to provide for services at the tertiary institution if the student chooses not to make that contribution.

From July 2006, student union membership will be voluntary, and students who enrol after that date will no longer be subjected to fees that must be paid. From 2007, all students in all universities, public and private,
will benefit from these provisions. Gone will be the days of students struggling to find the extra money to fund the fees. Gone will be the days when a student’s results will be held to ransom by the non-payment of the fees. From mid-2006, we will return to a true sense of freedom of association on Australia’s university campuses.

This is an important piece of legislation. I have absolutely no concerns about it. It enacts what I believe to be an absolute principle—that is, the principle of freedom of association in a democratic society; the freedom to join or not to join a union or student guild. Equally, it is important that no student be forced to make a contribution to services or facilities if that student chooses not to do so. While an argument could be made that on-campus students who use the facilities ought to be contributing towards them—I have no problem if they voluntarily choose to do so—I think it is entirely inequitable, inappropriate and antidemocratic that students who in many cases live thousands of kilometres away from the institution and never get to use the facilities ought to be compelled to do so.

The DEPUTY SPEAKER (Mr McMillan)—It being 12 noon, in accordance with the resolution previously put, I call the minister in reply.

Dr NELSON (Bradfield—Minister for Education, Science and Training) (12.00 pm)—in reply—I thank all of those who spoke to the Higher Education Support Amendment (Abolition of Compulsory Up-front Student Union Fees) Bill 2005. Whilst not agreeing with quite a few remarks made by those opposite, the issues have been well canvassed in relation to this matter.

It is worth recording that in 1999, which was the first occasion upon which this issue was considered in the parliament, we had 17 speakers in five hours in the House of Representatives. We had a Senate inquiry. In 2003 through to 2004, the bill was re-presented. We had 10 speakers in two hours and 57 minutes of debate. In this attempt to introduce voluntary membership of student unions, guilds and associations, we have had 31 speakers comprising just over 9½ hours of debate. We have also had another Senate inquiry. I thank all of those who have contributed to the debate.

The government believe very strongly, particularly in this early part of the 21st century, that students should be free to choose what services they will purchase with their money and what organisations they will join. We recognise that there have been many changes in higher education, which is rapidly evolving. One-quarter of Australian university students do not set foot on campus; they are fully distance or online students.

Amongst the many inequities about which we have heard is that this is a flat tax. The students from the poorest families pay exactly the same as those from the wealthiest, and we think that this is one of the few anachronisms which remain to be addressed. The government are very committed to this. I thank all of those who contributed to the discussion.

Question put:
That the bill be now read a second time.

The House divided. [12.06 pm]

(The Deputy Speaker—Mr McMillan)

Ayes............ 77
Noes............ 57
Majority........ 20

AYES

Abbott, A.J. Andrew, K.J. Anderson, J.D. Bailey, F.E.
Baird, B.G. Baker, M. Barresi, P.A.
Baldwin, R.C. Bartlett, K.J. Billson, B.F.
Bishop, B.K. Bishop, J.I.
Question agreed to.

Bill read a second time.

Consideration in Detail

The DEPUTY SPEAKER (Mr McMul-lan)—Let me draw to the attention of the House the resolution carried this morning that says that the bill will be taken as a whole during consideration in detail for a period not exceeding 60 minutes. That is the procedure under which we are operating.

Mr WINDSOR (New England) (12.13 pm)—I move the amendment circulated in my name:

(1) Schedule 1, item 1, page 3 (lines 9-34) and page 4 (lines 1-3) omit subsections 19-37 (1), (2), and (3), substitute

(1) A higher education provider must not:

(a) require a person enrolled with, or seeking to enrol with, the provider to pay to the pro-

vider or any other entity an amount in re-

spect of an organisation of students, or of 

students and other persons;

unless the higher education provider has:

(b) established a fund to be applied by or on 

behalf of the university towards academic 

support, academic advocacy and interna-

tional student services, student welfare, cul-

tural, sporting, health, and artistic purposes; and

(c) provided that amounts from the fund may be 

applied to organisations and groups which 

apply the amounts:

* denotes teller
(i) only for purposes related to academic support, academic advocacy and international student services, student welfare, culture, sport, health or art; and

(ii) only for the provision of facilities, services and amenities.

The Higher Education Support Amendment (Abolition of Compulsory Up-front Student Union Fees) Bill 2005 will be extremely damaging to regional universities. I think that even the Minister for Education, Science and Training, who is at the table, recognises, and has recognised through some of his previous comments, that there will be enormous damage to regional universities.

Within the electorate of New England I have the University of New England. I had the honour of serving on the council of that university for a few years. I am very much aware of the activities that the union and other bodies—student representative bodies—provide within the University of New England and I praise them for their efforts over the years.

The amendment that I have moved essentially allows all activities that have been provided within the university by the student fee to exist—other than the political activities that the government, the minister and some of the zealots within the Liberal Party believe should not occur. Personally, I do not have any problem with some degree of political activity within a university. I would have thought that a university is a place where people come together and learn to think and argue. But it seems that the government and others have a problem in relation to the use of a student fee, a compulsory fee, to finance political activities that may advantage one side of the political equation or the other.

At the University of New England, contrary to the prevailing wind that seems to be blowing around this chamber, the Liberal Party—the Young Liberals in particular—have used and abused the privileges of the university to their advantage. So wiping out the very people that the government is saying it would like to wipe out at that university will in some way be wiping out its own kind. At the University of New England something like 49 activities are funded through this fee. The amendments provide for all those activities to be maintained and for the removal of the ability to use the fee for political activities, which is a very small proportion of the total use of the fund.

I do not believe—and I do not agree with the government—that we should throw the baby out with the bath water on this particular issue. I listened intently to some of the National Party members in this chamber when they delivered their speeches. I do not believe that they believe in this either. I am very pleased that Senator Joyce has taken a solid stance on this matter in the Senate, and I would encourage him to stand up for regional people and maintain his stance. I am confident that this legislation will be defeated in the Senate. It has been promoted by a number of people who, in their own minds, still have not left university. I think it is about time they grew up on this issue and started to look at the damaging impacts this measure will have on sporting and cultural facilities, on cafeterias, on help for students and on a whole range of activities.

I am aware that the Labor Party has an amendment, which I will be supportive of. It is more far-reaching than my amendment. The sole purpose of my amendment is to preserve all of the so-called good activities and to remove—from the point of view of the half a dozen zealots in the Liberal Party—the so-called offensive activity of using students’ fees to fund political activities when some students would prefer that money not be used for that purpose.
In conclusion, I do not believe the minister has his heart in this issue and I think it is a shame that he has to go to this extent to curry favour for a few votes for the deputy leadership of the party at some later time. I do not think we should be using our students as pawns in another political activity.

Mr KEENAN (Stirling) (12.18 pm)—I have got some news for the member for New England: the Minister for Education, Science and Training does have his heart in the Higher Education Support Amendment (Abolition of Compulsory Up-front Student Union Fees) Bill 2005, and he has his heart in it because he believes in freedom of choice. He does not believe in allowing a small band of students to compulsorily acquire people’s money and then misuse it in the way it has been misused for many years within university campuses across Australia. This bill is long overdue and when it is passed by this parliament—

Ms Macklin—Mr Deputy Speaker, you would be aware that this legislation is at the consideration in detail stage. We are now considering an amendment moved by the member for New England. I would bring the member back to the point under debate.

The DEPUTY SPEAKER—I think the member for Stirling is in order but he should confine himself to the amendment.

Mr KEENAN—I am talking about the bill and the amendment before the House, and I am in order.

Ms Macklin—that’s not for you to decide!

Mr KEENAN—I will leave that up to your judgment, of course. Mr Deputy Speaker. With your protection, I will continue. I have rarely heard such nonsense in this chamber as that which has been put about by the Labor Party on this bill. Outlandish claims have been made that we will close down student unions, adversely affect arts or sporting facilities on campus or close down what I think is quite a proud tradition of political activism on university campuses. Just yesterday I sat in this chamber while the member for Oxley came in and said that the Liberal Party hates university students. This is apparently what passes for coherent and logical argument in the Labor Party.

The reality is that the government do not have a vendetta against student unions. What we are asking is that they be called to account for the services they provide for their members and that they provide services that Australian students actually support. We want to give students the freedom to choose what services they use whilst they are enjoying their student life. It is a fundamental freedom that we grant to every other section of Australian society.

The Liberal Party supports and recognises the contribution that university students make to this great nation. Quite a few of us have been students ourselves. The Labor Party opposition to this bill is not based on the needs of students. That is what is so offensive about their opposition: they are not concerned about the needs of students. What they are concerned about is protecting their political fellow travellers and the quarter of a million dollars that the student unions spent campaigning for the Labor Party in the last federal election. Their opposition to this bill is really based on protecting their mates who have given them money.

I will go over what the National Union of Students spent in the last federal election campaign. They spent $75,000 on broadcasting electoral advertisements, over $40,000 publishing such electoral advertisements, nearly $50,000 producing campaign materials such as how-to-vote cards, posters or pamphlets and just under $90,000 on direct mailing. I have absolutely no problem with students or students unions supporting the
Labor Party. But what I will say is that, if you want to play politics, if you want to get involved in the political process, then do not do it with other people’s money. Be prepared to put in your own. I cannot emphasise this point enough. The Labor Party are opposing this particular bill because they are protecting their mates who gave them a quarter of a million dollars in the last election campaign. I will make this point: the return mailing address for the National Union of Students that was registered with the Australian Electoral Commission is care of Trades Hall in Victoria. So they are really paid-up members of the Labor movement and you are just protecting your mates in opposing what is a very sensible measure—

Mr Katter—Mr Deputy Speaker, I rise on a point of order. We are debating the amendment and the amendment does not say anything about that. The amendment splits the political side from the recreational side. The member is not saying anything about the bill whatsoever—

The DEPUTY SPEAKER—The member for Stirling is ranging pretty widely but is not out of keeping with the consideration in detail stages such as we have had previous to this day.

Mr KEENAN—I will address this issue of an amenities fee. The fact is that people pay amenities fees when they use services. I have absolutely no problem with somebody paying an amenities fee if they want to pay a particular fee to use a squash court or something, but the point is that the user pays for it. (Time expired)

Mr Anthony Smith interjecting—

Mr Katter interjecting—

Mr ANDREN (Calare) (12.23 pm)—Mr Deputy Speaker, could I ask for a little bit of silence in the chamber; it is a little bit distracting.

The DEPUTY SPEAKER (Mr McMullan)—Order! The member for Kennedy and the member for Casey: the member for Calare has the call.

Mr ANDREN—I rise to support the amendment moved by the member for New England. I would like to put on the record a couple of the observations that I wished to add to the second reading debate, which has been denied. The Minister for Education, Science and Training told me in question time yesterday that Charles Sturt University collects something like $1.9 million in student union fees, with 3,000 on-campus students and 4,000 external students. He seems to suggest—and I would like him to correct this if it is not the case—that this amount is not accountable and the external students do not use the union services. On that first point, the fact is that the CSU Students Association is an incorporated body operating within ASIC guidelines. It is audited yearly by an external accountancy firm and it submits those annual results to the CSU council. Expenditure is accountable to the board, on which there is university representation.

On the other point, about the access of external students of CSU to the provisions of services by the association, the fact of the matter is that there is a range of services supplied to external students both when they attend campus and when they carry out their distance education. The association is there to represent them in the provision of services, and to the executive of the university in any disputes over marking and also the provision of services when they attend their block release, their study periods on campus. Apart from all that there is transport; counselling; insurance; accommodation support for when they come to campus, or when they are full-time students; advocacy; sport; recreation; and, yes, some political activity—but that, as the member for New England
pointed out, is a very small part of the services provided.

As the member for Riverina alluded to in her contribution to the second reading debate, the National Party seem to be very ambivalent about this bill. They know the contribution of students associations, particularly those of the Charles Sturt University campuses in Dubbo, Albury, Wagga, Bathurst and Orange. I call on the members representing those particular campuses to put forward a fair representation of the work that the student association provides and the services it provides for the students in those regional areas.

One issue that the previous speaker, the member for Stirling, alluded to was that these so-called associations are nothing more than radical political organisations. I take him back to the years when there was really some quite radical activism on the campuses—which, indeed, led to a change in policy on, say, the Vietnam War. No-one would advocate violence or anything similar, but compare the sort of tame political activity on campuses today with what it might be. I would like to see the students out marching against the war in Iraq a bit more, and really raising those issues as they once did so bravely on the streets when the Vietnam demonstrations occurred.

I point to the Curtin University paper, which clearly demonstrates the disastrous impact of voluntary student unionism when it was introduced to that campus under the voluntary membership system. Since the amended legislation from 2002, which abolished voluntary membership, the Curtin guild has been able to rebuild those services that were lost, with proper requirements on how that money is spent. That is the tenor of the member for New England’s amendment and I support it strongly.

Mr ANTHONY SMITH (Casey) (12.28 pm)—This amendment moved by the member for New England is a lazy amendment. It shows that he has not done the work at all. It is an amendment that would maintain compulsory membership. It is an amendment where—as his good friend the member for Kennedy, who sits next to him, said—he seeks to split compulsory fees for what he thinks are political activities from sporting and catering activities. If you listened to the member for New England, and indeed the member for Jagajaga and those opposite, you would be forgiven for thinking that catering, sport and all of those things were actually invented by universities, that they do not happen in the rest of society. This debate, and the amendment moved by the member for New England, characterises so many things about those opposite. It is a pity for the people of the electorate of New England that he has joined those in the Labor Party in denying students choice.

That is what this debate is about. In Australia, students who are 18 years of age are entrusted to have a drivers licence, enrol to vote and purchase goods and services in an international economy, with one exception—that is, union membership on campus. Without it they cannot attend a lecture, they cannot attend a tutorial and they cannot get a degree, and now the member for New England thinks that, somehow, there is some cute way that he can split these things and that somehow students must be forced to join a student union.

There are those who doomsay about voluntary student unionism, including the previous speaker, the member for Calare, and those opposite, but in their speaking to this amendment you do not hear a word of criticism about student unions today. You do not hear a word of criticism about the Melbourne University Student Union, which, with compulsory membership, went broke. What sorts
of services did students get for their money at Melbourne University, whose union went broke? With Laborite activists running that union, what sorts of catering services and what sort of value for money did those students get?

Those opposite and the member for New England have this implicit notion that if you take the truly dangerous step, in their frame of mind, of giving students on Australian campuses a choice, they will not join a student union. That is their assumption. They say, 'Students of Australia cannot be entrusted to decide for themselves whether to join a union.' The National Union of Students has consistently said that this legislation that the member for New England is seeking to amend should be withdrawn on the basis that surveys they have done show that 84 per cent of students oppose it. If that is the case, 84 per cent of students would join a voluntary union. What is there to fear about giving students the choice to join any union that provides any facilities? What is so frightening for those opposite about letting students determine the sorts of services they want on campus? That is what this bill will do. For those opposite, it is truly radical to give an 18-, 19- or 20-year-old the choice to join a union. What is so wrong about letting students decide on the sorts of services they want? Why should the member for New England decide those sorts of services? That is what this debate has been about.

Mr Crean interjecting—

Mr Anthony Smith—It is great that in this debate we have the dinosaur of the Victorian division of the Labor Party here, who of course was sustained for so many years by the people he now in his final days here tries to protect. The member for Hotham was sustained by Labor students who, of course, have now turned on him in his own seat. This is a long overdue bill. (Time expired)

Mr Katter (Kennedy) (12.33 pm)—There are some very decent people in the Liberal Party and at the universities, but I interviewed a person for a job and I said, ‘What do you think about the Liberals on the campus?’ She said, ‘They’re a sort of pimply faced little brigade who run around looking for something to be earnest about.’ My colleague the member for New England commented that a lot of these people have not really changed. That pimply faced brigade, as this woman described them, have come into this place and they really have not changed. We had the intellectual tour de force, the member for Casey, speaking a moment ago, yelling out that we do not do any work. Well, actually, I have audited 37½ hours of travel every week for a three-month period. Last weekend I had entire workdays on both the Saturday and the Sunday, and if the member for Casey thinks I am not working down here he can come up and sit in my office, and then he might be doing something useful with his time. Mens sana in corpore sano—

Mr Anthony Smith—Mr Deputy Speaker, I raise a point of order. I draw to your attention the fact that the member for Kennedy is not speaking on the amendment, in talking about his travel. Since he raised it, I was referring to his—

Mr Katter—I was just answering the charges that were laid against me by this brilliant intellectual fellow over here. Mens sana in corpore sano were the words used in conjunction with educational institutions.
throughout the world. Translated, it means: a healthy mind in a healthy body. That was a concept put to people when the idea of a university was put forward. In my years at university, every afternoon each of the colleges at the University of Queensland would go down onto the oval and play touch football. It was one of the most enjoyable pastimes that I think all of us participated in in those days. Also, if you are sitting there all day long, there are health and obesity issues that set in as a result of the very nature of university life.

What these people are doing here today is taking away from the regional universities the right to do that, because there is no way legally that a regional university will be able to raise the money to provide for the upkeep of those ovals and those facilities. So these people have taken them away from the regional universities, and for most of them, who went through the sandstone universities, their facilities will stay in place. The people of regional Australia have really had a gutful of this sort of treatment continually coming from this side of the House, and possibly they are even worse than the last lot.

Maybe a quarter of Australia’s Olympians come from on campus. They use these facilities regularly. If we have had good performances internationally, it is because of the existence of those facilities. Again, the more well-looked-after people in society sit on the government side of the House, and they probably can have access to facilities elsewhere and can pay for those facilities. But the average person who does this and aspires to Olympic representation needs those facilities if they are going to compete and perform. We are watching today yet another facility provided to regional and rural Australia being taken away from us under the guise and the clothing of some sort of principle that those in this pimply faced little brigade, who used to run around the university looking all of the time for a cause, are still living out. They have an arrested development which is creating a problem for all of us.

Mr WINDSOR (New England) (12.37 pm)—I have some brief comments to make in relation to comments made about the amendment. The member for Stirling spoke about choice. He based his argument totally on choice. It is a fallacious argument, to say the least. You would be fully aware that the Workplace Relations Amendment (Work Choices) Bill 2005, which we passed this morning, states I think at page 181, under the prohibited content provisions, that when an AWA is structured between a worker and a boss and they are in agreement—and they have had the choice of agreement—or with any other agreement, the minister of the day, not necessarily today’s minister but the minister for industrial relations, can intervene in that agreement. And you say that you represent choice. That is not choice. Government members are absolutely hypocrites on this particular issue of choice.

The issue here is the provision of services to country students in regional universities that will not have the capacity to pay for the services that some of those kids will need. Are you suggesting that someone at a university who has been raped or gone through some great degree of mental trauma is suddenly going to have the capacity to go and pay for services in a community that may not even have those services to assist them? These are the sorts of services that are being provided by that fee. I would hope my son or daughter would never need those services. But if those services are not there for people who may require some assistance that could save their lives in relation to some of these issues, that is what you are talking about here. You are not talking about replacing those services. You are saying that, if you are going to go out there and be raped, make
sure there is a service in your university or in your town that will be there to assist you. That is the choice you are presenting.

Ms Panopoulos—Mr Deputy Speaker, I rise on a point of order. That language was very unparliamentary and reflected on members on this side of the House. It was extremely offensive to use a criminal offence of rape as an example, and I request that you consider asking the member for New England to withdraw that statement unreservedly.

The DEPUTY SPEAKER (Mr McMillan)—I heard nothing unparliamentary. Has the member for New England concluded his remarks?

Mr WINDSOR—Yes.

The DEPUTY SPEAKER—The question is that the amendment moved by the member for New England be agreed to.

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

The DEPUTY SPEAKER—Order! As there are fewer than five members on the side of the House for the ayes in this division, I declare the question negatived, in accordance with standing order 127. The names of the members who are in the minority will be recorded in the Votes and Proceedings.

Ms MACKLIN (Jagajaga) (12.45 pm)—by leave—I move opposition amendments (1) to (7) as circulated in my name:

(1) Schedule 1, item 1, page 3 (lines 9-17), omit subsection 19-37(1), substitute:

(1) A higher education provider must not:

(a) require a person to be or to become a member of an organisation of students, or of students and other persons; or

(b) require a person enrolled with, or seeking to enrol with, the provider to pay to the provider or any other entity an amount for membership of an organisation of students, or of students and other persons;

unless the person has chosen to be or to become a member of the organisation.

(2) Schedule 1, item 1, page 3 (lines 18-22), omit subsection 19-37(2), substitute:

(2) A higher education provider must not require a person enrolled with, or seeking to enrol with, the provider to pay the provider or any other entity an amount for the provision of an amenity, facility, activity or service that is not of an academic nature, unless that amenity, facility, activity or service is of direct benefit to students enrolled with, or seeking to enrol with the provider.

(2A) In this section a direct benefit in relation to amenities, facilities, activities or services for students who are enrolled or seeking to enrol with a provider, is the provision of:

(a) food and beverages, meeting rooms, sports and physical recreation, child care, counselling, legal advice, health care, housing, employment, visual arts, performing arts and audio-visual media, debating, libraries and reading rooms, academic support, personal accident insurance for students, orientation information, support for overseas students, student representation and advocacy, student clubs and societies, social activities, cultural activities, welfare, commercial activities, capital funds and infrastructure, investments and reserves, student publications, or student financial assistance; and

(b) administrative matters related to any of the items listed in paragraph 2A (a), including the costs of collecting amounts paid under this section; and

(c) other facilities, services consistent with, or reasonably incidental, to...
any of the items listed in paragraph 2A (a).

(2B) Section (2A) does not apply to an amount that the higher education provider requires the person to pay if the amount is for goods or services that:

(a) are essential for the course of study in which the person is enrolled or seeking to enrol; and

(b) the person has the choice of acquiring from, but does not acquire from, a supplier other than the higher education provider; and

(c) either:

(i) are goods that become the property of the person that are not intended to be consumed during the course of study; or

(ii) consist of food, transport or accommodation associated with provision of field trips in connection with the course of study.

(3) Schedule 1, item 1, page 3 (lines 23-34) and page 4 (lines 1-3), omit subsection 19-37(3), substitute:

A higher education provider must ensure that any fee levied in accordance with subsection 19-37(2A) is adjusted on a pro-rata basis to an amount commensurate with the person’s status as a part-time, external or distance education student, or proposed part-time, external or distance education student.

(4) A higher education provider must ensure that it has procedures in place to provide detailed reporting and accountability mechanisms for any monies collected or received from any fees pursuant to subsection 19-37(2A). Such reporting and accountability mechanisms must include a requirement that a statement is to be provided to the higher education provider’s governing authority at least once per year, and published in the provider’s annual report. The statement must specify:

(a) the amount of monies collected by the provider in the preceding year; and

(b) the purposes for which the provider spent those monies or made them available and the amounts spent or made available; and

(c) the names of organisations of students, or of students and other persons, to which the provider made the monies available and the amounts that were made available to each organisation; and

(d) the purposes for which the organisations referred to in (c) spent the monies made available to them.

(4) Schedule 1, item 2, page 4 (lines 4-7), omit the item.

(5) Schedule 1, item 3, page 4 (lines 8-31) and page 5 (lines 1-22), omit the item.

(6) Schedule 1, item 4, page 5 (lines 23-28), omit the item.

(7) Schedule 1, item 7, page 6 (lines 3-5), omit the item.

While I recognise that the member for New England’s amendment was an improvement on the government’s bill, Labor’s view is that it did not go far enough. The amendments I am now moving go further, to make sure that we protect university student services while giving students the choice of whether or not they wish to belong to their student organisation. I will quickly run through the amendments so that they can all be dealt with together. Amendment (1) enshrines student choice about whether or not they wish to become a member of their student union. It is important that members of the government
recognise that the vast majority of Australia’s universities recognise this as a reality already. There are only three universities where membership is not a requirement of enrolment. We have certainly moved on from the Liberals’ tired old debate about compulsory membership. Unfortunately, it seems to be the case that the government are still fighting campus battles they lost back in the 1970s.

Amendment (2) provides that universities can levy a compulsory fee for amenities and services. The critical thing about this part of our amendment is that these amenities and services must be of direct benefit to students. Section (2A) lists a range of amenities, facilities, activities and services on which money can be spent. Section (2B) reflects the section of the government’s bill that still allows universities to charge ancillary course fees related to a student’s course.

Section (3) of amendment (3) mandates for the first time—and I say to the government that it would be very important that they recognise this as part of our amendment—pro rata adjustments in fees for part-time external or distance education students. Section (4) establishes for the first time tough new accountability and reporting arrangements and requirements on the ways fees are collected and spent, including how universities and other organisations are to account for moneys collected from students. I ask the government to recognise that. Amendments (4), (5), (6) and (7) delete various aspects of the government’s bill, including the punitive penalty regime, which seeks to impose outrageous penalties on universities that seek to levy amenities fees so that they can provide these very important services for their students.

Overall, Labor’s very sensible compromise amendments do not allow compulsory student union membership. They allow universities to charge a compulsory services and amenities fee and they specify a range of amenities, facilities, activities and services on which moneys can be spent. Those include child care, sports facilities, advocacy—particularly when, for example, students come into dispute with the university—counselling, orientation information and cultural activities. I am sure members of the government have seen the full page ad that was in the *Australian* today. A huge number of great Australian artists and sports heroes from around Australia, including people like Cate Blanchett, Kevan Gosper and Stuart MacGill have spent their money—not the government’s money—to say to the government, ‘Think again and make sure that these amenities and cultural services can continue on our university campuses.’ We do know that there should be tough accountability and reporting arrangements. This is a sensible way to protect vital campus services. It is high time that we got over the very tired Liberal Party debate about compulsory student unionism. We know many of you lost your fights back in the 1970s and the 1980s. The fight from the university forecourt is over for you guys. It is time to recognise that you have to stop playing student politics in the Liberal Party and support the amendments that Labor have put forward so that these services can continue.

Ms PANOPOULOS (Indi) (12.50 pm)—What a facade; what a fraud! The amendment that has been put up in the name of the member for Jagajaga is modelled on the Victorian version of so-called VSU, but it is worse than that. We have been told that students will not be forced to join a union—but they will be forced to pay money to support the services of their union. Essentially it is taxation without representation, and that is a fraud. To say that no-one will be forced to join a union but that they still have to hand their money over is even worse. In the Victo-
rian so-called compromise legislation, which is not as extreme as the member for Jagajaga’s, we have seen some extraordinary use of student money. If we have seen disgraceful examples of the wasting of student money on nutty causes and partisan political campaigns under that legislation, what can we expect under the amendments from the member for Jagajaga?

In Victoria under the so-called amenities fee we have seen $6,600 spent on migration agent fees to fight the deportation of an illegal immigrant. Perhaps that would fall under the category of health—the mental health of that particular illegal immigrant. We have seen $3,000 spent on criminal fines for students charged with violent protest and we have seen entertainment costs of $5,000 at national protests. Perhaps these fell under the category of cultural or artistic endeavours. These are essentially political activities. You can mask them in whatever way you like. You can call them essential services. Perhaps when the member for Jagajaga and other members of the Labor Party were at university, they did not have the initiative to engage, as other adult students do, in their own cultural and entertainment activities but needed other students to subsidise them. Life on campus is not determined by compulsorily acquired union funds.

The member for Jagajaga, being a Victorian, neglects to mention all the other political activities that have been funded under this fraud of a so-called VSU. The Monash University Students Association after the tragic S/11 event produced stickers that read ‘Bomb the White House’. Gee, that was really an essential service of direct benefit to students! It was quite a disgrace. The member for Jagajaga did not like the member for New England’s amendment because it did not go far enough. We can always rely on members of the Victorian Labor Party to go further than any other state branch of the Labor Party, so far removed are they from the mainstream.

We have social activities deemed to be of direct benefit to students. How patronising and how pathetic. The member for Jagajaga’s amendment is actually one of the most patronising and deceitful amendments we have seen with regard to this legislation. They say they care for students services and they say they want to maintain a particular culture on campus. But why do they assume that such services will collapse under voluntary student unionism? Are they saying that adult students who have been given the responsibility of voting at a federal election cannot make up their minds about what sorts of services they think would be of direct benefit to them? Do they need the patronising paternalism of the Labor Party’s amendment to tell them what social activities are of direct benefit to them? It would be an absolute disgrace.

We have seen the University of New England Students Association actually say: What some people don’t realise is that the VSU legislation will not outlaw student unions. Rather, the legislation will ensure that students are afforded the right to choose whether or not they join and contribute financially to a union. In addition to enshrining a basic freedom, the VSU legislation will ensure that unions are more responsive to needs of students, only offering relevant and in-demand services and representation. That is the key to the government’s legislation. It is not only to give adult students a choice but also to make student organisations accountable. We have seen that the so-called compromise halfway measure does not work. It has not worked in Victoria and it will not work nationally. The member for Jagajaga does not fool anyone on this side of the House, even though she may point to expensive newspaper ads and even though people like Kevan Gosper may be supportive. (Time expired)
Ms KATE ELLIS (Adelaide) (12.56 pm)—I rise to support Labor’s sensible compromise amendments, which would protect student services while giving students the choice of whether or not they wish to belong to a student organisation.

Ms Panopoulos—It’s a fraud and you know it.

Ms KATE ELLIS—I had the misfortune of sitting through your speech, and I think it is now time for you to do the same. We have heard five minutes of Sophie, and that is more than enough for my liking.

The DEPUTY SPEAKER (Mr Wilkie)—Order! The member for Adelaide will refer her remarks through the chair. The member for Indi will cease interjecting.

Ms KATE ELLIS—I think it is absolutely shameful that, along with a lot of other members who represent many students and have a right to represent those constituents in this place, this is the only opportunity that I have had to contribute to this debate. My electorate includes two universities and several campuses. I have thousands of students within my electorate who feel very strongly about this issue. I would also like to contribute to this debate, because, unlike many of the members opposite, who probably received their degrees when there was free education and they were living in a completely different set of circumstances to those that students face today, I was a student recently. I was probably the last member of this House to actually be a full-time student and I would like to comment on some of the experiences I had. I support the member for Calare, who said that students today face a vastly different set of circumstances. Students are paying increasingly greater sums of money for their degrees. People are working longer and longer hours on the side to support themselves and more than ever people need the support of their student organisations.

We all know that the government’s attack is aimed at silencing opposition. We have seen it silencing the opposition in the House and we have seen it in the Senate. I have some advice for the government: if you want students to stop opposing you, if you want students to stop protesting against you, then rather than going to this extreme legislation, why don’t you stop ripping out their funding, why don’t you stop ripping away their support mechanisms and why don’t you stop attacking their student organisations? That is a much easier way.

The government’s attack is particularly aimed at the representative arm of student organisations, though the consequences will be felt far more widely. I absolutely defend the role of student organisations to represent their students to the government, but we need to understand that those representative arms of student organisations also play a very important role in representing students to the university. I did have personal experience within my student organisation and I stand here, proud that I actually stood up and fought for students. I wish more members opposite would do that now.

Mr Keenan—You don’t need to take other peoples’ money!

Ms KATE ELLIS—No, you do not compulsorily take other members’ money. The other thing we should keep in mind is that every South Australian university has an opt-out provision from their student unions. Do you know what? It is not very well taken up. Also, when we talk about choice, we should keep in mind that every single university in this country has democratic elections, where students decide who represents them and who spends those fees. Many members opposite would know this, because most universities actually have Liberal students who
run on a pro-VSU line. Unfortunately for the members opposite, they just do not get elected, because that is not what students want.

Getting back to my point, student organisations play an important role in representing students to their universities. When at university I represented students on student appeals committees when they were being charged with offences against the university and needed representation. I also represented students on equal opportunity boards, on the university council and on both chancellor and vice-chancellor selection committees. Who is going to play this role if the government gets its way? Where is the students’ voice?

The effects will be felt far wider than the representative arms of student organisations. Labor’s sensible amendments aim to protect many of the services which student organisations deliver on our campuses. In my state of South Australia these services include: 24-hour computer access, the Flinders University parent centre—which the member for Boothby proudly stood alongside in photos that he sent out in his electorate—an employment service, an academic rights officer, women’s rooms, music, sport, safe spaces, taxation assistance, welfare services and a whole range of other services which we must protect. I believe that universities must remain a place of ideas and a place for fostering debate and inspiration. They must remain a place of vibrant campus culture, a place for sport, a place for art, a place for music and a place where students have a voice. In consideration of this, the Labor Party’s amendments must be supported by all of us here.

Question put:

That the amendments (Ms Macklin’s) be agreed to.

The House divided. [1.05 pm]
Dr NELSON (Bradfield—Minister for Education, Science and Training) (1.11 pm)—I present a supplementary explanatory memorandum to the bill and I move government amendment (1):

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

1A Application provision

Section 19-37 of the Higher Education Support Act 2003 as amended by this Act does not apply to anything done by a higher education provider before 1 July 2006, unless:

(a) it is done on or after 1 January 2006; and

(b) it relates to a person who is enrolled with, or seeking to enrol with, the provider; and

(c) the enrolment is, or will be, for a period of study starting on or after 1 July 2006; and

(d) the person is not enrolled with, or seeking to enrol with, the provider for a period of study in 2006 starting before 1 July 2006.

Question agreed to.

The DEPUTY SPEAKER (Mr Wilkie)—The question now is that the bill, as amended, be agreed to.

Question put.

The House divided. [1.16 pm]

(The Deputy Speaker—Mr Wilkie)

Ayes…………… 78
Noes…………… 58
Majority……… 20

AYES

Abbott, A.J. Andrews, K.J.
Andrews, K.J. Bailey, F.E.
Andrews, K.J. Baldwin, R.C.
Baldwin, R.C. Barresi, P.A.
Bartlett, K.J. Bishop, B.K.
Bartlett, K.J. Brough, M.T.
Bishop, B.K. Cadman, A.G.
Bishop, J.I. Cibbo, S.M.
Cobbo, S.M. Costello, P.H.
Costello, P.H. Dutton, P.C.
Dutton, P.C. Farmer, P.F.
Farmer, P.F. Fergusson, M.D.
Fergusson, M.D. Gambaro, T.
Gambaro, T. Georgiou, P.
Georgiou, P. Hardgrave, G.D.
Hardgrave, G.D. Henry, S.
Henry, S. Hull, K.E.
Hull, K.E. Jensen, D.
Jensen, D. Jull, D.F.
Jull, D.F. Kelly, D.M.
Kelly, D.M. Lindsay, P.J.
Lindsay, P.J. Laming, A.
Laming, A. Markus, L.
Markus, L. May, M.A.
May, M.A. McArthur, S. *
McArthur, S. * McGauran, P.J.
McGauran, P.J. Moylan, J.E.
Moylan, J.E. Nairn, G.R.
Nairn, G.R. Nelson, B.J.
Nelson, B.J. Panopoulos, S.
Panopoulos, S. Prosser, G.D.
Prosser, G.D. Ruddock, P.M.
Ruddock, P.M. Scott, B.C.
Scott, B.C. Secker, P.D.
Secker, P.D. Smith, A.D.H.
Smith, A.D.H. Somlyay, A.M.
Somlyay, A.M. Stone, S.N.
Stone, S.N. Tuckey, C.W.
Tuckey, C.W. Turnbull, M.
Turnbull, M. Vale, D.S.
Vale, D.S. Vasta, R.
Vasta, R. Wakelin, B.H.
Wakelin, B.H. Washer, M.J.
Washer, M.J. Wood, J.
Wood, J. for a period of study in 2006 starting before 1 July 2006.

Question agreed to.
Question agreed to.
Bill, as amended, agreed to.

Third Reading

The DEPUTY SPEAKER—In accordance with the resolution agreed to earlier this day, the time for consideration of this bill has expired. The question now is that the bill be read a third time.

Question put.
The House divided. [1.21 pm]
Wednesday, 7 December 2005  HOUSE OF REPRESENTATIVES

Corcoran, A.K.
Danby, M. *
Elliot, J.
Ellis, K.
Ferguson, L.D.T.
Fitzgibbon, J.A.
Georganas, S.
Gibbons, S.W.
Grierson, S.J.
Hall, J.G. *
Hayes, C.P.
Irwin, J.
Katter, R.C.
Lawrence, C.M.
Macklin, J.L.
McMullan, R.F.
Murphy, J.P.
O’Connor, G.M.
Plibersek, T.
Quick, H.V.
Roxon, N.L.
Sawford, R.W.
Smith, S.F.
Tanner, L.
Vamvakinou, M.

Crean, S.F.
Edwards, G.J.
Ellis, A.L.
Emerson, C.A.
Ferguson, M.J.
Garrett, P.
George, J.
Gillard, J.E.
Griffin, A.P.
Hatton, M.J.
Hoare, K.J.
Jenkins, H.A.
King, C.F.
Livermore, K.F.
McChelland, R.B.
Melham, D.
O’Connor, B.P.
Owens, J.
Price, L.R.S.
Ripoll, B.F.
Rudd, K.M.
Sercombe, R.C.G.
Thomson, K.J.
Windsor, A.H.C.

* denotes teller

Question agreed to.

Bill read a third time.

EMPLOYMENT AND WORKPLACE RELATIONS LEGISLATION AMENDMENT (WELFARE TO WORK AND OTHER MEASURES) BILL 2005

Consideration of Senate Message

Message from the Governor-General recommending appropriation for the bill and proposed amendments announced.

Bill returned from the Senate with a request for amendments.

Ordered that the requested amendments be considered immediately.

Senate’s requested amendments—

(1) Schedule 4, item 7, page 48 (after line 34), after subsection 502D(3), insert:

(3A) The Secretary must make a determination under this section in relation to the person if the Secretary is satisfied that

the person is the principal carer of 4 or more children.

Note: For principal carer see subsections 5(15) to (24).

(2) Schedule 5, item 25, page 74 (after line 4), after subsection 542FA(3), insert:

(3A) The Secretary must make a determination under this section in relation to the person if the Secretary is satisfied that

the person is the principal carer of 4 or more children.

Note: For principal carer see subsections 5(15) to (24).

(3) Schedule 7, item 41, page 113 (after line 29), after subsection 602C(3), insert:

(3A) The Secretary must make a determination under this section in relation to the person if the Secretary is satisfied that

the person is the principal carer of 4 or more children.

Note: For principal carer see subsections 5(15) to (24).

(4) Schedule 10, item 17, page 148 (after line 4), after subsection 731DB(3), insert:

(3A) The Secretary must make a determination under this section in relation to the person if the Secretary is satisfied that

the person is the principal carer of 4 or more children.

Note: For principal carer see subsections 5(15) to (24).

(5) Schedule 17, item 5, page 202 (line 14), after “542FA(3)”, insert “or (3A)”.

(6) Schedule 19, item 7, page 215 (line 18), after “602C(3)”, insert “or (3A)”.

Mr ANDREWS (Menzies—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (1.24 pm)—I move:

That the requested amendments be made.

The Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005 clearly demonstrates the government’s commitment to giving people of working age every opportu-
nity to move from welfare dependency into work. At the cornerstone of these reforms is the fact that the best form of welfare is a job. The reforms to the Social Security Act are significant because for the first time they will provide for the assessment of people based on their capacity and availability to work. This is a significant shift from the old paradigm in which people were assessed first and foremost on their incapacity or lack of availability to work. This approach has led to a situation where many Australians of working age have been condemned to a life on welfare in which their aspirations for a better life have in many respects been cruelled.

We as a society should never presume that people on welfare do not have the same desire that other Australians of working age have to succeed in life and participate in our nation’s prosperity. The opportunity and ability to earn private income from a job should never be denigrated and nor should it ever be portrayed as a less desirable alternative to welfare. At a time of record economic growth and employment growth, there has never been a better time to provide the necessary assistance and support to people of working age to enter the labour force and secure a job. There are also a number of important reasons for seeking to increase labour force participation. These include the need to address the issue of a rapidly ageing population in which the supply of labour will decline over next 15 to 20 years and the current skilled and unskilled labour shortages in which business is struggling to fill vacancies and satisfy demand for goods and services. We therefore need to act to address such important economic and social policy issues in order to lock in sustained economic growth and lower unemployment for generations to come.

The government has consulted widely with stakeholders on these reforms. The government listened closely to their concerns about the application of the compliance regime. The government also recognised the need for appropriate exemptions for principal carers who are foster carers, long-distance educators or home-schoolers, and who have a large family. In addition the government agreed to the provision of an income supplement for principal carers with exemptions, in order that they can receive the equivalent of the parenting payment single. Prior to the introduction of the bill the government also acknowledged that it is appropriate for single parents to retain access to the parenting payment single until their youngest child turns eight, while requiring that they actively seek work once that youngest child reaches school age.

The government will closely monitor the impact of the welfare to work reforms. To this end the government has accepted the recommendation of the Senate Community Affairs Legislation Committee in its inquiry into the Welfare to Work bill. The committee recommended that the Department of Employment and Workplace Relations table in parliament on an annual basis key data on the implementation of the welfare to work package. The government’s response is that it will provide separate reports on key data on the welfare to work measures. These will be included in the Department of Employment and Workplace Relations annual report and those of the departments of the Minister for Family and Community Services and the Minister for Human Services. The government will also work closely with the Welfare to Work Consultative Forum on the implementation and monitoring of reforms. The forum’s membership consists of the major stakeholders, including Mission Australia, ACOSS, the Smith Family, the Australian Chamber of Commerce and Industry, the Salvation Army, Catholic Welfare Australia and NATSEM.
The government will continue to focus on employment demand-side strategies. The government also recognises the importance of providing employers with the information and assistance to make it easier for them to hire unemployed people. To this end, $50 million will be provided for more direct assistance and incentives to increase employment opportunities for parents, mature age people, the very long term unemployed and people with disabilities. The government is helping employers to create more flexible jobs to match the needs of people who maybe cannot work all day every day of the working week or people who need special equipment or modifications in the workplace.

The challenge of implementing welfare reform is to get the right balance between obligations and support. This must be accompanied by appropriate incentives and support mechanisms to ensure that job seekers continue to be provided with services. The government believes that its reforms strike this balance. The majority of Australians would agree that it is not unreasonable to expect those people who are available and capable to work to participate in the workforce. The economic and social arguments for such reform are both compelling and necessary. It is time to act. I commend the amendments to the House.

Mr BEAZLEY (Brand—Leader of the Opposition) (1.29 pm)—The government has rammed the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005, the so-called Welfare to Work legislation, through the parliament—legislation that pushes people who are struggling right over the edge. There is no evidence that shows that dumping people onto a lower welfare payment will help them get a job. But good policy and true reform that is based on evidence does not mean anything to a government that is out of control, intent on lowering the living standards of Australians, starting with the most vulnerable.

John Howard has shown his contempt for democracy and proper parliamentary process by pursuing his ideology with such fervour. These laws are the final stage of the Prime Minister’s tired old dreams becoming the new Australian nightmare. Make no mistake about it: with a fixation on ideological obsessions, the Prime Minister and his government have recast Australia with the American dye—an Australia where many single-parent families and people with disabilities will rely on soup kitchens and charity to get by. These are some of the most disadvantaged Australians, but they are also our neighbours, our sisters and brothers, our parents and our friends.

These laws say that if you are unemployed you can be paid dirt or get nothing at all. No matter how bad the job offer, a welfare recipient has to take it or lose income support payments. This is about lower wages. It is about worse conditions and no real protection from exploitation. Such disadvantage is the inevitable consequence when you tear at a nation’s social fabric, when you assign moral failure to the vulnerable, when you dismiss people who are struggling as lazy or morally defective. John Howard’s and Kevin Andrews’s idea of reform does not encompass giving disadvantaged Australians the help and support they need to live with self-respect and dignity, the chance to realise their potential through education and training, universal health care and fairness in the workplace. At the cold heart of this so-called reform package is a cut to payments—this government’s attempt to address complex issues with a financial sledgehammer.

In my 25 years in parliament I have never seen anything so fundamentally out of touch with basic Australian values as the industrial
legislation we have just discussed and this. It is so deliberately targeted to undermine the security of Australian families; it is so deceitful. With the passing of this bill, vulnerable Australians begin a race to the bottom. This legislation creates an army of working poor that competes in a no-win race for low-paid work. John Howard is determined to tear this country apart, set worker against worker and family against family and breed two Australias: lucky and unlucky. After 9½ long years of the Howard government and its sustained attack on the most vulnerable, we will continue to stand up and fight to push fairness back on the national agenda. We support welfare reform that goes far beyond moving people from one welfare queue to the dole queue. We believe people who can work should work, and those who cannot we should care for. Everyone benefits when more people participate in the social and economic mainstream.

That is why we want real reform that tackles the reasons someone is not working and delivers practical solutions. Real welfare reform gives people the chance of getting the skills an employer needs. Real welfare reform encourages employers to give people with disabilities the opportunity to demonstrate their ability. Real welfare reform understands that being a parent is an important job in itself and that work makes families more secure. Real welfare reform helps parents find the balance between supporting their family and raising their kids. Real welfare reform involves strong support from government in breaking down barriers to participation such as skills, work-family balance and employer attitudes, alongside fair and reasonable requirements for job seekers. And real welfare reform makes sure people get a fair reward for effort. The policies we take to the next election will be based on these Labor principles, and we will argue for real welfare reform until we are in government to deliver it. We will bring the right incentives, practical measures and a commitment to making Australia the truly advanced and civilised society it can be. That is why, even at this late stage, the government should back off. When it eventually comes back here the House should reject the bill.

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

Question agreed to.

FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (WELFARE TO WORK) BILL 2005

Returned from the Senate

Message received from the Senate returning the bill without amendment or request.

HIGHER EDUCATION LEGISLATION AMENDMENT (2005 MEASURES No. 3) BILL 2005

Debate resumed from 28 November.

Second Reading

Dr NELSON (Bradfield—Minister for Education, Science and Training) (1.34 pm)—I move:

That this bill be now read a second time.

This bill before us, which had been introduced into the Senate, contains measures which will enhance the legislative framework under which Australia’s higher education system now operates.

In particular the bill will strengthen the accountability arrangements already in place under the Higher Education Support Act 2003, so that the Australian government and Australian students can be assured that all higher education providers have structures and procedures in place which are fair, transparent and accountable.

The bill will clarify the fairness requirements in the act to ensure that higher educa-
tion providers’ selection procedures are based on merit in the providers’ ‘reasonable view’. This amendment reflects the Australian government’s policy that all higher education providers, public and private, must have open, fair and transparent selection procedures in relation to students.

The bill will provide for ministerial discretion to require an audit to be conducted on the operation of non-table A providers to determine their adherence to the financial viability, fairness, compliance and contribution and fee requirements of the act. It is envisaged that such compliance audits would be conducted on an ‘as required’ basis, rather than on a regular or cyclical basis.

The bill will also clarify the requirements that need to be satisfied before a person is taken to be a Commonwealth supported student.

These measures are designed to make certain that students are properly informed and protected about decisions made by higher education providers which affect them.

The bill will also make some minor technical revisions to the Higher Education Support Act 2003, including amending it to reflect the new business name of Open Learning Australia: Open Universities Australia, clarifying that the guidelines for ‘incidental fees’ and fees in respect of overseas students are to be specified in the Higher Education Provider Guidelines rather than the Commonwealth Grant Scheme Guidelines, and clarifying the definition of ‘student load’ as it relates to a bridging course for overseas-trained professionals.

The bill also amends the Australian National University Act 1991 to repeal an obsolete heading.

Full details of the measures in the bill are contained in the explanatory memorandum circulated to honourable members.

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

Ms MACKLIN (Jagajaga) (1.38 pm)—The Higher Education Legislation Amendment (2005 Measures No. 3) Bill 2005 provides for yet further amendments to the Howard government’s flawed Higher Education Support Act. We all remember that the Higher Education Support Act was supposed to be the grand recasting of Australia’s university system in the Howard government’s image—an extraordinarily disturbing image.

After the second year of the operation of this act we have higher fees, fewer students and less research. What an extraordinary report card for this government and this minister! Higher fees, fewer students and less research—that is what the Minister for Education, Science and Training has managed to achieve in his time as minister. This government, instead of trying to rebuild our university system so that our country can have world-class universities and excellent teaching and research, is preoccupied with its extreme ideological vendettas. We have just seen a debate gagged and legislation rammed through the parliament by a government that is determined to ferociously attack anything that is called a union, whether it be an industrial union or a student union. We have seen two pieces of legislation rammed through the parliament this morning because of this government’s ideological vendettas. Unfortunately, many areas of higher education that need this government’s attention are not addressed in this bill. Therefore, I move:

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

(1) breaking its promise not to increase the 35 per cent cap on full fee paying domestic undergraduate places;
(2) failing to provide adequate indexation of university funding;

(3) failing to provide enough university places to meet the high levels of unmet demand from eligible Australian applicants;

(4) pushing Australian universities further down an American style user pays university system, and

(5) pursuing an extreme ideological agenda, including measures such as punitive workplace relations requirements and so-called voluntary student unionism, instead of adequately addressing the real issues facing Australian universities”.

The minister has just set out what this bill seeks to do. The bill makes many small changes that clarify the definition of student load, ensure that the guidelines for incidental fees in relation to overseas students are specified in the Higher Education Provider Guidelines rather than the Commonwealth Grant Scheme Guidelines and establish the requirements that must be satisfied in order that a person will be regarded as a Commonwealth supported student. The bill also removes an obsolete provision of the Australian National University Act 1991 and corrects a minor drafting error contained in the Higher Education Support Act 2003.

An additional component of this bill is the change in name of the organisation formerly known as Open Learning Australia to its new incarnation as Open Universities Australia. The opposition supports this particular amendment because, as I am sure you will recall, Mr Deputy Speaker Wilkie, Open Learning Australia, now Open Universities Australia, was a very important policy initiative of the previous Labor government. Indeed, the creation of Open Learning Australia is an example of what distinguishes federal Labor’s approach to education and training from the policy agenda of the present government.

As I am sure everyone would know, Open Learning Australia was established as part of an integrated and forward-looking public policy framework designed to make sure that non-traditional modes for the delivery of higher education—flexible delivery—were available, particularly for those who are not able to get to university during the day. It was also part of a significant commitment by Labor to lifelong learning. The establishment of Open Learning Australia also responded to the shifting patterns of life and work that many Australians face, whether individuals or families. Open Learning Australia provided an opportunity for the flexible delivery of courses so that individuals could study online or at night in a way that suits their lifestyles and time constraints.

By contrast, we have not had from this government and this minister any imaginative initiatives such as Open Learning Australia. All we have had from the federal government is a preoccupation with massive fee hikes for both HECS places and full-fee places. This can really be summed up as the Americanisation of our university system. Universities have been starved of resources following the savage cuts to operating grant funding imposed in the Howard government’s very first budget. The reduction of funding by this government now amounts to about $5 billion and it has been exacerbated by the government’s refusal over the last nine years to introduce a fair and reasonable system of grant indexation. This is despite the fact—and no member of the public will be surprised at this—that the Howard government went to the 1996 election promising not to reduce Commonwealth funding of universities by one dollar! This was yet another broken promise from this government.

There have been no serious policy initiatives from the Howard government on a par with the creation of Open Learning Australia. Contrast the establishment of Open Learning
Australia with this government’s ideologically fuelled attacks on vulnerable students: with the legislation that was pushed through the parliament just half an hour ago, there will be a withdrawal of support for essential university facilities. All the services and amenities that university students depend on will go. This government has also pushed through legislation that will force staff in our universities onto Australian workplace agreements through the higher education workplace relations requirements. All we have seen in the nine long years of the Howard government is incompetence and under-funding and this is now taking its toll on our universities.

I think an extraordinary achievement is that just last year, for only the second time in 50 years, the number of Australians going to university declined. What an outrageous thing to happen. If you were education minister, how shameful to have a reduction in the number of Australian students going to university. But that is what has happened under this education minister’s watch. By contrast, we have seen education priorities distorted to make sure that universities can attract increasing numbers of fee-paying students from overseas. Growth in undergraduate places for local students has stagnated. This year about 20,000 qualified Australians were denied a place at university, all because this government just will not provide the places that are needed.

We have seen massive fee hikes for Australian students; a drop in the number of Australians attending our universities; chronic underfunding of our universities, causing the vast majority of our universities to increase their fees; threats to standards and threats to the quality of university. All these things sum up the achievements of the Howard government. What we need in Australia is a government that is committed to higher education—a government that ensures that higher education is encouraged and that we have high-quality tertiary education for Australians, no matter where they live.

By contrast, the Howard government has spent nine very long years starving our universities into submission. Now they are being forced to contemplate very radical re-structures just to survive. The government has introduced an extraordinary number of full-fee degrees, 60 of which now cost more than $100,000. Now some of our most prestigious universities are looking for opportunities to significantly expand the number of degrees that cost more than $100,000. That might benefit the prestigious universities. If that expansion of those full-fee degrees goes ahead, as the minister seems to be considering, the prestigious universities will do okay, but it is quite plain that the minister has in mind that that will be at the expense of newer universities.

The minister for education’s plans for research are just as extreme. Minister Nelson has already warned some universities that they may end up with no research funding at all. The increased income from fees—the extra research resources for the relatively rich universities—will increase their ability to pay a premium to attract the best staff from other institutions. At the same time the Howard government, with its unwarranted industrial relations agenda, will encourage universities that are struggling to balance the books to drive down relative wages and become low-cost, high-volume institutions. So the pattern is very clear indeed. We will have a system of haves and have-nots for our universities, where the haves will continue to struggle to keep up with international standards, but the have-nots will, frankly, struggle to survive.

This government likes to talk about diversity, but the reality is just the opposite. We need look no further than the uniformity of
university responses to HECS increases. When the minister introduced partial deregulation of HECS a couple of years ago, he said he wanted diversity of fees around the country. One year into so-called ‘variable HECS’, the variation is nowhere to be found. Only three universities in the whole country have resisted HECS increases; the rest of them have all put up their HECS fees. There is no diversity at all. We know that, without proper funding of our universities, it is only a matter of time before these last three also join the rush for desperately needed income, further burdening our students and their families with higher fees.

It is the case that students are feeling it the hardest. Compare what students paid when the Howard government was first elected with what they are paying now. Back in 1996, a law student paid $12,000 for their degree. The government has had its way over the last nine years, and they now pay about $40,000. So it has gone from $12,000, when this government was elected, to $40,000 now. In 1996, when the Howard government was elected, science students paid about $7,300 for their degree. Now they pay about $20,000 for a science degree. An arts student back in 1996 paid about $7,300 for their degree, whereas next year an arts student will pay about $15,000 for an arts degree.

Students are paying more, but the reality is that the quality of their education is under threat. Student-staff ratios have increased by more than one-third since 1996, when there were 15.6 students per member of academic staff, to 20.7 students per staff member in 2004. The increased financial burden borne by our university students has been forced onto them to compensate for the drastic funding cuts this government has made. The most extraordinary thing is that Australia is one of the few developed countries where private contributions are now greater than public investment in tertiary education. That is a very recent phenomenon, once again the product of the Howard government.

Mr Slipper—What is wrong with that?

Ms MACKLIN—But the Howard government’s thirst for fees is having a broader impact. HECS has become a giant burden on our students. The member asked what is wrong with that. I will tell him what is wrong with it. Young Australians are graduating from universities with massive debts, making it much harder for them to buy a home and start a family. They are having to delay buying a home and starting a family because their HECS debts are so high, all because the Howard government keeps hiking them up. If you look at the tax office’s latest figures—the member, of course, would not have any clue about the size of the debt that is owed by Australian students and graduates—they now owe over $13 billion in outstanding HECS debts in 2005-06, all because of the massive HECS rises that have been put in place by this government.

What we know from the minister for education is that, unfortunately, it is only going to get worse. Just last month he opened the door to massive increases in full fee degrees for Australian students. In the context of a reform proposal released by the University of Melbourne, the minister was interviewed on ABC radio’s PM program on 16 November this year, where he flagged further deregulation of Australian full fee degrees. When asked whether the current 35 per cent cap on domestic full fee paying undergraduate students would be lifted, the minister said, ‘It’s something that I would be prepared to look at.’ This is yet another broken promise from this minister for education. I contrast that latest effort from the minister for education with his remarks in the parliament on 15 June 2005. The minister for education said:
The full fee cap is currently that no more than 35 per cent of the students enrolled in a particular course should be full fee paying Australian students. We will not be increasing that cap.

He has just thrown that promise out of the window—an extraordinarily quick backflip, even for the minister for education. You might say he is even giving some other members of his cabinet a run for their money when it comes to cabinet room acrobatics.

This backflip will mean more Australian students will face American style fees of up to $200,000 or more. As I said before, we already have more than 60 degrees that cost $100,000 or more. A medical-law degree at Monash University costs a staggering $256,000; dental science at Melbourne university, $150,000; physiotherapy at the University of Queensland, $112,000; and medicine at Adelaide University, $151,000. So the list goes on: 60 different degrees that now cost more than $100,000, all as a result of the Howard government’s changes.

No ordinary Australian can pay anything like these amounts of money for a degree. This government is so out of touch with ordinary Australians that it thinks these sorts of fees are acceptable. Labor does not. We do not agree that anyone should have to pay $100,000 for a university degree, let alone $200,000. So the minister for education’s latest backflip—laid bare—this government’s real intention of Americanising our university system and forcing the full cost of university education onto our students. Labor is totally opposed to students being forced to pay hundreds of thousands of dollars for a university education.

Back in 2003 the minister for education was cajoling the then Independent senators into agreeing to the 25 per cent HECS hike. At the time the minister for education made a commitment to review university funding indexation arrangements, and he said, ‘I will have a review of indexation if you agree to the 25 per cent HECS hike.’ He also made that agreement with the university sector. Of course, it has been the case, unfortunately, that both the senators and the universities have been completely done over.

At this point I remind those people in the Senate who are about to debate the voluntary student unionism legislation not to believe the education minister when he comes bearing gifts. He came bearing gifts back in 2003 when he promised indexation reviews for university funding. He did not deliver any indexation for universities. Universities are still struggling to get the money that they need. Of course, we are going to have the same promise offered to senators in the next day or so. The minister is going to offer a bit of money—just a little bit of money—to National Party senators to try to get them to support this outrageous attack on university student services. It will be a little bit of money, but I say to all of those National Party senators not to believe for a minute that it will go anywhere near guaranteeing that those services on our university campuses continue and, of course, it will not be nearly enough to make sure that the services that students need in all of our outer suburban universities and all our inner city universities continue as well. Do not believe this minister when he comes bearing gifts because he has form.

Mr Pearce—A wonderful minister.

Ms Macklin—He promised indexation back in 2003. He did not deliver it; he had just a little internal review. He did not even allow the universities to make a contribution to the review. All we saw from this minister was a 25 per cent HECS hike. We have the member for Aston interjecting. The parents in Aston whose children currently want to get into Monash University are now
facing HECS rises of 25 per cent. I hope the parents in Aston are listening to this. The member for Aston supports the 25 per cent HECS hike. The member for Aston supports students at Monash University paying $256,000 for a university degree. That is what the member for Aston has agreed to. That is what students at Monash University now face—a university degree that costs $256,000.

The parents in the seat of Aston are worried about what is going to happen. They are already worrying about whether their children will get into university. The students have just been working very, very hard, finishing year 12. First of all, they will be worried about whether they will get a place—that is hard enough; secondly, they will be worried about whether their children will be able to repay their HECS debt, whether they will be able to afford a home, whether they will be able to start a family; and, thirdly, if they cannot get a HECS place, this government has said to you that if you cannot get a HECS place you can pay up to $256,000 at Monash University. And the member for Aston not only voted for it but supports it.

The SPEAKER—Order! It being 2 pm, the debate is interrupted in accordance with standing order 97. The debate may be resumed at a later hour. The member will have leave to continue speaking when the debate is resumed.

MINISTERIAL ARRANGEMENTS

Mr HOWARD (Bennelong—Prime Minister) (2.00 pm)—I inform the House that the Minister for Foreign Affairs will be absent from question time today and tomorrow. He is travelling to Indonesia and Malaysia to attend preparatory meetings for the East Asian summit. The Deputy Prime Minister and Minister for Trade will answer questions on his behalf.

QUESTIONS WITHOUT NOTICE

Liberal Party: Leadership

Mr BEAZLEY (2.00 pm)—My question is to the Treasurer. Does the Treasurer stand by his view that the Prime Minister should stand aside before the next election?

Mr COSTELLO—The question is based on a false premise.

Economy

Mr BROADBENT (2.01 pm)—My question is also addressed to the Treasurer. Would the Treasurer advise the House of the results of the September quarter national accounts released today by the Australian Bureau of Statistics? What do they indicate about the Australian economic outlook?

Mr COSTELLO—I thank the honourable member for McMillan. I can inform him that national accounts were released today which indicate the state of the economy in the September quarter of 2005. Those national accounts showed that the economy grew by a modest 0.2 per cent for the quarter, and 2.6 per cent through the year. This comes after the strong growth we saw in the June quarter. Consumption has moderated, undoubtedly due to higher petrol prices. It appears that, with the house market turning down in value, consumers or home buyers have taken the opportunity to consolidate their balance sheets. The dwelling sector continues to experience a relatively mild downturn.

Australia is in the midst of a very strong investment boom. Total new business investment rose another 2.5 per cent in the September quarter and is now 17.6 per cent higher through the year. This is supported by terms of trade which are as high as we have seen since 1974. It is also supported by the fact that business profits are higher as a percentage of total factor income than ever previously recorded in Australian history.
Notwithstanding the rise in the terms of trade, inflation remains moderate. What that means is that the economy is now shifting from consumption to investment, we are lifting our capacity and we are now getting good strong infrastructure investment, which gives the opportunity to lift the capacity of the Australian economy and meet the boom in mineral commodities which is coming, led principally by China and to some degree India. That means we are building for the longer term. These infrastructure developments take time to be brought in but, as that capacity comes on line, I would expect Australia’s exports to increase.

For the member for McMillan and others who are interested in economic prospects in this country, this means that the Australian economy continues to grow in a sustainable way, with unemployment as low as it has been for 30 years and inflation which is moderate and under control. It is important that we keep economic reform going in this country to lift productivity. Nothing could be more important than the industrial relations changes that have just been passed because they will give Australia the opportunities of the future.

Liberal Party: Leadership

Mr BEAZLEY (2.04 pm)—My question is again to the Treasurer. Will the Treasurer confirm that on the Alan Jones program this morning he said:

I’ll be a candidate for the leadership if there is a vacancy, but there is no vacancy, and I have said so on many occasions and, frankly, I’m just sick of talking about it.

When was the first occasion that the Treasurer stated his new white flag formula?

Mr COSTELLO—Another false premise. And, of course, this has been stated as being my position over and over again so often that I am about as sick of saying this as I am of hearing questions from the Leader of the Opposition.

DISTINGUISHED VISITORS

The SPEAKER—Order! I inform the House that we have present in the gallery this afternoon Lady Flo Bjelke-Petersen. On behalf of the House, I extend to her a very warm welcome.

Honourable members—Hear, hear!

QUESTIONS WITHOUT NOTICE

Workplace Relations

Mr CADMAN (2.06 pm)—My question is directed to the Minister for Employment and Workplace Relations. Would the minister inform the House of any recent surveys on the confidence of Australian employers and employees? Are there any alternative views?

Mr ANDREWS—I thank the member for Mitchell for his question and for his continued interest in business and the opportunities for Australians in employment. I can inform him about a couple of recent surveys. Firstly, the Sensis business index for small and medium enterprises recently found that 15 per cent of small and medium businesses in Australia expect to increase the size of their work force in the next 12 months. If those businesses were to employ just one more person each, that would amount to over 150,000 new jobs in Australia.

The outlook for employees is also good. Today the latest version of a regular Morgan poll on employee attitudes was released. This is an important longitudinal survey which has been conducted now for 30 years, since 1975, so it gives us a sense of the way in which employee attitudes have changed over that 30-year period. What today’s release shows is that 83 per cent of Australian employees feel secure in their jobs, and that figure has risen by four per cent since December 2004—a very interesting figure. This is at a time when we have had the opposition
running a scare campaign around Australia saying that, as a result of changes to workplace relations, the divorce rate will go up, the incidence of disease in Australia will go up and men, women and children will be killed on picket lines in Australia. Despite this hysterical campaign from the union movement and the Labor Party, this 30-year longitudinal study shows that the attitude towards job security of Australian workers is the highest that has ever been recorded.

What is also interesting about this is that, when I looked into the 30 years of this longitudinal survey, I found that the highest level of job insecurity occurred in November 1992. And who was on the watch so far as employment policy in Australia was concerned in November 1992? None other than the member for Brand, the current Leader of the Opposition. No wonder there were high levels of job insecurity in 1992, because of course this was a time when the unemployment rate in Australia was 10.9 per cent. There were one million Australians who were unemployed as a result of the policies of the Australian Labor Party and the cabinet of which the Leader of the Opposition was then a member.

What we see today is interesting because what the Leader of the Opposition wants to do for Australia is to roll us back to those policies which pertained in Australia in 1992, a time when the highest level of job insecurity was felt by Australian employees and a time when one million people were unemployed. That is the reality of what the Leader of the Opposition wants to do. That is what his roll-back is all about. On this side of politics, we will meet the challenges of the future in Australia. We will not go looking to the past like the Leader of the Opposition is doing.

Mr Robert Gerard

Mr BEAZLEY (2.10 pm)—My question is to the Treasurer. Treasurer, why didn’t your department perform the same detailed checks on Mr Gerard as are performed on other appointees to the Reserve Bank board?

Mr COSTELLO—Mr Gerard was treated in exactly the same way as other appointees. If this is a question about a story that I read in the paper today, which said that somebody had previously had an ASIO or security check, I have inquired of the department about that. The department have no record of any such check being made in relation to Mr Pagan. In fact, the department tell me that they have never done it.

Again, on a new day, there is another allegation, another falsity. The only thing that puzzles me about all of this is whether the Labor Party can get through another seven questions without mentioning interest rates, the economy, jobs, the national accounts or the trade position. I recall the Labor Party saying that it was going to try to build economic credibility after it lost its third election.

Mr Beazley—Mr Speaker, I rise on a point of order that goes to relevance. He has his claquers’ questions on a routine basis. This was a very specific question about why he manifestly did not do the normal, routine checks on Mr Gerard.

The SPEAKER—The Leader of the Opposition will resume his seat.

Mr COSTELLO—It remains to be seen whether the Labor Party can build any economic credibility. It has not asked a question on the economy over the last two weeks, and it stands for nothing.

DISTINGUISHED VISITORS

The SPEAKER (2.12 pm)—I inform the House that we have present in the gallery this afternoon members of a delegation from
the Vietnamese Defence and Security Committee. On behalf of the House I extend a very warm welcome to our visitors.

Honourable members—Hear, hear!

QUESTIONS WITHOUT NOTICE

Health: Cancer Treatment

Mr MICHAEL FERGUSON (2.12 pm)—My question is addressed to the Minister for Health and Ageing. Would the minister update the House on the latest improvements to the management of cancer care in Australia?

Mr ABBOTT—I thank the member for Bass for his question. I can inform him and the House that cancer remains one of Australia’s biggest killers, accounting for some 25 per cent of all deaths. One in three men and one in four women will have personal experience of cancer before the age of 75. But there is some good news: cancer death rates have been falling by about two per cent a year over the last decade. But the Howard government is certainly not going to rest on its laurels.

This year’s budget provided an additional $189 million for cancer initiatives, including $43 million to phase in a national bowel cancer screening program, $23 million for local palliative care grants, $22 million for clinical trial infrastructure and $17 million for dedicated cancer research. I can inform the House that the government has just announced the establishment of Cancer Australia, a new leadership body to coordinate and advise on cancer treatment, cancer research and cancer education. The chairman of the Cancer Australia advisory council will be Dr Bill Glasson, the former president of the AMA. I can also inform the House that the establishment of Cancer Australia has been widely welcomed, which is another sign that most Australians think our health system is in good hands under the Howard government.

Taxation

Mr SWAN (2.14 pm)—My question is directed to the Treasurer. Treasurer, are you aware—

Government members interjecting—

Mr SWAN—You wish. Treasurer, are you aware that Commonwealth guidelines for prosecuting tax offences say:

Offences involving taxation matters should be prosecuted by the DPP under the Crimes Act ... where ... serious fraud on the revenue was involved.

Treasurer, do tax evasion allegations involving up to one-quarter of a billion dollars amount to serious fraud on the revenue? Is the Treasurer concerned that the ATO is not applying tax prosecution guidelines consistently? Will the Treasurer direct the Board of Taxation to investigate whether the ATO is consistently applying its guidelines?

The SPEAKER—I remind the Treasurer that he is not obliged to give a legal opinion, but there are other parts of the question that he can respond to.

Mr COSTELLO—The enforcement of the guidelines of the Australian Taxation Office is a matter for the Australian Taxation Office. It is responsible for enforcing and following its own guidelines and it is the Commissioner of Taxation’s obligation to enforce them. If allegations are being made against the Commissioner of Taxation, I suggest that the honourable member direct his questions to him.

Automotive Industry

Mr RICHARDSON (2.16 pm)—My question is addressed to the Minister for Industry, Tourism and Resources. Would the minister advise the House of government action to encourage investment and innovation in Australia’s automotive sector?

Mr IAN MACFARLANE—I thank the member for Kingston for his question and for
his very strong support of the car industry, particularly in his electorate of Kingston, and for the investment that, with this government, he has worked to ensure continues to go into that area. When it comes to building a sustainable future for the car industry, this government’s commitment is as strong as ever. We already back the sector to the tune of over $7 billion, which ensures that we create stimulation in the innovation and investment area of the car industry. Boosted by a strong economy and a government that is prepared to have the courage to put in place reforms that keep industry viable and give it confidence in the future, the car industry is rising to the challenges that it currently faces.

In 2002-03, the car sector invested more than $630 million in automotive R&D—an increase of some $140 million on the previous year. This year in March, we saw Toyota announce a new R&D centre in Victoria and, only yesterday, we saw Holden announce that it would expand its Port Melbourne facilities to become the global hub of automotive design and engineering. GMH’s design director, Tony Stolfo, said:

It’s just amazing to think about what that says about this country’s—Australia’s—creativity. From today, it says we can create cars for just about anyone, anywhere.

I could not have said that better myself. Through innovation and investment, the Australian car industry is giving itself every chance for a strong and competitive future.

By contrast, the Labor Party is working on a different agenda. At the last election, the Labor Party confirmed its commitment to abolishing Invest Australia—the very body that attracts investment to Australia in a whole range of areas, including the car industry. It has also committed to cutting $100 million from the automotive R&D scheme—the same scheme that has seen this government contribute some $42 million to cutting-edge Australian car industry research. The Labor Party’s anti-investment and antibusiness record speaks for itself. The Labor Party cannot be trusted with the future of Australian industry.

Mr Robert Gerard

Mr FITZGIBBON (2.19 pm)—My question is addressed to the Treasurer. Is the Treasurer aware that, according to the ATO’s 2004-05 annual report, the total value of reparations for all tax evasion and fraud cases prosecuted in that year was less than that totalled for Mr Gerard? Is he also aware that, in the same year, the court sent some 102 people to jail for tax evasion and fraud for lesser amounts than that in the Gerard matter? Treasurer, why were these other matters prosecuted when the Gerard matter was not? Treasurer, we give you one more opportunity: will you now use your power to direct the Board of Taxation to investigate whether the ATO is applying its tax prosecution guidelines consistently?

Mr COSTELLO—That is a ridiculous question. The idea that the Treasurer of the day decides who gets prosecuted under the Income Tax Act, the idea that the Treasurer of the day is responsible for who gets prosecuted or the idea that the Treasurer of the day is responsible for enforcing guidelines is a complete nonsense. The Commissioner of Taxation is an independent statutory officer. He is an independent statutory officer for a very good reason: so that no politician would have the opportunity to influence the Commissioner of Taxation in prosecutions or in relation to the guidelines. This has always been the case and it always will be the case. If the honourable member wants to ask the commissioner, he should direct his question to the commissioner.
Mr Fitzgibbon—Mr Speaker, I rise on a point of order. Clearly, my question was whether the Treasurer was prepared to direct the Board of Taxation and not the Commissioner of Taxation.

The Speaker—The Treasurer has completed his answer.

Voluntary Student Unionism

Mr Keenan (2.21 pm)—My question is addressed to the Minister for Education, Science and Training. Would the minister advise the House how the government plans to stop student union fees being used for political purposes? Are there any alternative views?

Dr Nelson—I thank the member for Stirling for his question. I can inform the member for Stirling and indeed the House that the government is intending to do this with a very simple proposition—that is, every one of the 700,000 Australians who go to university will be free to choose whether or not they will join a student union, guild or association.

I am asked about alternative policies. On Monday, the Deputy Leader of the Opposition gave a doorstop interview. It is a very interesting transcript. She was asked a question about who, under Labor’s plan, would actually collect the compulsory Labor fees that would continue under Labor’s plan. She said: ‘The universities—well, I’ll double check. It’s such a long time since we drafted it, actually.’ In other words, the Deputy Leader of the Opposition does not even know what is in her own amendment. But she went on to say: ‘It’s exactly what happens in Victoria now.’ So the Labor Party plan, as it is, is how student unionism currently operates in the state of Victoria.

So what happens in the state of Victoria? To give you some insight, the Australian newspaper on 25 October this year reported this:

Monash University Students’ Association president Nick Richardson said yesterday there was no barrier under the Victorian VSU model to spending student fees on political campaigns.

“For us, it’s totally meaningless,” he said.

“The formula that was brought in depended on universities to implement it. In our situation, funding sources, other than the amenities fees, can be used for political activities. At the moment it’s only a budgetary thing to get around VSU.

The average Australian probably thinks, ‘Well, these are students who are having to part with their hard-earned money, many of them mature aged students getting an education.’ In terms of what that money is currently used for in the state of Victoria under the Labor Party’s plan, for example, it is reported in the Herald Sun of 23 November this year:

Money from Victorian students has been used by the Monash University student union to pay an Iraqi oil worker with links to anti-coalition forces. Minutes from a Monash Student Association meeting in May show the union gave $1000 to Foraok Isma’al as part of an Australian speaking tour for the union activist.

Let us make it absolutely clear. Under Labor’s plans, under the existing model in the state of Victoria, for those who support so-called amenities fees, we have student union fees, forcibly appropriated from students who have no interest in this at all, funding a speaking tour by a southern Iraqi oil worker. If you want to know what this organisation is about, go to the Guardian newspaper on 18 February this year. In an article from Hassan Juma’a Awad, who is the general secretary of this oil company union, he said this:

The resistance to the occupation forces is a God-given right of Iraqis, and we, as a union, see ourselves as a necessary part of this resistance...

It is enough that there are some Australians who think that they should seek to undermine the integrity and sovereignty of our
country, but that the Labor Party should seek to—

Mr Beazley—Mr Speaker, I raise a point of order on relevance. This government’s neglect provided Saddam Hussein with $300 million—

The SPEAKER—The Leader of the Opposition will resume his seat. That is not a point of order.

Honourable members interjecting—

The SPEAKER—Order! There is far too much noise. I call the minister.

Dr Nelson—Today in Iraq are Australian service men and women who are putting their lives on the line in the name of Australia to build a free Iraq, and the Labor Party—

The SPEAKER—The minister will resume his seat. The minister has concluded his answer. Does the member for Griffith have a point of order?

Mr Martin Ferguson interjecting—

The SPEAKER—Order! The member for Batman!

Mr Martin Ferguson interjecting—

The SPEAKER—The member for Batman is holding up his own colleague. The member for Griffith has the call.

Mr Rudd—Mr Speaker, I raise a point of order. The Prime Minister indicated earlier that, in the absence of the Minister for Foreign Affairs, the Minister for Trade was the acting foreign minister, not the education minister opposite.

The SPEAKER—There is no point of order.

Mr Robert Gerard

Mr Swan (2.27 pm)—My question is directed to the Treasurer. Is the Treasurer aware that the Australian Taxation Office audit report found that Robert Gerard wrote a letter to the tax office in 1994 that included false or misleading statements as to his tax affairs? Treasurer, is it the case that making false or misleading statements to the tax office is a criminal offence punishable by imprisonment for up to 12 months? Will the Treasurer now use his power—

Mrs Bronwyn Bishop—Mr Speaker, I raise a point of order. The standing orders prevent a minister giving a legal opinion. The question is asking for a legal opinion. It is out of order.

The SPEAKER—I thank the member for Mackellar. I am listening closely to the member for Lilley’s question. He has not completed it.

Mr Swan—Thank you, Mr Speaker. Will the Treasurer now use his power to direct the Board of Taxation to investigate whether the ATO is consistently applying its tax prosecution guidelines?

Mr Costello—the honourable member says that something illegal happened in 1994, so I would have expected that the Treasurer in 1994 would have referred it for investigation. But I do think it is a bit hard on poor old Ralph Willis to make that allegation now, because Ralph Willis was the Treasurer in 1994. Why wasn’t Ralph Willis down directing tax prosecutions at the tax office? I will tell you why Ralph Willis was not down directing tax—

Opposition members interjecting—

Mr Costello—Oh, and the Minister for Finance in 1994 was the current Leader of the Opposition. And why wasn’t the finance minister down directing prosecutions at the tax office in 1994? I will tell you why. He was too busy running around saying the budget was in surplus when it was $10 billion in deficit. That is why. That is how accurate he was.

Mr Swan—Mr Speaker, on a point of order: this was a question about his appoint-
ment to the Reserve Bank board and the state of affairs of that person.

The SPEAKER—Has the Treasurer concluded his answer?

Mr COSTELLO—Yes.

Indigenous Aged Care and Hearing Services

Mr HAASE (2.30 pm)—My question is addressed to the Minister for Ageing. Would the minister advise the House what the government is doing to provide older Indigenous Australians with better access to aged care and hearing services?

Ms JULIE BISHOP—I thank the member for Kalgoorlie for his question and note his very deep interest in the wellbeing of Indigenous people in his electorate. The Howard government is committed to ensuring that older Indigenous Australians have access to appropriate aged care services. There are currently around 60 specifically funded Aboriginal and Torres Strait Islander aged care homes. In addition to recurrent subsidies, the Australian government is now investing a further $10.3 million over four years by way of a viability supplement, recognising the particular difficulties of providing aged care in rural and remote areas.

I have visited a number of these homes. Recently, I visited some in Derby in the electorate of Kalgoorlie. I have also visited some in the electorates of Solomon and Leichhardt. I have been very impressed with the quality of care and the standards that are being achieved in these Aboriginal and Torres Strait Islander aged care homes. At the recent Ministerial Awards for Excellence in Aged Care, of the 10 national awards, two Indigenous workers were recognised for their contributions to culturally appropriate aged care.

Last week, the Minister for Human Services and I announced a new program to assist older Indigenous Australians. Specifically, it is a free hearing assessment service and, if necessary, free hearing aids for older Indigenous Australians. We understand that about 20 per cent of older Indigenous Australians have reported hearing loss. We expect that the figure is in fact higher than that. This $10 million program will provide free hearing assessment services and remedial action, if necessary, throughout Australia in rural and remote communities, including through mobile service units. This is another example of the Australian government developing policies and providing funding for practical assistance to older Indigenous Australians.

Mr Robert Gerard

Mr SWAN (2.33 pm)—My question is to the Treasurer. I refer the Treasurer to his statements in this place in relation to the Gerard appointment. He said that his:

... chief of staff did contact the Commissioner of Taxation—

but—

As to what he has done on previous occasions, I do not know ... I will ask him.

Treasurer, did your chief of staff contact the ATO in relation to any other appointments to the Reserve Bank board? Did your chief of staff contact any other regulatory agencies in relation to the Gerard appointment?

Mr COSTELLO—I have checked with my chief of staff, and he has contacted the tax commissioner on other occasions—not in relation to the RBA board but on other occasions. In relation to this matter, as I said earlier, when he contacted the ATO he was told that confidentiality provisions prevented any information being given to him.

I repeat again that he was not told about any of the matters which were in the Australian Financial Review—nor was I told about those matters, nor do I believe that any member of the opposition knew about them until they were published in the AFR, nor do I believe that any other media outlet knew
about them, nor any television or radio outlet. The opposition only have to get another three questions out to avoid asking a question about the economy, but the people of Australia are still interested in jobs and interest rates.

Mr Beazley—Mr Speaker, I rise on a point of order—

Mr COSTELLO—He does not like this. They want to know what the future of their—

The SPEAKER—Has the Treasurer concluded his answer?

Mr COSTELLO—Yes.

Mr Beazley—and it goes to relevance.

The SPEAKER—Order! I have not called the leader yet.

Mr Beazley—He was asked about—

The SPEAKER—I have not called the leader yet!

DISTINGUISHED VISITORS

The SPEAKER (2.35 pm)—I inform the House that we have present in the gallery this afternoon Minister Annette King, the New Zealand Minister for State Services. On behalf of the House I extend to her a very warm welcome.

Honourable members—Hear, hear!

QUESTIONS WITHOUT NOTICE

Taxation and Superannuation

Mr HENRY (2.35 pm)—My question is addressed to the Minister for Revenue and Assistant Treasurer. Would the minister please advise the House what financial benefits are provided to families by the government through the taxation and superannuation systems?

Mr BROUGH—I thank the member for Hasluck for his interest in Australian families and their welfare as we lead into Christmas 2005. It was great news today that the RBA has ensured that variable home loan interest rates will not be going up. We are not going to see Australian families struggling away trying to find a few extra dollars for the bank, which could have gone for kiddies’ presents or perhaps a bit of Christmas fare.

I remind the House that in 1995, as we headed into Christmas under a Labor government, those same families were slugged with a 10½ per cent interest rate on their mortgage—money which was going straight to the banks, not to the families.

Moreover, these same families now have the benefit of ‘fool’s gold’. ‘Fool’s gold’ is what it is known as by the member for Lilley; it is otherwise known as family tax benefit part A supplement. Take the average family in the electorate of Hasluck, with a couple of kids. If they put their tax in on time on 30 October, they could have received a supplement of $1,255.60. That is real money for real Australian working families to put towards the Christmas that they deserve—to have a holiday, to put a bit of Christmas fare on the table, to buy a gift for the kids.

Mr Swan—It’s not real.

Mr BROUGH—What does the member for Lilley think? The member for Lilley says, ‘It’s not real.’ The only thing that is not real is the attitude of the member for Lilley. I would like him to go to the families in Nundah or Margate in his electorate and say to them, ‘Oh, listen, that money you got the other day from tax—it’s not real. Don’t go and buy the kids a bike with that because it’s not real; it will evaporate.’ It will not evaporate under a coalition government, I can tell the member for Lilley. The member for Hasluck can tell his families that it will continue to expand every year under a Howard government. Because of the tax policies and the superannuation policies of the Howard government, the good news as we head into...
Christmas is that families in Hasluck and around Australia can feel more secure.

As those families headed into 1995, they did have something to look forward to. We will come to that in a moment. What they had to look forward to was 7.3 per cent unemployment in the electorate of Hasluck. Today that is at 4.3 per cent. There are more Australians with jobs, doing something positive for themselves.

What if that hardworking family in the electorate of Hasluck, say in Forrestfield, wants to do a little bit of extra work? What if the husband or the wife says, ‘We’re going to add a few extra quid to put something special on for the kids.’ In every hundred dollars extra they earned in overtime, that average family would have been paying $12 to $18—money lost straight to the tax system. Today that money is in their pocket. They can decide what to do with it. They may even decide to put that money into the future. They may decide to put a bit of that money into superannuation. And do you know what, Mr Speaker? They will not only pay less tax; the Howard government will give them $1.50 for every dollar they put into their own superannuation so that they can build a benefit for today and into the future.

That is what good policy is about. Those families can look forward to a child-care rebate into the future as well, as a result of the policies of the Howard government delivering real assistance for Australian families through positive taxation and positive superannuation, not the failed, lazy, dinosaur based policies presented by those opposite.

**Water Management**

Mr WINDSOR (2.39 pm)—My question is to the Prime Minister. It relates to the issue of compensation payable to water entitlement holders who will lose entitlement as part of the National Water Initiative process to achieve sustainable water use. Does the Prime Minister recall saying, on 9 June 2005, at the joint $150 million Commonwealth-state-irrigator announcement with the then Premier, Bob Carr, to protect ground water in New South Wales:

You can’t ask the farmers to take the financial hit of the investment in the changed practices without some help from the Government.

Prime Minister, it has been determined that the receipt of adjustment funds to farmers announced on that day will now be taxed as income even though the compensation is for loss of a capital asset for environmental good. Prime Minister, the government has the power to reverse this decision. Will you reconsider the government’s position on this issue?

Mr HOWARD—I thank the member for New England for the question. I think, with respect, through you, Mr Speaker, I would say this to the member for New England: he has really raised two separate issues. The principles that I talked about when I made the announcement with the former New South Wales Premier canvassed the entitlement to compensation in circumstances where, say, some kind of natural event led to a loss of the water entitlement and also where, by contrast, a decision of government resulted in the water entitlement being cut back. I would have to check the text, but my recollection is that we laid down that in certain circumstances there could not be compensation and in other circumstances compensation would have to be shared or the cost would have to be shared between the government—the Crown—and the water holder.

As I understand the honourable member’s question, it relates to a taxation ruling. Of course, that is a horse of a different colour. I will nonetheless look at what the honourable member has put to me. But, on the face of it,
with a superficial understanding of what the honourable member is putting to me, I would not have thought that that quite fell into the category that I had in mind when I made that statement with Mr Carr.

**Work for the Dole**

Mr LINDSAY (2.42 pm)—My question is addressed to the Minister for Workforce Participation. Would the minister update the House on the achievements of Work for the Dole? Minister, are there any alternative views?

Mr DUTTON—I thank the member for Herbert for his question. It is a great thing, being the minister for Work for the Dole, to hear about some of the tremendous projects that are operated around the country. On many occasions, members on this side of the House relate stories to me about how successful Work for the Dole projects have been in their own electorates. They talk about how they have helped young people into jobs. They talk about how they have delivered the opportunity for people to hand back to their community during their time of need.

But very rarely do I hear from members of the Australian Labor Party about Work for the Dole. It is not because we do not have programs for Work for the Dole in Labor electorates; we have many. It is not because those programs are not very successful. It is because the Labor Party hate Work for the Dole. It is hard to understand why when the benefits flow so considerably to the members who are participating in the Work for the Dole programs.

I decided to do a little bit of digging. I decided to look at some of the programs in the electorates of members of the Australian Labor Party. I looked at the electorate of the member for Batman, a fine member who always represents the interests of the members within his constituency, at the expense of those of the union movement. The member for Batman has always focused on his electorate. I looked at the IT and office programs, which gave job seekers IT skills, hands-on experience with computer programs like Microsoft Office and Access as well as general administration skills. Then I thought: what would the member for Batman have to say about Work for the Dole? He describes the program as evil. He was reported as saying that the Work for the Dole program is evil. But he is not the only member in the Australian Labor Party that we know despises and hates Work for the Dole.

I decided to look at the electorate of Brand. What did we find in the electorate of Brand? We know that there was a very successful program in the electorate of Brand called the children’s forest rehab project. Did we see the member for Brand, the Leader of the Opposition, out there praising Work for the Dole and the wonderful opportunities that that had provided to people on Newstart in his electorate? No. The member for Brand decided to come out and talk about Work for the Dole as a failure: ‘It’s a piffling little program.’ No doubt there was another half an hour speech associated with it; nonetheless he still talked down Work for the Dole, and he talks it down at every opportunity.

After the 25 years that the member for Brand has been in this place, people in the Australian electorate ask: what does the member for Brand stand for? We know that he says one thing to the boardrooms and a different thing to the lunch rooms. We know at the end of the day that he might say in his electorate that he favours Work for the Dole, but he tells his union cronies that he hates Work for the Dole. He should get behind Work for the Dole and support a great program.

**Oil for Food Program**

Mr RUDD (2.46 pm)—My question is to the Minister for Trade. I refer to his state-
ment to parliament on 8 November, when he said that concerns about the AWB’s dealings in Iraq first came to his attention as a result of the Volcker inquiry. Minister, isn’t this statement simply untrue, now that it has been confirmed that DFAT officials travelled with the AWB to Iraq, that the UN warned your government in the year 2000 of their concerns about the AWB’s dealings with Iraq and that the US General Accounting Office warned in May 2002 that Saddam Hussein was illegally charging 10 per cent commissions on commodity contracts under the oil for food program? Weren’t warning bells ringing everywhere about the AWB but you simply chose to ignore them, thereby allowing $300 million to be paid into Saddam’s back pocket?

Mr VAILE—In answer to the last part of the member’s question, the answer is no. The member continually raises this assertion and allegation with regard to the government. Suggestions that the Australian government would have knowingly allowed kickbacks are unfunded and untrue—unfounded. Mr Speaker, the member for Griffith raised—

Mr Rudd—Mr Speaker, I raise a point of order. Our contention is these kickbacks were funded, and that’s the problem!

The SPEAKER—That is not a point of order.

Mr VAILE—Assertions that are being made by the member for Griffith are completely unfounded and untrue. That is exactly what the Volcker inquiry found. The member for Griffith referred to concerns raised in 2000 and 2003 in his question, when general concerns were raised about contracts. I am advised that on both occasions the matters were referred to the United Nations, who were running the Oil for Food Program. As far as I am aware these concerns were dealt with to the UN’s satisfaction with respect to their program. Following that the Volcker inquiry went through this issue forensically. The government and my department cooperated fully with the Volcker inquiry, and the Volcker inquiry has found no wrongdoing on behalf of our government.

Building Entrepreneurship in Small Business Program

Mr TICEHURST (2.48 pm)—My question is addressed to the Minister for Small Business and Tourism. Would the minister outline to the House recent initiatives taken by the government to build entrepreneurship in small business, particularly in our young people? Are there any alternative views?

FRAN BAILEY—I thank the member for Dobell for his question and for his passionate support of small business. I can tell the House that this government is about building for the future. Last week I launched the government’s program Building Entrepreneurship in Small Business, a program designed specifically to develop skills in our young entrepreneurs and to encourage young people to consider starting up their own small businesses. The program is centred on building on business skills, mentoring and succession planning.

Less than 10 per cent of Australia’s 1.2 million small business operators are under the age of 30. So this government is putting in measures which really are building for the future and providing assistance to these young people. I can inform the House that, in just the week since this program has been launched, the AusIndustry hotline and web site has been taking record hits.

I am asked if there are any alternatives. I have to inform the House that the opposition has delivered zero for small business, absolutely zero. There has been no policy development. There has been no initiative whatsoever for small business. In fact, I think the Leader of the Opposition has been following
the words and the lead of Greg Combet, when on 12 October ABC listeners—

Mr Beazley—There is limited time, Fran. Hurry up.

FRAN BAILEY—Small business are actually very interested, Leader of the Opposition. As I said, the Leader of the Opposition is following Greg Combet’s lead, when he said he is afraid that he is no advocate for small business and neither is this opposition. Small businesses around the country know that it is only this government that is building now for the future for small business.

Oil for Food Program

Mr Rudd (2.52 pm)—My question is to the Deputy Prime Minister. I refer to the published report of the Iraq Survey Group, the CIA team sent to Iraq to search for Saddam’s WMD, which found that kickbacks to Saddam Hussein under the oil for food program totalled approximately $US1.5 billion. I also refer to the report’s findings that, through these kickbacks, ‘Saddam generated enough revenue to procure sanctioned military goods and equipment, dual use industrial material and technology.’ Deputy Prime Minister, can you guarantee that no part of the $300 million that the AWB provided by way of kickbacks to Saddam Hussein went to pay for military equipment used by Saddam to fight Australian troops?

The Speaker—Order! In calling the Deputy Prime Minister I remind the member for Griffith that he should direct his questions through the chair.

Mr Vail—What I can confirm to the member for Griffith is that each time this issue was raised the government acted with proper propriety and referred the information and the issues to the people who were running the program, which was the United Nations under the particular section of the committee of the United Nations. Since then all aspects of this matter have been investigated by the United Nations, which has found no wrongdoing by the government.

Mr Rudd—Mr Speaker, I rise on a point of order. The Deputy Prime Minister is a member of the National Security Committee of the cabinet. I asked him for a guarantee as to whether he had bothered to find out how this $300 million was used.

The Speaker—Order! The member for Griffith will resume his seat. The minister has concluded his answer.

New Apprenticeships

Mr Cameron Thompson (2.54 pm)—My question is to the Minister for Vocational and Technical Education. Would the minister update the House on the number of Australians undertaking apprenticeships? How is the government ensuring that Australia’s training system is responsive to the skills needs of industry?

Mr Hardgrave—I thank the member for Blair, who is a founding member of the Friends of Vocational and Technical Education, founded by the member for Hasluck.

Ms Macklin—Well, you haven’t got any!

Mr Hardgrave—There are plenty of friends of vocational and technical education on this side. I know there are not too many on that side. I also acknowledge that Group Training Australia have their members advocacy day today and a number of their delegates are here today. These are people who should take a bow and who are making an enormous difference in assisting local communities create new job opportunities for more apprentices around Australia.

Opposition members interjecting—

Mr Hardgrave—I am listening to the cacophony of corny catchcries from those opposite. I note that they are hiding their own guilt. In 1993, when the member for Brand was Minister for Employment, Education and Training, we had an all-time low of
apprentices in training of 122,600. Today we have 391,200 new apprentices in training. That is a record of definite activity in just the last 12 months.

The member for Blair wants to know about how things are going. In the last 12 months we have seen new apprenticeships commencements increase by four per cent. We have seen a six per cent increase in completions in apprenticeships. We have seen an 11 per cent increase in commencements of new apprenticeships by mature aged workers. We have seen commencements in trades and related worker categories increase by seven per cent. So we have more people starting apprenticeships, more people completing apprenticeships and more people in training.

Commencements in school based new apprenticeships increased by 50 per cent in the 12 months ending 30 June this year. That is despite the lack of interest from a big state like New South Wales in this program. Eighty-one per cent of all new apprentices commencing in the Australian Qualifications Framework were at level III or higher. That represents an increase of eight per cent from previous years. These recent figures are also backed by other recently released student outcome surveys from the National Council for Vocational Education Research, which reveal that 89 per cent of all graduates are either employed or in further study after their training.

It is not just the fact that this government is now providing record levels of expenditure of some $10.1 billion over the next four years and that there is $1.4 billion in new initiatives provide for skills needs, the biggest ever commitment to vocational and technical education by any government—it is the fact that Australian businesses recognise that the process of apprenticeships starts because they, as the Treasurer said earlier today in question time, want to invest in their part of our economy. It is not just the investment in plant and equipment; it is not just the investment in new opportunities and new product ranges—it is very much the investment they make in their people. The government’s programs will back that investment with our own effort.

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

MR ROBERT GERARD

Mr Swan (Lilley) (2.57 pm)—I seek leave to table a tax office audit report from March 2000 that refers to the affairs of the Gerard group of companies and Mr Gerard’s letter, a report prepared on the Treasurer’s watch.

Leave not granted.

BUSINESS

Mr Abbott (Warringah—Leader of the House) (2.58 pm)—On indulgence, I advise members that I am informed that there are at least two bills that are likely to be bouncing backwards and forwards between the House and the Senate tomorrow. Therefore, regrettably, it is highly unlikely that we will get up at the usual time. The government will do its best to inform members as to developments.

COMMITTEES

Procedure Committee

Report

Mr Abbott (Warringah—Leader of the House) (2.58 pm)—On indulgence, I have received the Procedures Committee report Procedures relating to House committees. I am pleased to inform the House that the government accepts the recommendations of this report. We will work with the Clerk over the vacation period to put the appropriate sessional orders into place so that those recommendations can be operating as soon as possible in the new year. I thank the Procedure Committee, particularly the chair and the
deputy chair, for their good work in this matter.

DOCUMENTS

Mr ABBOTT (Warringah—Leader of the House) (2.59 pm)—Documents are tabled in accordance with the list circulated to honourable members earlier today. Full details of the documents will be recorded in the Votes and Proceedings and Hansard. I move:

That the House take note of the following documents:


Train illumination—Inquiry into some measures proposed to improve train visibility and reduce level crossing accidents—Government response.

Debate (on motion by Ms Gillard) adjourned.

QUESTIONS TO THE SPEAKER

Oil for Food Program

Mr RUDD (Griffith) (3.01 pm)—In this parliament we have a government awash with scandal. We have a scandal a day, a scandal a minute—there are more scandals in this place than you can poke a stick at. What it reflects is a government which, after 10 long years in office, is arrogant, complacent and out of touch. We have been talking about scandals concerning appointments to the Reserve Bank board, scandals concerning the role of the ATO, scandals concerning the role of the Treasurer—scandals that begin to go to the very heart of this government’s economic credibility.

Parallel to that little set of scandals we have a fresh scandal, which also goes to the heart of this government’s credibility—that is, its national security credibility. This is a scandal which came about because the government gave the green light to the Australian Wheat Board for commercial arrangements with Iraq which had the result of $300 million being paid directly into Saddam Hussein's regime.
sein’s personal slush fund. For the benefit of the House, let us recall this fact: this is the single largest contribution world wide of any corporation into Saddam Hussein’s slush fund. This is a gold medal performance of the worst kind, in total violation of UN sanctions against Iraq, giving Saddam Hussein’s regime in its last few years the hard cash with which to buy guns, bombs and bullets for later use against Australian troops both in the war against Saddam Hussein at the beginning and now, we presume, through the funding of the insurgency. What this $300 million scandal demonstrates is that the Howard government is the best friend that Saddam Hussein has ever had. Once again: the Howard government is the best friend that Saddam Hussein has ever had.

Mr Beazley interjecting—

Mr Rudd—Yes, $300 million—not bad on your way down to the bank, even if it is downtown Baghdad Central Bank. What is the basis of our assertion that $300 million was spent on guns, bombs and bullets? Let me tell you, Mr Deputy Speaker: it is not simply an idle assertion from Her Majesty’s loyal opposition—no. The source of our authority on this is none other than officials from the Howard government itself. I reveal for the first time in the parliament today the role played by officials in the Howard government, together with the CIA, called the Iraq Survey Group, in putting together a report which establishes this linkage between the money paid by way of kickbacks to Saddam’s regime and the payments used to then purchase weapons on the international market. This is the core of the new revelation, to which the government must now provide a response.

Let us trace it back a bit in history: straight after the Iraq war what happened? The Iraq Survey Group was established. What is that? The CIA gets sent to Iraq to find what? The missing stockpiles of weapons of mass destruction. Who else contributes staff and personnel to the Iraq Survey Group? Answer: the Australian government. So you have a bunch of CIA guys out there, assisted by officials of the Australian government. They were there looking up hill and down dale for stockpiles of weapons of mass destruction. Regrettably from their point of view, 18 months later none were to be found. Most of the focus, when this report was finally produced in September 2004, goes to that central fact: no evidence of Saddam, at the time of invasion, having stockpiles of chemical and biological weapons, thereby fundamentally undermining the entire case which this mob opposite advanced in support of going to war. That is where the debate was focused.

But if you go to the guts of this report, you see that it has another nugget of information contained within it. That nugget goes to this: if you look at the section of the report entitled ‘Iraq’s revenue sources’, you see that one of the four principal illicit sources of funding for Saddam Hussein was ‘10 per cent kickbacks from imports authorised under’—what?—‘the UN oil for food program’.

Mr Vaile interjecting—

Mr Rudd—So the Iraq Survey Group, made up of the CIA and your guys as well, Minister, puts together a report which comes out just prior to the last election and says: ‘Here’s the money. It comes from the oil for food program.’ And where does it get spent? To quote them again: ‘On various forms of military goods and equipment which are prohibited under the UN sanctions regime.’

Let us just stop and reflect on the significance of this for a moment because it is a highly significant additional element in this debate: (1) what we now know is that kickbacks under the oil for food program were
one of the major sources of illicit revenue to the Iraqi regime; (2) we know that the good old Australian Wheat Board, approved by this government opposite, are the single largest contributors to illicit kickbacks under the oil for food program; and (3) we now know from no greater authority than the CIA that these funds enabled Saddam to buy prohibited military equipment on the world market. In other words, Australia funded Saddam’s weapons acquisition program, and that is why the Howard government is the best friend that Saddam Hussein has ever had.

Another point which emerges from a close reading of the Iraq Survey Group report is this: it raises a very interesting question about the timing of that report and when, in fact, the government began to contemplate that it had a problem. Let us go back to when this organisation reported—on 30 September 2004. We were on the eve of the election. We were all focused on the election when the element of the report dealing with no stockpiles of weapons of mass destruction came out. But when you look again at the detail of this report you see that what it focuses on is the absolute amount of money involved in this kickback scheme going from the oil for food program to Saddam Hussein in the years leading up to the war in 2003.

Critically, what the report of the CIA concludes is that $US1.5 billion equalled the total amount provided by way of kickbacks. That figure was concluded prior to our actually having the election. Interestingly, that $US1.5 billion is exactly the same amount that the Volcker inquiry concludes 12 months later is the amount of money which has been tipped into Saddam Hussein’s back pocket out of the oil for food program. The question arises: how was it that 12 months before Volcker reported, and prior to our election, a report put together by the CIA—and which included Australian government officials—knew the total amount of money that was paid into Saddam Hussein’s back pocket by companies around the world using this kickback scheme?

The very interesting question that arises—and I would very much like to hear the Deputy Prime Minister’s answer—is this: if the CIA and the Iraq Survey Group conclude there is a $US1.5 billion hole here, a $US1.5 billion contribution out of the oil for food program into Saddam Hussein’s regime, how do you pluck that figure out of the air unless you know the subcomponents of it or have a fair idea as to where those subcomponents arise? What is the single, biggest subcomponent of the $US1.5 billion Saddam Hussein slush fund? You guessed it—the good old Australian Wheat Board. Three hundred million dollars of that total amount comes from Australia.

The question which I would very much like to hear the minister answer is this: prior to the last election, why was it that we had a report dropped on us by the Iraq Survey Group which mysteriously concluded exactly the same amount of money was filched out of the oil for food program through kickbacks into Saddam Hussein’s back pocket and no Australian government official joined any of the dots to say which companies from Australia may have contributed to that $US1.5 billion? It beggars belief that you could come up with a figure like that without drilling down into the subcomponents. If Australian officials were into the subcomponents way back then, then who in Canberra was aware that they were into the subcomponents of that payment schedule, including the Australian Wheat Board’s role?

Deputy Prime Minister, I would like so much for you to answer that central charge, for the simple reason that it goes to when the government was aware that there were deep concerns about the Wheat Board’s contributions to Saddam Hussein’s regime under the
commercial arrangements which your government approved. The net effect of this, at minimum, culpable negligence is this: $300 million off into Saddam Hussein’s back pocket to buy guns, bombs and bullets, thereby making the Howard government, by definition, the best friend that Saddam Hussein has ever had.

What were the other warning bells? This minister has been Minister for Trade for a long time. All I have referred to is one possible set of warning bells—the CIA report, which was put together through this whole period. But the warning bells are a bit like this, if you put them together. The first set of warning bells: we now have confirmation, out of the mouth of the Prime Minister, that DFAT officials were travelling from Jordan into Iraq with Wheat Board officials during the period when the oil for food program was operating and under which we were selling wheat into Iraq. What cables did they send back to Canberra? Do we have any answer from these guys yet as to what was in those cables? It is a question about which we have not heard anything from the government as yet.

The second set of warning bells: we also have statements from former Wheat Board officials about what they describe to be a well-known culture within the Wheat Board of providing kickbacks to foreign organisations and foreign governments. What did the National Party happen to know about all of those sorts of arrangements, given that some of our principal commodity organisations, close to the National Party, presumably have a bit of backchat about what is actually going on in the marketplace? That is an interesting question for the minister at the table.

The third set of warning bells—and this is the one for which they have no answer whatsoever: in January 2000, the United Nations felt so concerned about this that they called the government in in New York and said: ‘We are concerned about what you are doing. We are so concerned about what you are doing that we believe there is a grave possibility that you may be violating UN sanctions.’ What did they do? They sent a cable back to Canberra, asked the Wheat Board if there was a problem and the Wheat Board said: ‘No, there is not a problem; it’s all okay. We swear on the Bible. Bob’s your uncle.’ Saddam is your uncle, as it turns out, because he got the money. At the end of the day, you have no answer to this single charge. You were warned formally by the United Nations, and you did nothing about it. Instead, you have the audacity to turn around and blame the United Nations as if they were ultimately responsible for this.

The fourth set of warning bells: the United States GAO, the Government Accounting Office. This is highly significant. This is before the war with Iraq. This is in April or September 2002. They produced a report which went into great detail on the quantity of kickbacks being provided to Saddam Hussein’s regime under the oil for food program—$700 million alone in the year 2001. It beggars belief that, again, no cable is sent back from Washington to the government here once this report from the US GAO appears there. We have a squillion officials at the embassy in Washington. Surely they are watching what is going on at Capitol Hill. Are we led to believe that not one of these reports was cabled back to Canberra? It beggars belief.

The fifth set of warnings bells is this—and this is the one which I am sure my colleague the member for Corio will go into in great detail: how is it that this 500 per cent increase in the freight component of these wheat sales to Iraq, which suddenly appeared, went unnoticed, unchallenged and unquestioned by the Howard government? They had a squadron of officials here in
Canberra and in New York examining each of these contracts—all 43 of them—as they went from the Wheat Board through DFAT Canberra, off to the DFAT mission in New York, off to the UN, back to the DFAT mission in New York, back to Canberra and back to the Wheat Board, and none of them said at any stage, ‘Why have we had a sudden 500 per cent increase in the freight component?’ Pigs might fly! Surely, bells began to ring somewhere that there was something rotten in the state of Denmark—or, at least, something rotten in the state of Iraq. That is the vehicle through which this $300 million bag of lolly got sent through to Saddam Hussein. That was the fifth set of warning bells that rang. But, instead, what did the government choose to do, through culpable negligence? The Howard government, by their actions and inaction, chose to become the best friends that Saddam Hussein has ever had—$300 million worth of friendship is not bad.

When we get to the conclusion of this, we find that the government had five sets of warning bells, but the government’s response was that it was none of their responsibility—plan A: ‘It’s the UN’s responsibility’; plan B: ‘It’s the Wheat Board’s responsibility’; plan C: ‘Go back to A and B above’, because they will not go to plan D, which is that the government approved, by an explicit letter in October 2000, these commercial arrangements with Iraq which made it possible. The government have established a commission of inquiry, which, given its terms of reference, is a cover-up. It is not a commission of inquiry. If the government had the guts to get to the truth of this matter, they would expand their terms of reference to ensure that the actions of the government, not just the actions of the Wheat Board, were properly examined. My challenge to the Deputy Prime Minister at the table today is to expand these terms of reference. Let us get to the bottom of it; let us get the truth out. Let us make sure that, when it comes to funding global terrorism and global regimes that are using arms that are illegally paid for, we get to the truth once and for all. (Time expired)

Mr VAILE (Lyne—Minister for Trade) (3.16 pm)—As is always the case with the member for Griffith, he uses a lot of assertions and innuendo in his allegations and embellishes a lot of the factual information that has been out there. That information has been through the mill with the Volcker inquiry and will be assessed by our own commission of inquiry, which has been established here in Australia.

For the information of the House, I will highlight the length of time that Australia has been providing wheat to the people of Iraq. As members would well know, it has been over 50 years, under all sorts of different circumstances. The product that Australian wheat growers grow and sell is highly valued by consumers in Iraq, even today. The Labor Party has tried to get allegations out of different people involved and to construct comments that have been made by ministers in the current Iraqi government, but we still find that the current Iraqi government supports the trade of wheat between Iraq and Australia. I am talking about the new government in Iraq that members know and all Australians know is a product of the democratic processes that now exist in Iraq, although the Labor Party opposed our government when it assisted getting it into place. So the Iraqi support for the wheat trade still exists today, and we still sell wheat into the market. Again, the member for Griffith makes all sorts of allegations and assertions about what has been said and then misconstrues the relationship of what was said to the actual facts.

Yesterday in this place the member for Griffith asked a question with regard to officials travelling with AWB officials into
Baghdad. As a former DFAT officer, the member for Griffith knows full well that DFAT and Austrade officials provide a lot of support to Australia’s export efforts and exporters, and I am sure that in his time in DFAT he did the same thing in many parts of the world—it would be interesting to hear some of the stories that others could tell about his time in China, maybe. But he knows that is the case and he knows of the responsibility to support the efforts of Australian companies that are exporting goods, including facilitating access to foreign government officials and making representations in support of Australia’s commercial interests.

I can confirm that from time to time between 1999 and 2003 Australian officials based in Amman, Jordan called on authorities in Iraq in support of Australian export interests, including Australian wheat. To suggest that this indicates government involvement or complicity in the payment of kickbacks to the former Iraqi regime is outrageous, ludicrous and unsubstantiated. It could not be substantiated in the Volcker inquiry. In the not-too-distant future, the opportunity will be available under the Cole commission of inquiry that we have established for that to be investigated again. To suggest that this indicates government involvement or complicity in the payment of kickbacks to the former Iraqi regime is ludicrous. The member for Griffith knows only too well from his time working in the Department of Foreign Affairs and Trade that as a private entity AWB had its own independent contractual arrangements with the Iraqi Grains Board, and they are commercial-in-confidence.

This information was made well known to the UN. As the member for Griffith knows full well, each time concerns were raised the Australian government sought information, put it together and provided that to the United Nations, which was running the program through, I think, the 661 sanctions committee and the Office of the Iraq Program, which were the responsible bodies for the contractual approvals under the oil for food program. It needs to be remembered that the oil for food program was set up as a result of the sanctions that were applied after the first Gulf War. The program was set up to allow the Iraqi government to sell enough oil to get enough money to buy essential items to feed the people of Iraq and, presumably, to assist in their wellbeing. Given the 50-year history, during which the AWB and Australian wheat growers have supplied wheat to the Iraqi people, the Iraqi Grains Board—the body that entered into the contracts with the AWB—was interested in continuing that relationship. It knew of the quality of the product that was available and the certainty of supply—given the circumstances in Iraq after the first Gulf War where there was a great need for a consistent food supply to come in.

That was the process under which the AWB entered into its independent contractual arrangements with the Iraqi Grains Board, and those matters were commercial-in-confidence. The investigation of the Volcker inquiry was assisted to the fullest extent by the Australian government. The information that was required was provided. All the information that we had was provided to the Volcker inquiry. The member for Griffith raised other reports in the US Senate which fundamentally were about weapons of mass destruction but which, in the bowels of those reports, he alleges, came to this issue.

Mr Rudd interjecting—

The DEPUTY SPEAKER (Hon. IR Causley)—The member for Griffith!

Mr VAILE—But isn’t it a fact that the UN themselves—the multilateral body that was responsible for the oil for food program and the conduct of these contracts—had es-
tablished their own inquiry under Paul Volcker, a highly respected senior US official? That inquiry ran its course and the Australian government assisted that inquiry right through. The United Nations established the independent inquiry committee, led by Paul Volcker, to examine the operation of the oil for food program in Iraq. It has become known as the Volcker inquiry, but it was established by the United Nations—that multilateral body that is put up on a pedestal by the Australian Labor Party.

Mr Rudd—You bag it all the time.

The DEPUTY SPEAKER—The member for Griffith has had his 15 minutes!

Mr VAILE—Yet Labor will not accept the findings of the independent inquiry conducted by the United Nations—the people themselves who had the responsibility for these contracts. Every time a concern was raised we provided information and the AWB provided information and they let the trade continue. The contracts continued. As I have continued to say—but it is still not being accepted by the Australian Labor Party—the Australian government cooperated fully with the inquiry. The Volcker report, which covered the period from 1996 until 2003, offered no criticism of the Australian government. The final Volcker report raised questions about the activities of three Australian companies during the oil for food program. In response to the final report, UN Secretary-General Kofi Annan called on national jurisdictions to take action where appropriate against companies falling within their jurisdiction. The government responded to this request by establishing a commission of inquiry.

You have had an inquiry conducted by the international multilateral body responsible for the program, and its findings are out in the public arena. We, the government of Australia, have now established a subsequent inquiry in Australia, led by Terence Cole, to examine any possible wrongdoing by these companies under Australian law. The independent judicial inquiry will examine relevant matters relating to the oil for food program. I understand that the first hearings are to begin next week. The Volcker report contains no suggestion of any wrongdoing by the Australian government.

Mr Rudd interjecting—

The DEPUTY SPEAKER—If the member for Griffith persists in interjecting, I will warn him!

Mr VAILE—At no stage during the oil for food program did the Australian government have evidence to suggest that AWB or other Australian companies paid kickbacks. The member for Griffith continually claims falsely that DFAT approved AWB’s use of Alia for transport. That is incorrect. There was no DFAT green light for Alia—none whatsoever. AWB’s use of Alia was not in AWB contracts. The AWB-DFAT exchange of letters in October or November of 2000 was in reference to a general inquiry on the possible use of Jordanian transport companies. That is what the correspondence that has been referred to was about. The exchange of correspondence contained no mention of Alia or any other specific company. Labor’s claims on this matter are completely erroneous.

Another important point is that DFAT did not approve the oil for food program contracts. Another assertion that has been made in this debate by the Labor Party is that DFAT and the government approved this and they signed off on this. They have been around saying, ‘They signed off on kickbacks to Saddam.’ That is absolutely incorrect. The body that signed off on these contracts—and they know it—was the United Nations, which was running the oil for food
program. That is the body that signed off on these contracts.

The UN, through the 661 sanctions committee and the Office of the Iraq Program, was responsible for all contract approvals under the oil for food program. When concerns were being raised—and they were raised on two occasions that I am aware of—the government responded to requests and provided the information, and the UN made decisions about whether or not to continue on with these contracts.

The suggestion that because of trade promotion efforts the government was involved or complicit in the payment of kickbacks to the former Iraqi regime is completely unsubstantiated and outrageous. As the member for Griffith himself knows as a former DFAT officer, the roles of Australian officials overseas are to support the export efforts of Australian companies. We know that there were more than likely other Australian businesses that were looking to do business in the region at the time, and of course Australian government officials would support those commercial interests.

I say again that the AWB had its own independent contractual arrangements with the Iraqi Grains Board, which were certified by the UN oil for food program. The government had no evidence that any Australian company was paying kickbacks to the former Iraqi government. When concerns were raised, we provided information and allowed the multilateral, international body that was running this program to establish whether those concerns had any substance or whether they were just erroneous.

We also should note—Mr Deputy Speaker Causley, you would be aware of this—that the commercial world is very competitive. Some of the concerns that were raised were raised by commercial interests that are commercial competitors of the AWB and of Australian wheat growers. I would hate to think that the member for Griffith and the Australian Labor Party would take sides with commercial competitors of the AWB against Australian wheat growers. As Australia’s trade minister, I know—and the member for Griffith knows only too well as a former DFAT official—that these sorts of allegations and innuendos leaked through the media have the ability to get legs and they undermine the commercial credibility of some operators.

Mr Gavan O’Connor—Former employees.

Mr VAILE—They were not former employees who raised the concerns that were the subject of analysis by the UN oil for food program—that then cleared the AWB of any wrongdoing and let the contracts continue. They continued to supply wheat to the Iraqi people, who were in desperate need of food at that time. That is the reason the Australian government obviously supported this trade—because this trade had existed for almost 50 years, with a record of between one million and two million tonnes of product per annum going into Iraq. I presume that the Australian Labor Party still supports Australian wheat growers selling into that market because Australian wheat growers are still competing with those other commercial interests in that market.

In the concluding moments of my contribution to this debate I will reiterate a couple of very important points. Firstly, this program was established by the United Nations under the 661 sanctions committee to get food to the Iraqi people. Secondly, the AWB engaged in a contract through the UN body to provide wheat to Iraq in a contractual arrangement with the Iraqi Grains Board. On each occasion concerns were raised. The UN, through the 661 sanctions committee, confirmed that things were okay and they let the contract continue. Then, when further con-
cerns were raised, they established an independent inquiry under Paul Volcker. That inquiry found no wrongdoing by the Australian government. *(Time expired)*

**Mr GAVAN O’CONNOR** (Corio) *(3.31 pm)*—After that performance by the Minister for Trade, I can safely say that we are now witnessing a government in a terminal state of decay, a government that is arrogant, out of touch and now clearly out of control. Why is the Minister for Agriculture, Fisheries and Forestry not in here to debate this matter of public importance which relates to the most important rural industry in Australia—the wheat industry? We have here a monumental matter that affects wheat farmers and their families and the rural communities that depend on our great wheat industry for their survival. Up to 36,000 grain farmers produce wheat to a value of $5.6 billion and contribute between $4 billion and $5 billion to our national export effort. Why is the agriculture minister not in here today to debate this matter of public importance?

The facts of this matter are well known. Over a period of several years the Australian Wheat Board paid out some $300 million to a company now identified as being a commercial entity that funnelled commissions and kickbacks to the Saddam regime. The amount of money that is involved here is double the settlement liability of Mr Gerard to the Australian Tax Office, which is now the subject of scrutiny by this parliament. In response to this serious matter, the government has set up a judicial inquiry which, by virtue of its terms of reference, is designed at the end of the day to stitch up the AWB and to avoid scrutiny of their own knowledge of and involvement in these matters. The Iraq wheat market has come to have an important prominence in the global sales of Australian wheat. Australia managed over many years to secure a very strong presence in this market—secured because Australia was able to effectively compete with heavily subsidised USA and European producers. Australia secured the market because we were able to supply a quality wheat product at a reasonable price and because we were able to guarantee consistent supply and, as a result of our single-desk arrangements, to guarantee a logistical chain from Australia to designated ports.

At times Australia exported between $1 billion and $2 billion worth of wheat over a period to Iraq. This is a monumental market for Australian wheat producers. It was a lucrative market that took some defending from our competitors. The essential question in this issue is not only whether the Australian Wheat Board paid out $300 million in kickbacks to the Saddam regime; it is also whether they did it with the knowledge and compliance, either tacit or overt, of senior ministers in this government.

There are two possible conclusions we can draw from the evidence that is already on the public record: that the government ministers at the time knew of the nature of these incentives being paid by the Australian Wheat Board to the Saddam regime and gave their tacit or overt consent to them; or that the government had no knowledge of these incentives but should have, given their size, their political sensitivity and the reporting mechanisms set up under statute to inform ministers of key matters relating to these sales. We know on this side of the House, and we contend now, that ministers of the day in the trade and the agriculture portfolios did know of these arrangements.

The Wheat Export Authority is a statutory authority that reports to the Minister for Agriculture, Fisheries and Forestry and liaises with the Department of Agriculture, Fisheries and Forestry. It was established in 1998-99, at the time the government privatised the Australian Wheat Board and handed over the
single desk marketing arrangements for wheat to AWB Ltd and its international arm. The functions and powers of the Wheat Export Authority are set out in the Wheat Marketing Act. In relation to those functions the act states:

The Authority has the following functions:
(a) to control the export of wheat from Australia;
(b) to monitor nominated company B’s—
that is, AWB’s
performance in relation to the export of wheat and examine and report the benefits to growers that result from that performance—
a very wide charter. In relation to the Wheat Export Authority’s powers, the act says:
The Authority has power to do all things that are necessary or convenient to be done in connection with the performance of its functions.
The act goes on to say:
The Authority may direct nominated company B, or a related body corporate of nominated company B, to give to the Authority:
(a) information; or
(b) documents, or copies of documents, in the custody or under the control of nominated company B.

We now know—it is a matter of public record—that, in the performance of its statutory functions, the WEA did examine the contracts between AWB and the Iraqi wheat board. It did give those contracts adequate scrutiny, and it reported in a confidential report to the minister for agriculture.

The reporting requirements in the act require the preparation of three reports: one to the growers, one an annual report and one a confidential report to the agriculture minister—and that is the report that we want the minister to come into this House and disclose. It is abundantly clear that the parliament has given the Wheat Export Authority the role of overseeing the activities of AWB and all the powers it needs to carry out that function.

The 1999-2000 annual report of the Wheat Export Authority tells us that it employed a consultant in October 2000, and the duties of the consultant included an examination of ‘incentives paid by AWB ... compared to other competitors’. We canvassed these matters during the Senate inquiry, and we asked this question: how much did the agriculture minister and the Wheat Export Authority know about the allegations in the Age and the Sydney Morning Herald yesterday of a culture within AWB of providing kickbacks to authorities in a number of AWB overseas markets and in Iraq?

We know that the contracts were scrutinised because, to compare them to the contracts of our competitors, the WEA has to distil these contracts down to an FOB basis, and we know that incentives and other matters, such as additional services, were examined. It absolutely beggars belief that an authority with the powers and resources of the Wheat Export Authority, with the clear role of overseeing AWB’s performance, did not know about these kickbacks and did not report on them to the minister, especially since we know that the authority already had an interest in incentives and, according to Mr Taylor, the CEO of the Wheat Export Authority, was also examining what he termed ‘additional services’ that may have been bundled in with the sale of wheat.

Here are the facts of the matter: (1) the Wheat Export Authority had a statutory duty to oversee the operations of AWB; (2) they had all the powers that they needed to complete the task; (3) they were interested in so-called incentives and additional services that AWB pays or gives to attract and retain customers; (4) they had access to all the relevant contracts and scrutinised them; and (5) they made annual confidential reports to the agri-
culture minister. He must come into this parliament and give us the details of those confidential reports.

In the face of all that material, if the minister denies it all, I will see pigs flying around this chamber. The minister must come in here today and defend on the floor of this parliament the allegations that are being made in the media not by the opposition but by former AWB employees and others associated with the industry. These are National Party ministers, with the Minister for Industry, Tourism and Resources being a former Grain Growers Association president in Queensland. Do not tell me that the consultations with the Australian wheat industry did not canvass the serious matters that we are debating here on the floor of this House. (Time expired)

Mr BILLSON (Dunkley—Parliamentary Secretary (Foreign Affairs) and Parliamentary Secretary to the Minister for Immigration and Multicultural and Indigenous Affairs) (3.42 pm)—While the Howard government is reconstructing Iraq and reconstructing future opportunities for Iraqi citizens, the Labor Party is reconstructing history. We have sat here and heard absolutely no evidence. No evidence has been offered by the member for Griffith, who seemed very keen. You can pick the language. When he gets up and says, ‘I would have thought,’ what he is actually saying is that he has nothing to back up his claims but he will hang them out there anyway. He has a crawl-and-trawl approach, where he has no evidence but he is happy to have a spray at anybody if he thinks it might give him a chance to advance his political interests. That is what we have sat through here: no evidence whatsoever. There has been no credible argument, no thesis that would stand any kind of scrutiny, to support the crass, reckless, ill-informed, politically motivated allegations of the Labor Party.

The member for Corio came in here like a flathead that had been caught in Port Phillip Bay off Geelong, flapping around in the bottom of the boat and making lots of noise and lots of splash. Volume seemed to be the only thing that he was offering. He did not even address the matter of public importance, thought to be so important. He did not even talk about it. He had a go at Mr Gerard, the Wheat Board and the National Party. What this shows you is that at this time of these very serious allegations—they are serious allegations—the Labor Party has nothing to substantiate those allegations, and it continues to try to reconstruct history while the Australian government is helping to reconstruct Iraq.

The Deputy Prime Minister dispatched a very weak argument by the Labor Party to the boundary for four. Let me recap some facts. I know the Labor Party has trouble with facts. When the facts do not suit its political purpose, it will go and talk about something that might loosely relate to the same dollar amount and argue that that is evidence. That is what we have seen from the member for Griffith. He has talked about a sum of money and said that, because that sum of money looks vaguely like this sum of money, it has to be true. It could have been the funding that could have gone into the Scoresby Freeway and he would have said: ‘See, there is evidence, proof positive! It is the same dollar amount.’ It is nonsense that the Labor Party is putting forward, and it should recognise that this is just a political stunt. The Labor Party is trying to reconstruct history while the Howard government is committed to reconstructing Iraq.

Let me recap these simple facts. The Volcker report—the report of the independent committee led by Paul Volcker covering the period 1996 to 2003 inquiring into the operations of the oil for food program in Iraq, a report which was commissioned by the
United Nations—offered no criticism of the Australian government. No criticism at all of the Australian government was offered by the Volcker report. The final Volcker report raised questions about the activities of three Australian companies with regard to the oil for food program. Just as the government cooperated fully with the Volcker inquiry, it has also embraced the proposition from the final report of the Volcker inquiry that steps need to be taken within domestic jurisdictions to investigate companies that fall within the jurisdiction of countries like Australia to see what further action may be warranted.

What has the government done? It has set up an independent judicial inquiry to examine the relevant matters that have been brought out through the oil for food program inquiry undertaken by Mr Volcker. But, again, the Volcker report contains no suggestion whatsoever of wrongdoing by the Australian government. At no stage of the oil for food program was there any evidence—I know that it is an unfortunate point to make, but evidence matters with these arguments—to suggest that the AWB or any other Australian company paid kickbacks.

The member for Griffith goes on. He talks about DFAT having approved AWB’s use of Alia for transport. That is not right either. It is a little unfortunate that, in his efforts to reconstruct history, that is factually incorrect—and it is known to be factually incorrect. Yet still he perpetrates this argument that has no basis whatsoever in an attempt to mask Labor’s noncommitment to the people of Iraq having the chance to shape their own future. That is what this is all about. When it comes to Iraq, the member for Griffith and the Labor Party are trying to look as though they are on the side of virtue—and we know they are not. It would have been interesting if the Labor Party had had its way, because Saddam would still be there and we would be wondering what was going on.

Rather than face up to the reality and the challenge of working in partnership with the people of Iraq, we get this spurious nonsense from the Labor Party, perpetuated by the member for Griffith. There was no DFAT green light for Alia. AWB’s use of Alia was not in the AWB contracts. The independent committee of inquiry noted that the AWB did not advise the UN that it was making payments for inland transportation costs. Isn’t it funny? During the entire Iraq debate, the Labor Party was quick to say, ‘Well, the UN is all-knowing and all-knowledgeable about these things; how dare countries of goodwill seek to assist the ordinary people of Iraq.’ That was the argument—that somehow there was something wrong with getting rid of this horrendous dictator, who was a tyrant, who took the lives of his own citizens and who ran that country like it was his own little playground. When we were there working to liberate the people of Iraq, the Labor Party wanted Saddam there. It said, ‘Well, until the UN, which is all-knowing, all-seeing and all-wise in these things, says that it is time to take seriously the countless number of international resolutions against Saddam, Australia should not do anything.’ That was the argument then. But now, when it suits the member for Griffith, it is okay that the UN was ignorant.

The UN was the one handling this oil for food program. It was the UN, through the 661 sanctions committee and the Office of the Iraq Program, that was responsible for all contract approvals under the oil for food program. So the UN has gone from being all-wise, the font of great wisdom in this whole debate, to it being argued by the member for Griffith that perhaps it was not doing what it was supposed to be doing. Is that the argument he is putting forward? I think it is, because the claim he is making is that someone
should have known. Yet, as I have outlined, the contracts were not made available. They were not known. In addition, they were not provided to the UN. They certainly were not provided to the Department of Foreign Affairs and Trade. There was no DFAT green light for Alia.

The UN legal advice concerning Alia as at June 2000, which the member for Griffith talks about, was an internal memo of the UN and was not passed on to the Australian UN mission—another factually unfortunate reality that he just cannot cope with. I repeat: the government had no evidence that any Australian companies were paying kickbacks to the former Iraqi government.

We are getting on with helping to reconstruct Iraq, while the Labor Party tries to reconstruct history. The Labor Party is trying to detract from the important support the Australian government is giving to the people of Iraq. We are there, making a major contribution to helping the Iraq government restore security and prosperity, after decades of brutality and misrule by Saddam Hussein—decades of this tyrant taking his own citizens’ lives, running that country as though it was his own little toy and taking away the futures, the prospects and the basic dignity of Iraq’s citizens as he did so. That is the regime that the Labor Party was happy to stand by and let continue.

But right now it is important to get behind Iraq and its people. They are in a critical democratic transition phase. We have a very committed and wonderful force of 1,370 ADF personnel helping to restore Iraq’s security. We have Australian Army training teams who have provided combat and logistics training to Iraqi security forces so that Iraqi security forces can protect Iraq and Iraqi citizens. That is crucial work being done by our ADF.

The Al Muthanna Task Group is supporting Japanese reconstruction efforts in the training of the Iraqi army. Our ADF security detachment is providing essential security support so that Australian officials can do their work in the embassy in Baghdad and support the implementation of an over $170 million rehabilitation and reconstruction program. That $170 million program includes $70 million for reconstruction priorities, with a particular focus on governance and the rehabilitation of the agricultural sector. Approximately $6 million will go to refugees and internally displaced persons as they come to grips with the changing landscape, in the quest for better future opportunities for the people of Iraq.

A sum of $45 million is being provided to the UN and the World Bank Iraq Trust Fund, which includes $17 million for election support. How important is that work? We are at an important time when Iraq has chosen a democratic self-determination pathway. As was recognised in the Australian on Monday, 5 December, Iraqi citizens have shown that they have an appetite for the democratic process. The editorial states that the Iraqi people have got the hang of it. It states:

Certainly, ordinary Iraqis have got the hang of the democratic process and have already voted twice by the millions in elections sponsored by the US. And virtually none of them would welcome a return of the type of tyranny endured under Saddam.

We are helping with that process of transformation and reconstruction. We are helping with support of the upcoming election. In the minute that is left to me, I want to say to the people of Iraq: you can count on Australia and you can count on the Australian government. We are there supporting you and your nation at this dawn of a new era, as you take great strides towards a better future. We will be a supporter of those endeavours. We will facilitate and provide funding and expertise
to support the successful elections that have already been undertaken and those that are planned for the future. In this difficult environment, Iraq is striving to achieve what it can, the best it can, for its citizens. We are reconstructing in that work, not reconstructing history. (Time expired)

The DEPUTY SPEAKER (Hon. IR Causley)—Order! The discussion is now concluded.

ANGLO-AUSTRALIAN TELESCOPE AGREEMENT AMENDMENT BILL 2005

Report from Main Committee

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

Ordered that this bill be considered immediately.

Bill agreed to.

Third Reading

Mr LLOYD (Robertson—Minister for Local Government, Territories and Roads) (3.52 pm)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

MAIN COMMITTEE

Transport and Regional Services Committee

Reference

Mr BARTLETT (Macquarie) (3.53 pm)—by leave—I move:

That the following reports of the Standing Committee on Transport and Regional Services be referred to the Main Committee for debate:

• National road safety—Eyes on the road ahead—Government response; and
• Train illumination—Inquiry into some measures proposed to improve train visibility and reduce level crossing accidents—Government response.

Question agreed to.

COMMITTEES

Public Works Committee Report

Mrs MOYLAN (Pearce) (3.53 pm)—On behalf of the parliamentary Joint Standing Committee on Public Works, I present the 22nd report for 2005 of the committee relating to the proposed fit-out of new leased premises for the Australian Customs Service at 1010 LaTrobe Street, Melbourne Docklands.

Ordered that the report be made a parliamentary paper.

Mrs MOYLAN—by leave—The Australian Customs Service has occupied its current headquarters at 414 LaTrobe Street since 1992 and has a net lease due to expire on 31 May 2007. Customs is proposing to relocate to premises currently being constructed at 1010 LaTrobe Street, Melbourne Docklands, also known as the Port 1010 Building. The estimated cost of the proposed work is $12.507 million.

Anticipated operational and administrative benefits expected to derive from relocation to the Port 1010 Building include the following: a cost-effective property solution, with lower energy consumption and improved environmental initiatives; technological improvements in building services; increased efficiencies in infrastructure; inclusion of Customs requirements, such as security and airconditioning, into base building; improved provision for public contact; minimisation of the costs of internal churn through an open office fit-out; and efficiencies in work allocation and resource utilisation.

On Friday, 11 November 2005, the committee conducted inspections of Customs' current premises as well as the construction of the Port 1010 Building.
site of the Port 1010 Building. The committee also had the opportunity to inspect the Innovation Building, which provides an example of the proposed design of the Port 1010 Building. A confidential briefing and a public hearing were held in Melbourne later that morning.

Prior to the inspection and hearing, Customs provided the committee with a detailed confidential summary of Customs’ tender process and the evaluation of offers. Noting that Customs staff may be deployed to the airport, depending on work requirements, the committee asked why the airport was not deemed a suitable relocation option. Customs responded that the indicative costs provided for relocation to the airport did not compare favourably with the costs of relocation to a site in the Melbourne central business district. Customs House at Melbourne Airport has very little spare space, and headquarters relocation to the airport would necessitate a greenfield development to accommodate all Customs staff. Moving to the Digital Harbour precinct in Melbourne Docklands represented a balance between maintaining close access to key stakeholders in the city; meeting the needs of staff travelling to the airport, waterfront or other agencies; and meeting the public transport needs of staff.

During its inspection of Customs’ current premises, the committee was able to observe the National Monitoring Centre in operation. The committee was impressed with the monitoring capabilities of the NMC and acknowledges the importance of the facility. However, the committee also noted that the current facility has a number of shortcomings in respect of work space and airconditioning. Customs assured the committee that these issues would be addressed in the new Port 1010 Building, where the NMC will be provided with double the current amount of available floor space and a separate airconditioning system capable of accommodating 24/7 and additional operation.

In considering the proposed fit-out, the committee was pleased to discover that, whilst the Port 1010 Building will comply with the Digital Harbour precinct environmental management plan, it will also exceed the required 4.5-star energy rating. Ecologically sustainable development features of the fit-out will also include: solar hot water heating panels to provide up to 75 per cent of the building’s hot water needs; building management systems for lighting and airconditioning; submetering of electricity on each floor; high-performance tap-ware in showers and bathrooms; environmentally friendly carpet tiles; and avoidance of workstations and joinery that may contain harmful toxins such as formaldehyde.

In 2005, the Public Works Committee has tabled 23 reports, including the report before the parliament today. In its examination of all works, the committee remains concerned to ensure that departments do not commit to major contracts prior to the completion of a comprehensive parliamentary inquiry into the proposed works, as required under the Public Works Committee Act 1969. To this end, the committee questioned Customs as to how far contractual arrangements had progressed prior to parliamentary scrutiny. Customs informed the committee that heads of agreement and an agreement for lease had been signed in September and October respectively; however, all such arrangements could be cancelled should the parliament not be satisfied that the proposal was an appropriate expenditure of public funds. Subject to parliamentary approval, Customs anticipate work to commence in March 2006, with base building completion by December 2006 and Customs occupancy from 1 April 2007.

Having given detailed consideration to the proposal, the committee recommends that
the proposed fit-out of the new leased premises for the Australian Customs Service, 1010 LaTrobe Street, Melbourne Docklands, proceed, at an estimated cost of $12.507 million.

We in the Public Works Committee have, as I said, had a very large workload this year and I want to acknowledge the work of the committee secretariat. I think sometimes we take our secretaries and clerks for granted in this place, but I am grateful, as are other committee members, for the highly professional approach they take to their work. The sheer volume of work they get through is nothing short of amazing at times. So we have appreciated all those who have assisted with the public hearings—the committee secretariat and of course the Hansard staff, who are always there and always very professional in the work that they do to assist the committee with its reports. I commend the report to the House.

Public Accounts and Audit Committee

Report

Mr BALDWIN (Paterson) (4.00 pm)—On behalf of the Joint Committee of Public Accounts and Audit, I present Report No. 406—Developments in aviation security since the committee’s June 2004 Report 400: Review to aviation security in Australia—an interim report.

Ordered that the report be made a parliamentary paper.

Mr BALDWIN—by leave—On 25 May the committee resolved to reopen an inquiry into aviation security that had been conducted during the previous parliament. The inquiry was reopened in an environment of concerning incidents of criminal activity at Australian airports as well as significant developments in aviation security required by the Commonwealth government. An important component of the Commonwealth’s upgrading of aviation security was the announcement on 7 June of a review of airport security and policing to be conducted by the Rt Hon. Sir John Wheeler. On 21 September the government announced its in principle acceptance of the 17 recommendations made by Sir John and additional expenditure of $194 million to further tighten security at Australian airports.

The committee unanimously supports the recommendations made by the Wheeler review. Based on evidence gathered to date, the committee has resolved to table this interim report in order to allow the government to consider its recommendations at the same time as it develops strategies to implement the Wheeler recommendations. The recommendations contained in the committee’s interim report refer to areas of aviation security covered by recommendations 9 and 10 of the Wheeler review. Recommendations 9 and 10 of the Wheeler review propose, respectively, a review of the Aviation Transport Security Act 2004 and regulations 2005 and changes to background checking processes of applications for aviation security identification cards.

The committee’s interim report makes nine recommendations for the government to consider. In relation to the review of the Aviation Transport Security Act and regulations, the committee believes that the government should consider requiring that records be kept of every individual item of checked baggage to aid in the detection of any interference after baggage has been checked. The committee is also of the view that the government ought to specify through regulation the design of rubbish receptacles at the 11 counter-terrorism first response airports to ensure that no item that might pose a security threat can be concealed within them.

In relation to the background checking required for the issuing of aviation security identification cards—or ASICs, as they are...
known—the committee was deeply concerned that day passes in the guise of visitor identification cards have been used to circumvent background checking that would otherwise be required of workers who require access to secure airside areas of airports. The committee has made seven recommendations to restrict the issuing of visitor identification cards to exceptional circumstances and require that, when issued, VICs carry a photograph of the cardholder to allow easy reconciliation of the pass and the pass holder. The photographs should be retained on a database for a required period to allow more certain identification of any VIC holder who is involved in criminal activity or a security breach.

One of the reasons that visitor identification cards are used for airside workers is the sometimes extended periods of time taken to conduct background checks required for the issuing of an ASIC. The committee has therefore recommended that the vetting period for ASIC applicants be reduced as a matter of urgency. Finally, the committee is concerned that ASICs be made easily accessible so as to minimise disruption of the operations and activities of general aviation pilots. We have thus recommended that the Civil Aviation Safety Authority provide an opportunity for pilot licence applicants to simultaneously apply for an ASIC.

In conclusion, I would like to express the committee’s appreciation to those people who have so far contributed to the inquiry by preparing submissions and giving evidence at public hearings. I wish to thank the members of the sectional committee involved for their time and dedication in conducting this inquiry. I commend the interim report to the House.

Ms GRIERSON (Newcastle) (4.05 pm)—by leave—As the Chair of the Joint Committee of Public Accounts and Audit has outlined, we have submitted an interim report. I think it is important to remember that this inquiry was commenced in May on a unanimous resolution of the committee after we shared the public’s concern and disquiet regarding aviation security. Of course, unlike we who have done previous inquiries and have received evidence, the public rely solely on the media and personal experience. The camel suit incident and the Schapelle Corby allegations of drug smuggling through baggage handling certainly caused the public to feel concerned.

As a consequence, the Wheeler review was also instituted by the government, and since then the report has been handed down by Sir John Wheeler. As the chair has outlined, the recommendations of the Wheeler report have the unanimous support of the committee. We have had extensive submissions and hearings and it has been an onerous task to continue the aviation security inquiry. That is why an interim report is put forward: so that the parliament is aware that we are still finding areas that need further follow-up, and they have been outlined very well by the chair.

The ASICs and visitor passes are a particular area of concern and one that has come up in submissions over and over again. It is pleasing to hear the government announce that the Attorney-General’s Department will now centralise the issuing of ASICs, but we know that there are long waiting periods already. People are giving us evidence that they are shopping around for an ASIC—some providers are supplying them more easily or more readily than others. So I think anything that can be done on the recommendations put forward by the committee to improve the process deserves urgent consideration.

Photographic identification on visitor passes is an excellent recommendation. Al-
lowing general aviation pilots to apply for an ASIC and their pilots licence on the one simple application form would save them a great deal of aggravation. Another recommendation is the application of a bond, which would be refunded on the return of an ASIC. We think that would do a lot to address the concerns. We have had evidence that over 380 ASICs issued by Qantas alone have gone missing. The committee urges DOTARS and the Attorney-General’s Department to take that up.

I thank the secretariat for their hard work in preparing and publishing this report so quickly at a time of year when, as we know, there is so much to do. I hope they enjoy their well-deserved break. I congratulate the chair and my fellow committee members on their hard work on this inquiry.

Economics, Finance and Public Administration Committee

The DEPUTY SPEAKER (Hon. IR Causley)—I have received advice from the Chief Opposition Whip that he has nominated Dr Emerson to be a member of the Standing Committee on Economics, Finance and Public Administration in place of Mr Bowen.

Mr Lloyd (Robertson—Minister for Local Government, Territories and Roads) (4.08 pm)—by leave—I move:

That Mr Bowen be discharged from the Standing Committee on Economics, Finance and Public Administration and that, in his place, Mr Emerson be appointed a member of the committee.

Question agreed to.

ANTI-TERRORISM BILL (No. 2) 2005

Consideration of Senate Message

Bill returned from the Senate with amendments.

Ordered that the amendments be considered immediately.

Senate’s amendments—

(1) Clause 2, page 2 (table item 10), omit “6 months”, substitute “12 months”.

(2) Clause 2, page 3 (table item 14), omit “6 months”, substitute “12 months”.

(3) Schedule 1, item 9, page 6 (line 11), at the end of paragraph 102.1(1A)(c), add “in circumstances where there is a risk that such praise might have the effect of leading a person (regardless of his or her age or any mental impairment (within the meaning of section 7.3) that the person might suffer) to engage in a terrorist act”.

(4) Schedule 4, item 24, page 19 (line 18), at the end of subsection 104.2(3) (before the notes), add:

and (f) a summary of the grounds on which the order should be made.

(5) Schedule 4, item 24, page 19 (after line 22), after subsection 104.2(3), insert:

; and (f) a summary of the grounds on which the order should be made.

(3A) To avoid doubt, paragraph (3)(f) does not require any information to be included in the summary if disclosure of that information is likely to prejudice national security (within the meaning of the National Security Information (Criminal and Civil Proceedings) Act 2004).

(6) Schedule 4, item 24, page 21 (line 19), at the end of subsection 104.5(1) (before the notes), add:

; and (h) set out a summary of the grounds on which the order is made.

(7) Schedule 4, item 24, page 21 (after line 25), after subsection 104.5(1), insert:

; and (h) set out a summary of the grounds on which the order is made.

(1A) The day specified for the purposes of paragraph (1)(e) must be as soon as practicable, but at least 72 hours, after the order is made.

(8) Schedule 4, item 24, page 21 (after line 27), after subsection 104.5(2), insert:

To avoid doubt, paragraph (1)(h) does not require any information to be included in the summary if disclosure of that information is likely to prejudice national security (within the meaning
of the *National Security Information (Criminal and Civil Proceedings) Act 2004*).

(9) Schedule 4, item 24, page 27 (lines 10 to 13), omit paragraph 104.12(1)(a), substitute:
(a) must serve the order personally on the person; and

(10) Schedule 4, item 24, page 27 (line 17), after “sections”, insert “104.12A.”.

(11) Schedule 4, item 24, page 27 (lines 23 to 27), omit subsection 104.12(2).

(12) Schedule 4, item 24, page 28 (lines 1 to 13), omit subsection 104.12(5), substitute:
Queensland public interest monitor to be given copy of interim control order

(5) If:
(a) the person in relation to whom the interim control order is made is a resident of Queensland; or
(b) the issuing court that made the interim control order did so in Queensland;

an AFP member must give to the Queensland public interest monitor a copy of the order.

(13) Schedule 4, item 24, page 28 (after line 13), after section 104.12, insert:

**104.12A Election to confirm control order**

(1) At least 48 hours before the day specified in an interim control order as mentioned in paragraph 104.5(1)(e), the senior AFP member who requested the order must:
(a) elect whether to confirm the order on the specified day; and
(b) give a written notification to the issuing court that made the order of the member’s election.

(2) If the senior AFP member elects to confirm the order, an AFP member must:
(a) serve personally on the person in relation to whom the order is made:
(i) a copy of the notification; and
(ii) a copy of the documents mentioned in paragraphs 104.2(3)(b) and (c); and
(iii) any other details required to enable the person to understand and respond to the substance of the facts, matters and circumstances which will form the basis of the confirmation of the order; and
(b) if the person is a resident of Queensland, or the court made the order in Queensland—give the Queensland public interest monitor a copy of the documents mentioned in paragraph (a).

(3) To avoid doubt, subsection (2) does not require any information to be served or given if disclosure of that information is likely:
(a) to prejudice national security (within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004*); or
(b) to be protected by public interest immunity; or
(c) to put at risk ongoing operations by law enforcement agencies or intelligence agencies; or
(d) to put at risk the safety of the community, law enforcement officers or intelligence officers.

The fact that information of a kind mentioned in this subsection is not required to be disclosed does not imply that such information is required to be disclosed in other provisions of this Part that relate to the disclosure of information.

(4) If the senior AFP member elects not to confirm the order, and the order has already been served on the person, then:
(a) the order immediately ceases to be in force; and
(b) an AFP member must:
(i) annotate the order to indicate that it has ceased to be in force; and
(ii) cause the annotated order and a copy of the notification to be served personally on the person; and

(iii) if the person is a resident of Queensland, or the court made the order in Queensland—give the Queensland public interest monitor a copy of the annotated order and the notification.

(14) Schedule 4, item 24, page 28 (lines 14 to 25), omit section 104.13, substitute:

**104.13 Lawyer may request a copy of an interim control order**

(1) A lawyer of the person in relation to whom an interim control order is made may attend the place specified in the order as mentioned in paragraph 104.5(1)(g) in order to obtain a copy of the order.

(2) This section does not:

   (a) require more than one person to give the lawyer a copy of the order; or

   (b) entitle the lawyer to request, be given a copy of, or see, a document other than the order.

(15) Schedule 4, item 24, page 28 (line 28), omit “On”, substitute “If an election has been made to confirm an interim control order, then, on”.

(16) Schedule 4, item 24, page 28 (lines 31 and 32), omit “of an interim control order”, substitute “of the order”.

(17) Schedule 4, item 24, page 29 (line 17), at the end of the heading to subsection 104.14(4), add “etc.”.

(18) Schedule 4, item 24, page 29 (lines 19 to 21), omit paragraph 104.14(4)(a), substitute:

   (a) none of the following persons attend the court on the specified day:

      (i) the person in relation to whom the order is made;

      (ii) a representative of the person;

      (iii) if the person is a resident of Queensland, or the court made the order in Queensland—the Queensland public interest monitor; and

(19) Schedule 4, item 24, page 29 (line 23), at the end of paragraph 104.14(4)(b), add “in relation to whom the order is made”.

(20) Schedule 4, item 24, page 29 (lines 24 to 27), omit subsection 104.14(5), substitute:

   Attendance of person or representative etc.

(5) The court may take the action mentioned in subsection (6) or (7) if any of the following persons attend the court on the specified day:

   (a) the person in relation to whom the order is made;

   (b) a representative of the person;

   (c) if the person is a resident of Queensland, or the court made the order in Queensland—the Queensland public interest monitor.

(21) Schedule 4, item 24, page 33 (line 29) to page 34 (line 9), omit section 104.21, substitute:

**104.21 Lawyer may request a copy of a control order**

(1) If a control order is confirmed or varied under section 104.14, 104.20 or 104.24, a lawyer of the person in relation to whom the control order is made may attend the place specified in the order as mentioned in paragraph 104.16(1)(e) or 104.25(d) in order to obtain a copy of the order.

(2) This section does not:

   (a) require more than one person to give the lawyer a copy of the order; or

   (b) entitle the lawyer to request, be given a copy of, or see, a document other than the order.

(22) Schedule 4, item 24, page 35 (lines 23 to 31), omit subsection 104.23(3), substitute:

(3) The Commissioner must cause:

   (a) written notice of the application and the grounds on which the variation is sought; and
(b) a copy of the documents mentioned in paragraph (2)(b); and

(c) any other details required to enable the person in relation to whom the order is made to understand and respond to the substance of the facts, matters and circumstances which will form the basis of the variation of the order;

to be given to the following persons:

(d) the person in relation to whom the order is made;

(e) if the person is a resident of Queensland, or the court will hear the application in Queensland—the Queensland public interest monitor.

(3A) To avoid doubt, subsection (3) does not require any information to be given if disclosure of that information is likely:

(a) to prejudice national security (within the meaning of the National Security Information (Criminal and Civil Proceedings) Act 2004); or

(b) to be protected by public interest immunity; or

(c) to put at risk ongoing operations by law enforcement agencies or intelligence agencies; or

(d) to put at risk the safety of the community, law enforcement officers or intelligence officers.

The fact that information of a kind mentioned in this subsection is not required to be disclosed does not imply that such information is required to be disclosed in other provisions of this Part that relate to the disclosure of information.

(23) Schedule 4, item 24, page 37 (lines 9 to 13), omit paragraph 104.26(1)(a), substitute:

(a) must serve the varied order personally on the person; and

(24) Schedule 4, item 24, page 37 (lines 26 to 30), omit subsection 104.26(2).

(25) Schedule 4, item 24, page 38 (after line 19), after section 104.28, insert:

104.28A Interlocutory proceedings

(1) Proceedings in relation to a request under section 104.3, 104.6 or 104.8 to make an interim control order are taken to be interlocutory proceedings for all purposes (including for the purpose of section 75 of the Evidence Act 1995).

(2) The following proceedings are taken not to be interlocutory proceedings for any purpose (including for the purpose of section 75 of the Evidence Act 1995):

(a) proceedings in relation to the confirmation under section 104.14 of an interim control order;

(b) proceedings in relation to an application under section 104.18, 104.19 or 104.23 to revoke or vary a confirmed control order.

(26) Schedule 4, item 24, page 38 (after line 29), after paragraph 104.29(2)(a), insert:

(aa) the number of interim control orders in respect of which an election was made under section 104.12A not to confirm the order;

(27) Schedule 4, item 24, page 43 (after line 21), after section 105.5, insert:

105.5A Special assistance for person with inadequate knowledge of English language or disability

If the police officer who is detaining a person under a preventative detention order has reasonable grounds to believe that the person is unable, because of inadequate knowledge of the English language or a disability, to communicate with reasonable fluency in that language:

(a) the police officer has an obligation under subsection 105.31(3) to arrange for the assistance of an interpreter in informing the person about:

(i) the effect of the order or any extension, or further extension, of the order; and

(ii) the person’s rights in relation to the order; and
(b) the police officer has an obligation under subsection 105.37(3A) to give the person reasonable assistance to:

(i) choose a lawyer to act for the person in relation to the order; and

(ii) contact the lawyer.

(28) Schedule 4, item 24, page 46 (line 13), at the end of subsection 105.7(2) (before the note), add:

; and (g) set out a summary of the grounds on which the AFP member considers that the order should be made.

(29) Schedule 4, item 24, page 46 (after line 15), after subsection 105.7(2), insert:

(2A) To avoid doubt, paragraph (2)(g) does not require any information to be included in the summary if disclosure of that information is likely to prejudice national security (within the meaning of the National Security Information (Criminal and Civil Proceedings) Act 2004).

(30) Schedule 4, item 24, page 48 (line 2), at the end of subsection 105.8(6) (before the note), add:

; and (e) a summary of the grounds on which the order is made.

(31) Schedule 4, item 24, page 48 (after line 3), after subsection 105.8(6), insert:

(6A) To avoid doubt, paragraph (6)(e) does not require any information to be included in the summary if disclosure of that information is likely to prejudice national security (within the meaning of the National Security Information (Criminal and Civil Proceedings) Act 2004).

(32) Schedule 4, item 24, page 48 (after line 10), at the end of section 105.8, add:

(8) The senior AFP member nominated under subsection 105.19(5) in relation to the initial preventative detention order must:

(a) notify the Commonwealth Ombudsman in writing of the making of the order; and

(b) give the Commonwealth Ombudsman a copy of the order; and

(c) if the person in relation to whom the order is made is taken into custody under the order—notify the Commonwealth Ombudsman in writing that the person has been taken into custody under the order.

(33) Schedule 4, item 24, page 49 (after line 30), after section 105.10, insert:

105.10A Notice of application for continued preventative detention order

An AFP member who proposes to apply for a continued preventative detention order in relation to a person under section 105.11 must, before applying for the order:

(a) notify the person of the proposed application; and

(b) inform the person that, when the proposed application is made, any material that the person gives the AFP member in relation to the proposed application will be put before the issuing authority for continued preventative detention orders to whom the application is made.

Note: The AFP member who applies for the order must put the material before the issuing authority—see subsection 105.11(5).

(34) Schedule 4, item 24, page 50 (line 33), at the end of subsection 105.11(2) (before the note), add:

; and (g) set out a summary of the grounds on which the AFP member considers that the order should be made.

(35) Schedule 4, item 24, page 50 (after line 39), after subsection 105.11(3), insert:

(3A) To avoid doubt, paragraph (2)(g) does not require any information to be included in the summary if disclosure of that information is likely to prejudice national security (within the meaning

(36) Schedule 4, item 24, page 51 (after line 2), at the end of section 105.11, add:

(5) The AFP member applying for the continued preventative detention order in relation to the person must put before the issuing authority to whom the application is made any material in relation to the application that the person has given the AFP member.

(37) Schedule 4, item 24, page 52 (line 3), at the end of subsection 105.12(6), add:

; and (d) a summary of the grounds on which the order is made.

(38) Schedule 4, item 24, page 52 (after line 3), after subsection 105.12(6), insert:

(6A) To avoid doubt, paragraph (6)(d) does not require any information to be included in the summary if disclosure of that information is likely to prejudice national security (within the meaning of the National Security Information (Criminal and Civil Proceedings) Act 2004).

(39) Schedule 4, item 24, page 52 (after line 10), at the end of section 105.12, add:

(8) The senior AFP member nominated under subsection 105.19(5) in relation to the continued preventative detention order must:

(a) notify the Commonwealth Ombudsman in writing of the making of the order; and

(b) give the Commonwealth Ombudsman a copy of the order.

(40) Schedule 4, item 24, page 53 (after line 29), after section 105.14, insert:

105.14A Basis for applying for, and making, prohibited contact order

(1) An AFP member may apply for a prohibited contact order in relation to a person only if the AFP member meets the requirements of subsection (4).

(2) An issuing authority for initial preventative detention orders, or continued preventative detention orders, may make a prohibited contact order in relation to a person’s detention under a preventative detention order only if the issuing authority meets the requirements of subsection (4).

(3) The person in relation to whose detention the prohibited contact order is applied for, or made, is the subject for the purposes of this section.

(4) A person meets the requirements of this subsection if the person is satisfied that making the prohibited contact order is reasonably necessary:

(a) to avoid a risk to action being taken to prevent a terrorist act occurring; or

(b) to prevent serious harm to a person; or

(c) to preserve evidence of, or relating to, a terrorist act; or

(d) to prevent interference with the gathering of information about:

(i) a terrorist act; or

(ii) the preparation for, or the planning of, a terrorist act; or

(e) to avoid a risk to:

(i) the arrest of a person who is suspected of having committed an offence against this Part; or

(ii) the taking into custody of a person in relation to whom a preventative detention order is in force, or in relation to whom a preventative detention order is likely to be made; or

(iii) the service on a person of a control order.

(5) An issuing authority may refuse to make a prohibited contact order unless the AFP member applying for the order gives the issuing authority any further information that the issuing authority
requests concerning the grounds on which the order is sought.

(41) Schedule 4, item 24, page 54 (lines 8 to 18), omit subsection 105.15(4), substitute:

(4) If the issuing authority makes the preventative detention order, the issuing authority may make a prohibited contact order under this section that the subject is not, while being detained under the preventative detention order, to contact the person specified in the prohibited contact order.

Note: Section 105.14A sets out the basis on which the order may be made.

(42) Schedule 4, item 24, page 54 (after line 19), at the end of section 105.15, add:

(6) The senior AFP member nominated under subsection 105.19(5) in relation to the preventative detention order must:

(a) notify the Commonwealth Ombudsman in writing of the making of the prohibited contact order; and

(b) give the Commonwealth Ombudsman a copy of the prohibited contact order.

(43) Schedule 4, item 24, page 55 (lines 1 to 8), omit subsection 105.16(4), substitute:

(4) The issuing authority may make a prohibited contact order under this section that the subject is not, while being detained under the preventative detention order, to contact the person specified in the prohibited contact order.

Note: Section 105.14A sets out the basis on which the order may be made.

(44) Schedule 4, item 24, page 55 (after line 9), at the end of section 105.16, add:

(6) The senior AFP member nominated under subsection 105.19(5) in relation to the preventative detention order must:

(a) notify the Commonwealth Ombudsman in writing of the making of the prohibited contact order; and

(b) give the Commonwealth Ombudsman a copy of the prohibited contact order.

(45) Schedule 4, item 24, page 57 (after line 5), at the end of section 105.17, add:

Detainee’s right to make representations about revocation of preventative detention order

(7) A person being detained under a preventative detention order may make representations to the senior AFP member nominated under subsection 105.19(5) in relation to the order with a view to having the order revoked.

(46) Schedule 4, item 24, page 65 (after line 23), after paragraph 105.28(2)(d), insert:

(da) the person’s entitlement under subsection 105.17(7) to make representations to the senior AFP member nominated under subsection 105.19(5) in relation to the order with a view to having the order revoked; and

(47) Schedule 4, item 24, page 66 (after line 12), after subsection 105.29(2), insert:

(2A) Without limiting paragraph (2)(c), the police officer detaining the person under the order must inform the person under that paragraph about the persons that he or she may contact under section 105.35 or 105.39.

(48) Schedule 4, item 24, page 66 (after line 36), after paragraph 105.29(2)(c), insert:

(ca) the person’s entitlement under subsection 105.17(7) to make representations to the senior AFP member nominated under subsection 105.19(5) in relation to the order with a view to having the order revoked; and

(49) Schedule 4, item 24, page 67 (after line 24), after subsection 105.29(2), insert:

(2A) Without limiting paragraph (2)(c), the police officer detaining the person un-
the order must inform the person under that paragraph about the persons that he or she may contact under section 105.35 or 105.39.

(50) Schedule 4, item 24, page 68 (line 22), omit “physical”.

(51) Schedule 4, item 24, page 68 (lines 30 and 31), omit “and summary of grounds”.

(52) Schedule 4, item 24, page 68 (line 32) to page 69 (line 1), omit subsection 105.32(1), substitute:

(1) As soon as practicable after a person is first taken into custody under an initial preventative detention order, the police officer who is detaining the person under the order must give the person a copy of the order.

(53) Schedule 4, item 24, page 69 (lines 2 to 6), omit subsection 105.32(2).

(54) Schedule 4, item 24, page 69 (line 26), omit paragraph 105.32(6)(b).

(55) Schedule 4, item 24, page 70 (line 2), omit “the summary”.

(56) Schedule 4, item 24, page 70 (lines 4 and 5), omit “the summary”.

(57) Schedule 4, item 24, page 70 (lines 7 and 8), omit “the summary”.

(58) Schedule 4, item 24, page 70 (after line 32), after section 105.33, insert:

105.33A Detention of persons under 18

(1) Subject to subsection (2), the police officer detaining a person who is under 18 years of age under a preventative detention order must ensure that the person is not detained together with persons who are 18 years of age or older.

Note: A contravention of this subsection may be an offence under section 105.45.

(2) Subsection (1) does not apply if a senior AFP member approves the person being detained together with persons who are 18 years of age or older.

(3) The senior AFP member may give an approval under subsection (2) only if there are exceptional circumstances justifying the giving of the approval.

(4) An approval under subsection (2) must:

(a) be given in writing; and

(b) set out the exceptional circumstances that justify the giving of the approval.

(59) Schedule 4, item 24, page 73 (after line 34), after subsection 105.37(3), insert:

(3A) If the police officer who is detaining a person under a preventative detention order has reasonable grounds to believe that:

(a) the person is unable, because of inadequate knowledge of the English language, or a disability, to communicate with reasonable fluency in that language; and

(b) the person may have difficulties in choosing or contacting a lawyer because of that inability;

the police officer must give the person reasonable assistance (including, if appropriate, by arranging for the assistance of an interpreter) to choose and contact a lawyer under subsection (1).

(60) Schedule 4, item 24, page 73 (line 36), after “(3)”, insert “or (3A)”.

(61) Schedule 4, item 24, page 79 (lines 1 to 3), omit paragraph 105.41(3)(c), substitute:

(c) the other person is not a person the detainee is entitled to have contact with under section 105.39; and

(62) Schedule 4, item 24, page 79 (after line 28), after subsection 105.41(4), insert:

(4A) A person (the parent/guardian) commits an offence if:

(a) the parent/guardian is a parent or guardian of a person who is being detained under a preventative detention order (the detainee); and

(b) the detainee has contact with the parent/guardian under section 105.39; and
(c) while the detainee is being detained under the order, the parent/guardian discloses information of the kind referred to in paragraph (3)(b) to another parent or guardian of the detainee (the other parent/guardian); and

(d) when the disclosure is made, the detainee has not had contact with the other parent/guardian under section 105.39 while being detained under the order; and

(e) the parent/guardian does not, before making the disclosure, inform the senior AFP member nominated under subsection 105.19(5) in relation to the order that the parent/guardian is proposing to disclose information of that kind to the other parent/guardian.

Penalty: Imprisonment for 5 years.

(4B) If:

(a) a person (the parent/guardian) is a parent or guardian of a person being detained under a preventative detention order (the detainee); and

(b) the parent/guardian informs the senior AFP member nominated under subsection 105.19(5) in relation to the order that the parent/guardian proposes to disclose information of the kind referred to in paragraph (3)(b) to another parent or guardian of the detainee (the other parent/guardian);

that senior AFP member may inform the parent/guardian that the detainee is not entitled to contact the other parent/guardian under section 105.39.

Note: The parent/guardian may commit an offence against subsection (2) if the other parent/guardian is a person the detainee is not entitled to have contact with under section 105.39 and the parent/guardian does disclose information of that kind to the other parent/guardian. This is because of the operation of paragraph (3)(c).

(63) Schedule 4, item 24, page 82 (after line 9), at the end of section 105.42, add:

(4) If a police officer questions a person while the person is being detained under a preventative detention order, the police officer who is detaining the person must ensure that:

(a) a video recording is made of the questioning if it is practicable to do so; or

(b) an audio recording is made of the questioning if it is not practicable for a video recording to be made of the questioning.

Note: A contravention of this subsection may be an offence under section 105.45.

(5) Subsection (4) does not apply if:

(a) the questioning occurs to:

(i) ensure the safety and well being of the person being detained; or

(ii) determine whether the person is the person specified in the order; and

(b) complying with subsection (4) is not practicable because of the seriousness and urgency of the circumstances in which the questioning occurs.

Note: A defendant bears an evidential burden in relation to the matter in subsection (5) (see subsection 13.3(3)).

(6) A recording made under subsection (4) must be kept for the period of 12 months after the recording is made.

(64) Schedule 4, item 24, page 85 (after line 8), after subparagraph 105.45(b)(iv), insert:

(iva) subsection 105.33A(1); or

(65) Schedule 4, item 24, page 85 (line 9), omit “or (3)”, substitute “, (3) or (4)”.
(66) Schedule 4, item 24, page 86 (line 14), at the end of subsection 105.47(2), add:

; (f) the number of preventative detention orders, and the number of prohibited contact orders, that a court has found not to have been validly made or that the Administrative Appeals Tribunal has declared to be void.

(67) Schedule 6, item 1, page 105 (lines 4 to 12), omit subsection 3ZQO(2), substitute:

(2) If the Magistrate is satisfied on the balance of probabilities, by information on oath or by affirmation, that:

(a) the person has documents (including in electronic form) that are relevant to, and will assist, the investigation of a serious offence; and

(b) giving the person a notice under this section is reasonably necessary, and reasonably appropriate and adapted, for the purpose of investigating the offence;

the Magistrate may give the person a written notice requiring the person to produce documents that:

(c) relate to one or more of the matters set out in section 3ZQP, as specified in the notice; and

(d) are in the possession or under the control of the person.

(68) Schedule 7, item 4, page 109 (line 14), after “an intention”, insert “to use force or violence”.

(69) Schedule 7, item 12, page 111 (line 11), omit subsection 80.2(2), substitute:

(2) Recklessness applies to the element of the offence under subsection (1) that it is:

(a) the Constitution; or

(b) the Government of the Commonwealth, a State or a Territory; or

(c) the lawful authority of the Government of the Commonwealth; that the first-mentioned person urges the other person to overthrow.

(70) Schedule 7, item 12, page 112 (lines 6 and 7), omit “, by any means whatever;”.

(71) Schedule 7, item 12, page 112 (lines 18 and 19), omit “, by any means whatever;”.

(72) Schedule 7, item 12, page 113 (line 29), at the end of subsection 80.3(1) (before the note), add:

; or (f) publishes in good faith a report or commentary about a matter of public interest.

(73) Schedule 10, item 4, page 133 (lines 25 to 31), omit the item, substitute:

4 After subsection 25(4B)

Insert:

Time period for retaining records and other things

(4C) A record or other thing retained as mentioned in paragraph (4)(d) or (4A)(c) may be retained:

(a) if returning the record or thing would be prejudicial to security—only until returning the record or thing would no longer be prejudicial to security; and

(b) otherwise—for only such time as is reasonable.

(74) Schedule 10, item 24, page 136 (lines 1 to 6), omit the item, substitute:

24 At the end of section 34N

Add:

(3) A record or other thing, or an item, retained as mentioned in paragraph (1)(a) or (c) may be retained:

(a) if returning the record, thing or item would be prejudicial to security—only until returning the record, thing or item would no longer be prejudicial to security; and

(b) otherwise—for only such time as is reasonable.

Mr RUDDOCK (Berowra—Attorney-General) (4.10 pm)—I move: That the amendments be agreed to.
The amendments passed by the Senate and presented to us for endorsement are based upon the government’s commitment to work constructively to ensure that our counter-terrorism legislation is improved, where it can be, but to do so in a way that does not detract from the objectives of the legislation. In this case, the amendments respond to recommendations by the Senate Legal and Constitutional Legislation Committee, to suggestions raised by other government members and, in some respects, to suggestions by the public more broadly, particularly those representing media interests.

The key features of the government’s amendments provide that a person in preventive detention must be informed that they have a right to put material to the AFP in relation to a preventive detention order and that any such material will be put before the issuing authority in the context of an application for a continued preventive detention order; clarify that an issuing officer will clear summary information; provide that young people between the ages of 16 years and 18 years must not be detained with adults; require that any questioning that takes place during a period of preventive detention is videotaped or audiotaped wherever practicable; clarify that the AFP must assist the detainee to choose and contact a lawyer and to have access to an interpreter if one is needed; require that the senior AFP officer notify the Ombudsman when a preventive detention order and a prohibited contact order are made and provide the Ombudsman with a copy and summary; specify that the Attorney-General’s annual report to parliament on preventive detention orders must include the number of orders voided or set aside by the AAT; clarify that the day of the hearing to confirm or vary or revoke a control order must be set as soon as reasonably practicable after the making of the order; clarify that reliance on hearsay evidence in proceedings for the grant of a continued control order is not permitted; specify that the issuing court will clear summary information provided about reasons for the control order; amend the definitions of ‘advocates’ and ‘praising of the doing of a terrorist act’ to require that the praise must be made with the intention of doing a terrorist act or in circumstances where it is likely to have the effect of creating a substantial risk of a terrorist act occurring; insert the phrase ‘by means of force or violence’ after the word ‘effect’ in the definition of ‘seditious intention’—this is a matter the opposition raised which I am pleased to respond to, and I should have mentioned it earlier—insert an additional ‘good faith’ defence in relation to publishers of material who act in good faith and in the public interest; and clarify that a warrant, once obtained, does not give ASIO the right to control confiscated material indefinitely.

A number of Senate recommendations address the role of the Commonwealth Ombudsman and the Inspector-General of Intelligence and Security. It is the government’s expectation that the Ombudsman’s role in overseeing the activities of the Australian Federal Police will extend to the exercise of powers by the AFP under this legislation. A range of powers are conferred on the Ombudsman to oversee the conduct of the Australian Federal Police by the Complaints (Australian Federal Police) Act 1981, including powers to conduct own-motion investigations, obtain information documents, examine witnesses and enter premises, and will apply to the conduct of the AFP under the provisions of this bill.

I mention these matters because the oversight of the Australian Federal Police is an important matter, but we are not specifically conferring powers in this bill because the powers already exist. The Prime Minister has written to his state and territory counterparts asking that, where state facilities are used to
detain a person under Commonwealth legislation, they consider providing entry to the Commonwealth Ombudsman. Similarly, the legislation strengthens ASIO’s existing powers. The Inspector-General of Intelligence and Security will provide independent assurance.

The Attorney-General’s guidelines in relation to the performance by ASIO of its function of obtaining intelligence in relation to security, issued by the director under section 8A(1) of the ASIO Act, include guidelines for the treatment of personal information. The guidelines are currently under review but we will consult with the inspector-general in relation to those matters.

We took the view that there would be a review of this matter after five years. The Prime Minister agreed and has written to the premiers suggesting that the COAG review should be informed by a wide range of expert views, that this should include the opportunity for public submissions and hearings, and that the existing review mechanisms for other security legislation, such as the Sheller committee, which is reviewing the Security Legislation Amendment (Terrorism) Act 2002, could inform that process.

I will speak again to deal briefly with the sedition issues, but I commend the amendments to the House.

Mr ANDREN (Calare) (4.15 pm)—Despite the changes proposed by the Senate, the Anti-Terrorism Bill (No. 2) 2005 is still condemned by the Law Council of Australia, the International Commission of Jurists and legal experts from across the land—yet here we are about to approve legislation the need for which the government has given no clear outline. I invite all members of this House who oppose all or part of this legislation to join me when I call a division at the end of this debate. I especially appeal to those who in the past 24 hours have made much of the sedition provisions. The Leader of the Opposition says the government is protecting itself, not the Australian people, with these sedition provisions. The member for Kingsford Smith has also railed against these provisions. Not only are our beds burning but so too are our most basic legal rights, such as freedom to protest and freedom of expression.

These provisions are unnecessary and they serve a political, not a security, purpose. We already have criminal and security laws that provide sufficient protection. The war on terror is not a war and we do not need war-like responses; it is an international policing campaign to root out those planning mass murder. To ramp up sedition laws and hold people in detention without charge for rolling two-week periods is to surrender freedoms we fought legitimate wars to defend. Such laws exploit fear and try to justify an illegitimate invasion to disinfect an illegal act, which is now about to be protected in sedition laws through the prosecution of those who would dare speak against it. We have already seen Scott Parkin deported for apparently inciting non-violent protest—just imagine a public campaign against the Iraq war as intense as that against the Vietnam War. These provisions are designed to ensure that that justifiable action of the sixties and seventies never happens again.

The Prime Minister’s contention that these sedition provisions have been in the Crimes Act for the last 50 years is disingenuous. As the Music Council of Australia made clear in an email sent to me: ‘There are provisions that never existed in our law and introduce an alternative element of recklessness.’ The MCA points out that there are six offences of sedition that have no link to force or violence and that the limited good faith provisions are not available to all associations. As well, the good faith provisions reverse the onus of proof. As I said, we already have laws that
are ripe for abuse without extending the powers of ASIO or state and federal police. The International Commission of Jurists has detailed recent raids on Sri Lankan Tamils in Melbourne, where innocent charitable donors have been caught up in attempts to find links between genuine tsunami aid and assistance to the Tamil Tigers. As with Fretilin in East Timor 30 years ago, someone’s freedom fighters are another’s terrorists.

Let me read to the House the words of one of my constituents, whose concerns are representative of the scores of messages I have received against this legislation from the electorate, with very few in support:

14 day detention without charge, house arrest 12 months or more and the lack of meaningful review by a court of these restrictions represent serious inroads into rights I and other Australians have come to enjoy.

Children between the ages of 16 and 18 can also be detained under the proposed laws. This flies in the face of the international standard that children should only be detained as a last resort. Rights to be presumed innocent, to a proper defence, and to be free from arbitrary detention as well as freedom of speech are all under threat. Importantly, we do not have a Bill of Rights to protect these rights and freedoms as other countries enjoy ...

Considering the government’s insistence on including these sedition provisions, as well as the continuation of detention without charge, the unjust control order regime, the absence of independent oversight, the refusal to sunset these laws at five years instead of 10 years, an inadequate five-year review—and that was the view of the Law Council as recently as half an hour ago—the flawed disclosure provisions, the unfair proceedings and the limited access to legal representation, and in the absence of an overarching bill of rights, I reject this bill and call on those of like mind to join me in the division.

Mr BEVIS (Brisbane) (4.19 pm)—The amendments before the House that were adopted by the Senate are a positive change to the legislation proposed by the government. Labor supports them; they do not, however, go far enough. They are based in large part on the bipartisan recommendations of the Senate committee, which had a very short time to review the Anti-Terrorism Bill (No. 2) 2005. Unfortunately, a number of key recommendations of that committee were not agreed to by the government in the Senate and are not before us at this time. They were, however, moved by Labor in the Senate. Regrettably, the government members in the Senate did not support their own recommendations, in some cases, or the proposals we put.

There is deep concern on the part of Labor about the provisions of schedule 7 dealing with sedition. In this House and in the Senate we sought to defeat the sedition provisions altogether. Labor has done all within its powers to remove the provisions on sedition from the bill before us. The government, for reasons best known to them, have insisted on maintaining flawed sedition provisions in this bill. The government know this bill is flawed in respect of sedition. They have already announced their intention to conduct an inquiry into these provisions after they pass into law, in a classic case of putting the cart before the horse. The proper process is clearly that a review of sedition laws should be undertaken and, following that review, consideration should be given by this parliament to any recommendations. But, no, this government have decided that they will pass legislation they know to be flawed and then conduct a review so that sometime next year we will again revisit this legislation.

Mr Price—It should be a parliamentary review.
Mr BEVIS—That is an absurd position and, as the Chief Opposition Whip reminds me, it should be a full parliamentary review with the opportunity for public involvement and transparency. That has not been afforded to the parliament; indeed, it has not been afforded to the government for such a review to occur. Perhaps the Attorney may like to explain why it is that he and so few others in his own government are committed to that course of action.

I remind the parliament of the bipartisan conclusions reached by the Senate committee in respect of sedition. Their report says:

The committee agrees with many of the concerns raised in relation to the sedition provisions. ... the committee agrees with the evidence received that the removal of Schedule 7 from this Bill, pending the review foreshadowed by the Attorney-General, would not weaken Australia’s anti-terrorist capacity ...

That is important. We need to understand that the bill before us contains two quite different areas of government policy—one dealing with our response to the terrorist threat and the other dealing with sedition. The sedition laws are not in any way needed to deal with the threat of terrorism. That is not just an assertion I make; it is a conclusion that a bipartisan committee of the Senate made. To this day, the government have failed to provide a shred of evidence, much less a substantive case, to demonstrate why the sedition laws are necessary—certainly why they are necessary in the immediate future—for us to be able to respond effectively as a nation to the threat which terrorism presents.

So we embark upon this folly at the insistence of the government. Having done all within our power, both in this chamber and in the Senate, to remove sedition from this bill, Labor have said from the outset that we accept that the agreement reached between the premiers and the Prime Minister is important and that there need to be revisions of our security laws in order to effectively deal with the terrorist threat. We are not willing to jeopardise the safety of Australians on the back of government belligerence and arrogance. We have therefore supported this bill in spite of our serious concerns in relation to sedition.

In conclusion, I want to thank those people who have been involved in making the improvements on what was terribly flawed legislation, known as the ‘Stanhope version’, as originally proposed by this government. My thanks go to the premiers; the Senate committee, who did a very good job in a short space of time; Senator Joseph Ludwig, who debated this legislation in the Senate with a great degree of skill; and the shadow Attorney-General, Nicola Roxon, whose involvement in this legislation has been pivotal and most helpful. I think it has all added to a better outcome for Australia.

Mr QUICK (Franklin) (4.24 pm)—On 5 October 2000, in a speech that I made in this House, I stated:

On the evening of Tuesday, 12 September 2000, my daughter and several of her friends, along with hundreds of others, gathered outside Crown Casino in Melbourne to peacefully demonstrate against the World Economic Forum meeting. The atmosphere among protesters was positive and non-violent. Into this peaceful scene at around 8 p.m. came riot police, armed with extra-long batons and wearing helmets and visors. ... The officers—the overwhelming majority without identification—launched themselves at the crowd and began to relentlessly beat and punch the protesters with fists and batons, aiming for their heads and faces. Mounted officers then attacked from behind, forcing protesters forward into the line of police who were armed with batons. Protesters who were forced to the ground were trampled by horses, police and other protesters. ... Many protesters were trapped in the crush caused by the police, and attempts to escape were met with further vio-
I went on to say:

[Premier] Bracks praised police for an ‘absolutely outstanding’ job on 12 September. What part did he find outstanding? The unannounced baton charge? The failure of police to wear identification? The inability of protestors to identify police and hold them accountable for their actions? The response to alleged individual acts of violence by protestors with violence against the demonstration as a whole?

The Anti-Terrorism Bill (No. 2) 2005 states, in section 105.41:

... A person (the parent/guardian) commits an offence if:

(a) the parent/guardian is a parent or a guardian of a person who is being detained under preventative detention order (the detainee); and

(c) While the detainee is being detained under the order, the parent/guardian discloses information of the kind referred to in paragraph (3)(b) to another parent or guardian of the detainee.

And it goes on to say that the penalty is imprisonment for five years. I can just imagine my daughter being arrested in a similar situation to the one that I mentioned, ringing my wife, Alma, at the Department of Health and Ageing and saying, ‘Alma, I have been arrested.’ I can imagine getting home from parliament and my wife is unable to tell me that my 20-year-old daughter, who has the courage of her convictions, is locked away in detention and she cannot tell me because the punishment for that is five years.

I would urge all members in this place to read a letter from an amazing person whom we all admire—Martin Luther King. In a Birmingham jail on 16 April 1963, he wrote:

One may ask: “How can you advocate breaking some laws and obeying others?” The answer lies in the fact that there are two types of laws: just and unjust. ... One has not only a legal but a moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws. I would agree with St. Augustine that “an unjust law is no law at all”

Now, what is the difference between the two? How does one determine whether a law is just or unjust? A just law is a man-made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law.

... Sometimes a law is just on its face and unjust in its application. For instance, I have been arrested on a charge of parading without a permit. Now, there is nothing wrong in having an ordinance which requires a permit for a parade. But such an ordinance becomes unjust when it is used to maintain segregation and to deny citizens the First Amendment privilege of peaceful assembly and protest.

I submit that an individual who breaks a law that conscience tells him is unjust and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for law.

This letter was written in response to the church. He went on to say:

In your statement you assert that our actions, even though peaceful, must be condemned because they precipitate violence. But is this a logical assertion? Isn’t this like condemning a robbed man because his possession of money precipitated the evil act of robbery? Isn’t this like condemning Socrates because his unswerving commitment to truth and his philosophical inquiries precipitated the act by the misguided populace in which they made him drink hemlock? Isn’t this like condemning Jesus because his unique God-consciousness and never-ceasing devotion to God’s will precipitated the evil act of crucifixion?

I, along with the honourable member who spoke previously, are the two people who have voted against this bill. This is an unjust bill and I totally oppose it. (Time expired)
Ms ROXON (Gellibrand) (4.29 pm)—
The member for Brisbane, Labor’s homeland security spokesperson, has already outlined our position on the Anti-Terrorism Bill (No. 2) 2005 and the sense of regret that we feel that it could be better than it is. He has taken us through some of the significant improvements that have been made through a Senate process that Labor argued long and hard for. The fact that there was a joint report at the end of the Senate committee process shows just how valuable following some proper process can be. How much more valuable it might have been if a proper amount of time had been allowed and if more of the recommendations had been taken up by the government we can only speculate on.

I am not going to go back over the ground that has already been gone over in the speeches on the second reading debate and in the contribution of the member for Brisbane today, but I think it is very important to put on the record that, whilst Labor are supporting the bill now in its amended form, there are a number of significant improvements that we think are needed. There is a significant issue that we will continue to fight for whenever the government stands up and says that our police, security services or law enforcement agencies need more power—that is that the granting of more power must always come with careful controls and oversight so that that power cannot be misused or abused. That is one of the issues that the member for Franklin and others have been trying to raise and we regard it as very significant. If you are going to grant, as this bill does, extraordinary powers that are not normal for the sort of democracy that we live in, you must be careful to ensure that safeguards are put in place. We are pleased that, despite their original intentions, the government have put in place a number of controls, particularly for judicial oversight, which give us much more comfort that the process will not be able to be lightly and easily used—or misused, for that matter, which is the greatest concern that there is.

We made very clear in our second reading amendment that we believe that the Inspector General of Intelligence and Security needs to have more resources to be able to do the job properly. We believe that the Federal Police needs to have some oversight or integrity body. It is extraordinary that as a Commonwealth agency it stands without any independent oversight body. I know that the government agree with that, because before the last election it was part of the government’s policy to establish such an oversight body. Although we have seen this legislation that we are debating today produced with great haste, it has been 18 months since the commitment was made by the government to introduce some sort of oversight body for the AFP, and we are yet to see even an exposure draft or legislation that would fulfil that commitment.

These issues are important to the balancing of the powers that are being granted today. We would like to have seen them as part of the package, but as they are not part of the package they are issues that we will continue to pursue. Whether it is today, tomorrow, in three months time, at the next election or the next time the government puts forward some other proposals, these are consistent measures that the Labor Party think need to be in place if you are going to give law enforcement agencies more power.

Another measure that we believe is central is the public interest monitor. The model that Queensland has in place seems to work well. We believe that you could use that as the starting point for introducing a similar system at the federal level. I am not meaning to labour the point, but I think this is very important: if you are going to give the Federal Police, ASIO and other agencies extensive
new powers that are going to be used in a way which is quite different to the way their other powers have been used in our criminal system to date, then it is appropriate to make sure that there are some checks and balances in place and some sort of independent oversight—a place where people can complain if they believe that the powers have been misused or if they think that there are systematic problems. I believe we have been very lucky to date in having had a pretty high standard of integrity within our law enforcement agencies, but we would not like to see people and agencies granted a lot of new power with there being no mechanism for the public to feel confident that there was some check on that power except one that relied on just politicians or the heads of the agencies themselves.

One of the critical matters that also goes to that is that we are very disappointed that the government have not picked up a three-monthly reporting time frame for the use of these new powers. We do not think it is too onerous for the Attorney-General to report to the parliament and tell us how often the control orders or the preventative detention orders are being used. It is done in the UK, and it should be picked up here. (Time expired)

Mr RUDDOCK (Berowra—Attorney-General) (4.34 pm)—I will not deal with all of the points made on the Anti-Terrorism Bill (No. 2) 2005, but I will deal with some of them. I think the member for Calare has fallen for the argument that is advanced by members of my profession that, essentially, there is only one way in which you can deal with the present risks that we face, and that is to deal with them in the traditional way in which you deal with breaches of our law—that is, you wait until somebody has committed an offence, you investigate that offence, you consider whether the evidence is sufficient to be able to charge and convict a person with the burden of proof being beyond reasonable doubt and you proceed to deal with the issues in that way.

The government came to a view some time ago that in the present situation that traditional way of dealing with issues is no longer appropriate and that control orders and preventive detention were mechanisms that we needed and which had been seen as appropriate in the experience of the United Kingdom, which has already had terrorist bombings. You either accept that or you do not. If you are of the view, as Mr North from the Law Council of Australia is, that nothing like that could happen here, you would stand aside and wait. We came to a view that that was not appropriate.

I was glad the member for Gellibrand qualified her comments in relation to the Australian Federal Police, because I think that it is an organisation that is extraordinarily competent. You can see that in some of the investigations that it has undertaken offshore. I think it is an organisation of integrity. The reason we have not proceeded with any particular urgency is that there are no substantial complaints made about our police that warrant those sorts of investigations.

The only other matter I want to deal with is the sedition matters. There has been a good deal of misinformation circulated about the sedition provisions. I have noticed that many commentators have suggested a trend in some other countries away from so-called sedition offences. It is certainly the case that in some countries they have moved away from calling offences dealing with the issues that we are dealing with ‘sedition’. That may well be an approach that we will take in the context of the review that we are undertaking. But it is important to understand that the substance of the offences that would be removed from our statute books were schedule 7 and existing provisions to be removed
would fly against the trend of what has happened elsewhere.

For instance, in the United Kingdom the proposed encouragement, inducement and dissemination of terrorist publications offences address sedition. On 6 October 2005, a report of the independent reviewer of changes to the law against terrorism in the United Kingdom, Lord Carlile of Berriew QC, concluded:

In my view this proposal in its revised form is a proportionate response to the real and present danger of young radically minded people being persuaded towards terrorism by apparently authoritative tracts wrapped in a religious or quasi-religious context. The balance between the greater public good and the limitation on the freedom to publish is no more offended by this proposal than it would be by, say, an instruction manual for credit card fraud were such to be published. I believe that it is Human Rights Act compatible.

The Canadian Criminal Code for sedition offences, like Australian provisions, includes a good faith defence, but, unlike Australia, it provides a maximum penalty of 14 years.

Section 3 of article III of the Constitution of the United States defines treason as including:

... adhering to their Enemies—

of the United States—

giving them Aid and Comfort.

The US criminal code includes an offence of seditious conspiracy as well as an offence of advocating the overthrow of the government, an offence with similar elements to aspects of the sedition offence in Australia. Therefore the claim that sedition is no longer an offence in other Western democracies appears to be incorrect.

But I make the point that we are intent on ensuring that the way in which this has been misrepresented will not be able to continue. The offences will deal with people who, in the words of the act proposed, urge ‘another person to overthrow by force or violence’ the Constitution of Australia and a series of other things that follow. If the Labor Party are seriously saying that those measures should not be in the law, let them state it clearly, because that seems to be the position they are taking. We will be issuing a reference to the Australian Law Reform Commission. (Time expired)

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

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

The DEPUTY SPEAKER—As there are fewer than five members on the side for the noes in this division, I declare the question resolved in the affirmative. In accordance with standing order 127, the names of those members who are in the minority will be recorded in the Votes and Proceedings.

TAX LAWS AMENDMENT (LOSS RECOUPMENT RULES AND OTHER MEASURES) BILL 2005

Consideration of Senate Message

Bill returned from the Senate with an amendment.

Ordered that the amendment be considered immediately.

Senate’s amendment—

(1) Schedule 5, item 20, page 105 (lines 29 and 30), omit “the day on which this Schedule commences”, substitute “1 July 2004”.

Mr BROUGH (Longman—Minister for Revenue and Assistant Treasurer) (4.46 pm)—I move:

That the amendment be agreed to.

Schedule 5 allows employee share scheme participants in certain circumstances to treat the new shares or rights that they are issued in the event of a corporate restructure as a continuation of their old share rights. Following the introduction of the Tax Laws
Amendment (Loss Recoupment Rules and Other Measures) Bill 2005 into the House of Representatives the government was made aware of taxpayers who would be unable to benefit from these changes if the date of effect remained on or after royal assent. Accordingly the government has changed the date of effect to 1 July 2004 so as not to disadvantage and to provide the benefit from this measure to these particular taxpayers. It also aligns with the start date of other recent changes to the employee share scheme provisions relating to corporate restructures. Schedule 5 of the bill ensures that a taxing point does not arise for employee share scheme participants in the event of a corporate restructure. It also ensures continuity of treatment for capital gains tax purposes.

Whilst speaking to this amendment and noting that this bill passed the other place earlier today, I take this opportunity to say that I announced by press release today that, having had consultation with many industry players and following the deliberations of the Senate committee that the issue of the same business test is not fulfilling its purpose in the way that some industry groups would prefer, I have undertaken to revisit that in the new year. Rather than pull the bill in its entirety and resubmit it in the new year, the clear advice from industry was that they would like to see passed the many very positive measures contained in the bill to give certainty to industry. Always wishing to do the best thing that we can to increase the productivity of the nation through effective consultation and implementation of effective taxation legislation, I have agreed to that. Hence we will be meeting with industry in the new year to facilitate, if at all possible, clarifications and improvements to the same business test which will give the clarity that business groups are seeking.

Mr FITZGIBBON (Hunter) (4.49 pm)—This is the mother of all Brough-ups. While the opposition supported the thrust of the Tax Laws Amendment (Loss Recoupment Rules and Other Measures) Bill 2005 the last time it was in this place, we are tempted on this occasion to oppose it. What the Minister for Revenue and Assistant Treasurer has just told the House is that, just as was the case with the sedition laws, the government is going to pass this important piece of legislation and then fix the Brough-ups after the event. So the business community is going to get new law as it relates to tax losses, the goalposts are going to move when this bill receives royal assent and then, some months down the track, the government is proposing to change the goalposts once again following a review that the Minister for Revenue and Assistant Treasurer, who is at the table, announced some 10 minutes ago. So let us review what happened here.

The government put forward a bill and the opposition was very quick to point out the bill was flawed. So we moved an amendment in the Senate to try to improve the bill. The amendment related to the threshold and the same business test. The government chose to vote that amendment down. In the interim, it appears that the minister, unsurprisingly, has had some very heavy lobbying from the sectors that are going to be adversely affected by this bill. But rather than pull the bill—which is probably what he should do—and go back and fix it, he is proposing to let it pass the parliament and have a review for a few months. We do not know any of the details of the review. We do not know who is going to head the review, who is going to be involved in the review or what opportunity industry is going to have to make input into the review. He is going to pass the bill, have the review and move the goalposts on industry somewhere down the track.

We have been saying for weeks now that this bill is flawed. The Assistant Treasurer
and Minister for Revenue has had every opportunity to fix the bill—

Mr Brough—How is it flawed?

Mr FITZGIBBON—but rather than fix it he is going to let it pass, have a review and fix it somewhere down the track. I take the interjection from the minister at the table. He said, ‘How is it flawed?’ Well, it is flawed in a number of ways. The key issue here is for industry—industry that relies on certainty in these provisions to make its investment decisions. This is creating huge uncertainty for them. The changes you are making, Minister, to the same business test are going to lock many out of the opportunity to claim these losses.

Mr Brough interjecting—

Mr FITZGIBBON—You are making changes.

Mr Brough—We’re not making any changes to the same business test.

Mr FITZGIBBON—The minister says he is not making any changes to the same business test. That is not true. In fact, the industry came to him for changes to the continuity of ownership test and, as a quid pro quo, he decided he would fiddle with the same business test. That is what happened, Minister. The industry has been telling you ever since that that will make it impossible for some sectors to access the recoupment of those losses, and that is going to have enormous adverse consequences for investment in particular industries, like the mining industry, where we have a crisis in mineral exploration and, of course, in a number of areas of venture capital.

My challenge to the minister at the table today, Minister Brough, is to forget about the review and to get the legislation right in the first place. We would have liked him to get the legislation right prior to the introduction of the bill—we would not have found it necessary to move amendments in the Senate and we would not be back here today still debating the bill. The right way to do these things, Minister, is to design the bill right in the first place. If the Senate demonstrates clearly to you, and the industry groups in the interim demonstrate clearly to you, that the bill is basically flawed, then pull the bill and go back and have another go at it. Let us not have this folly of letting a bill pass the parliament, having a review and then having another bill to fix the original flaws in the bill.

Already these changes are causing uncertainty for industry. Mr Deputy Speaker, can you imagine a business that has been planning its future on the basis that it would have access to these losses? Now it is going to have to contend with the fact that, after the passage of this flawed bill, those losses are not going to be available to them. They will also be asking themselves: what will be the situation in six or 12 months time, when the minister has had his review and decided that there is a better way of doing this? Minister, my challenge to you is to pull the bill. I know that industry is pretty keen to get the continuity of ownership test changed pretty quickly, but it is just not worth it. Just admit that you have it wrong, pull the bill, go back and have another go and we will be happy to support it if you get it right next time.

Mr BROUGH (Longman—Minister for Revenue and Assistant Treasurer) (4.54 pm)—Unfortunately, the member for Hunter clearly does not understand some of the complexities of these issues. This is nothing new; we deal with this with most of the bills that we put forward. The reality here is that there were no changes proposed to the same business test; there was a threshold to be introduced.

Let me explain for the member for Hunter’s benefit. A business with a cap ex of
over $100 million is quite clearly going to find it very difficult to meet the same ownership test. We have made that more liberal, which has been recognised and welcomed by the industry, so that we are preventing the tax minimisation of trading in losses but at the same time freeing up the provision of this particular schedule to ensure that businesses can continue to operate and gain the benefit from the measure.

The same business test is in place; it has not changed. As a result of the Senate committee’s work, business came back to me and said, ‘It’s not the issue of the $100 million because, whilst we’d like that removed’—and that is readily understood—‘the real issue for us is that the same business test has not worked as well as we believe it could.’ Under those circumstances, because this is a government that does listen to business, that does try to create laws that work in the best interests of the economy and businesses in general, we have undertaken to do two things—firstly, to give them the certainty that they have requested. I thank both the department and the industry for the work they did in the lead-up to this bill, in getting the continuity of ownership test right, which has been very welcomed by industry.

But in the area of the same business test, rather than it being an issue of a threshold, it is an issue of the way it has always applied. They would like to see whether or not—I make this very clear to the House—it is possible in law to ensure that it meets the objectives that we in government have and that business also adheres to. It may not be possible—but, being responsive, we have said that we will listen, we will negotiate and consult with business in the hope that we can provide an even better piece of legislation. But we will not deny them the certainty that this bill provides in relation to losses, in particular in relation to the continuity of ownership test.

The other measure that we were referring to here is an amendment that does not relate to the discussion we are currently having. I take it that the member for Hunter has no objection to that particular amendment.

Mr FITZGIBBON (Hunter) (4.58 pm)—I indicate that the opposition does support the amendment and the effect it gives to the protection of employee benefit schemes. But I am absolutely amazed. It is not a week for giving any credit to the Treasurer in this place, because we have seen the extent of his laziness, slowness and incompetence this week, but I did call upon him on Monday or Tuesday to intervene on his junior minister, to pull him into line to do something about the flaws contained within this bill. It seems that the Treasurer has intervened in the issue—but he has not intervened successfully, because a review after the passage of the legislation is simply not good enough.

The minister came to the dispatch box after my contribution and said that there is no change to the same business test. I was flabbergasted. I was not sure what to say. I thought I must have been wrong. I could not believe that a minister of the Crown could make such an incorrect statement. I thought I must have been wrong. So I ran back to the EM to double-check. On page 98 of the EM there is a big heading: ‘Modifications to the same business test’. There is a threshold introduced to the same business test. This is the major concern to the industry. This is the provision that the sector is concerned will deny them access to the recoupment of losses. This is the change, Minister.

The opposition is not alone on this question. We sent this, sensibly—we have certainly been vindicated on this basis now—to a Senate committee. Guess what? The Senate committee unanimously agreed with the opposition that the bill is basically flawed, particularly as it relates to the same business
test. I am sure that Senator Watson and Senator Brandis would have been aghast when, this morning, the government members and others voted down their Senate committee proposition. I bet they will be even more aghast this afternoon to learn that the minister proposes to let the bill pass through both houses of parliament and to have a review, with submissions closing in January, which will possibly have some impact—the minister was not very succinct about that—on budget deliberations.

The sector is in no-man’s-land. They will have a bill go through that they know is absolutely flawed. It will impose great uncertainty on a number of sectors—indeed, on the business community generally. Worse than that, they will be waiting for the review and wondering whether in May 2006 there will be further changes. How do you plan a business in that sort of environment? How do you plan your investment decisions when you do not know what the recoupment of losses rules will be in six months time? In my view, there is no urgency to this bill, even though I know the sector is keen to get the continuity of ownership test through sooner rather than later. Can I say that it would be much better, Minister, to get this bill right so that, at the very least, the business community is not dealing with the uncertainty involved in dealing with a tax change in a very complex area—there will be retrospective effects here in the sense of business planning. Businesses were planning two or three years ago and had an expectation that, in 2005-06, losses might be available to them. So they are not sure about that anymore, and they certainly will not be sure about it when this legislation passes. They will be wondering what will happen post the review or, indeed, whether anything will happen at all.

I give this advice to the business community: I would not be taking it for granted that, because the government will have a review, there will be some changes around budget time next year. Already the government has been highly embarrassed on this. Already government senators on that committee have agreed that this bill is basically flawed. But they should not think that the political backdown today as a result of the Treasurer’s intervention gives them any assurance whatsoever that around budget time next year they will have the flaws in this bill redressed.

Minister, I appeal to you again—you have the capacity to do it: take your bill away, with our support. Take the bill back and draft it correctly this time, and consult the industry properly this time, before the event not after it. Take it away and we will support you to do so. But if you will not, Minister, (Extension of time granted) then, in the short time available to us, we will have to seriously consider how we deal with this bill in the Senate. So go away and talk to the industry. Pull the bill and talk to your colleagues. Talk to the Treasurer, because he is obviously the one who has been expressing concern. They have obviously been on the phone to him, over your head, urging him to intervene. We appreciate his intervention but it has not been enough. The industry will not be fooled by a committee after the event. They will not pin too much hope on any relief as a result of your committee, which you think will get you through this political crisis at this point in time.

Minister, you are hoping that the budget issues more widely next year will overcloud this. You want to wash this under the carpet now by promising a review. You know that, by budget time next year, there will be much more happening and so many other announcements around that this will be lost in the cloud of other political events. My proposition is that that is the government’s plan. The industry and those representing these industries should be aware that that is
the plan. I simply appeal to the Minister for Revenue and Assistant Treasurer once again: pull the bill. Go back and do it properly this time, and consult the industry properly this time. Bring the bill back in a proper form and the opposition will be happy to support you.

Mr BROUGH (Longman—Minister for Revenue and Assistant Treasurer) (5.03 pm)—The member for Hunter has a very fertile imagination. I suggest to him that he use the time between now and when the bill gets to the Senate to ring industry. I am sure that will ensure that this bill will pass in the way that it currently stands in the Senate. It would be a loss to Australian industry and a loss to the Australian economy through the bloody-minded attitude of the member for Hunter if that were not to occur. I feel that, being a reasonable man, other than the blown-up rhetoric we hear in here he will see that good commonsense will prevail and he will ensure that commonsense prevails in the other place and the bill will in fact pass. I have confidence.

Mr FITZGIBBON (Hunter) (5.04 pm)—I am happy to consult with industry; indeed, I have been. In fact they have been ringing me ad nauseam. I am not going to name them, because I know how this government operates. They will be punished for the rest of the term of this government for being so recalcitrant and for speaking out against the government. We are almost living in a police state these days. No-one speaks out against the Howard government so I am not going to name them, Minister, but they have been on the phone to me. They know there is a proposed change to the small business test. They know it will disadvantage them and they know it will create great uncertainty in the business community. They know something else, Minister: they cannot take the word of this government on this idea of, ‘Don’t worry about the flawed bill. We’ll have a review and fix it around budget time.’ That is not the way to run a government. If you have a flawed bill, you pull it and you go and fix it. You do not pass legislation through this place which you have conceded is flawed and say that you will fix it after the event. I know the government has form on this issue, because that is exactly what it did with the sedition offences in the antiterrorism legislation, as you know only too well, Mr Deputy Speaker.

So let us summarise: the minister brings in a flawed bill. He is determined to get it through in its current form—so determined that he leaks it to the Australian Financial Review to try to lock his team into place. Then, at my request—and I am happy to claim the credit—the Treasurer intervenes and says: ‘Look, Mal, you’ve got all of our members on the Senate committee voting against this bill. This bill is flawed. You have the front page of the Financial Review—I don’t know where that came from, but we just can’t proceed with this in a political sense. What we could do is tell them that we’ll have a review after and tell them we’ll fix it in the budget next year.’ And the minister expects, of course, that the industry should take them at face value. They are not taking you at face value, Minister, because I have spoken to some industry representatives since your one-minute-to-midnight media release this afternoon, and they are far from satisfied with what you are promising them. I can tell you that they are absolutely amazed that any government of any political persuasion would, twice in the space of a couple of weeks, admit that their own bill is flawed and push it through the parliament anyway on a promise to fix it after the event.

The Governor-General of this country does not deny a bill when it comes before him—that has been a tradition in this country for a long time—but he must be starting to think about it. When he is continually reading in the papers that the legislature is pass-
ing bills which, by its own admission, are basically flawed, he must be getting out the Constitution to check on his powers and thinking about whether it is appropriate for him to give royal assent to these pieces of legislation.

Minister, you have admitted you are wrong, but concede that it is just not bright to pass legislation and promise to fix it later. Pull the bill. The opposition will be happy to cooperate and do everything in its power to expedite the passage of the new legislation when you bring it forward—that is, of course, on the assumption that next time you get it right.

Mr BROUGH (Longman—Minister for Revenue and Assistant Treasurer) (5.07 pm)—This is not a flawed bill. No matter how many times the member for Hunter wants to get up here and use that sort of terminology, this is a solid piece of legislation. What I have undertaken to do is to take that forward as it is and have it passed into law so as to give assurance to industry that that is in place and for them to act upon. In the event that industry is able to work with Treasury to come up with an improvement to the same business test then that will be considered. I make it very clear: that will be considered. There is no suggestion that the government is putting forward a bill that is flawed or that is leaving open revenue holes—that there is leakage or anything of the sort. While we are on leaks, unless the member for Hunter has missed something, a Senate committee gave a public report and, glory be, the Financial Review actually gave notice to that on the front page of the paper. Far from it being a leak, it was just the reporting of a public hearing. The member for Hunter may be unaware of those facts, but here are the facts: there is no flawed bill, and I am undertaking to work with industry to see whether we can make improvements to the same business test. It is no fait accompli that that is possible, but in the interest—

Mr Fitzgibbon—Ah, the caveat.

Mr BROUGH—I have stated from the moment I stood up here that I always stand ready to listen to business. But I can give them no assurance, because the business representatives have been unable to this point to come up with a workable solution that will improve the same business test and also protect the integrity of the revenue base in relation to this issue. I will always listen to business. I have a track record of listening to business, and I will continue to do that, regardless of the comments being made by the member for Hunter.

Mr FITZGIBBON (Hunter) (5.09 pm)—The minister has just conceded that this is a political stunt. He has just sent a clear message to the industry not to expect any change. He says: ‘This is not a fait accompli. Don’t expect change. This is my little manoeuvre to push this aside as a political issue until such time as we can bury it under the excitement surrounding the size of the Commonwealth budget.’ That is what he is proposing. When he returned to the table, he said this—

Mr Slipper—Mr Deputy Speaker, I rise on a point of order. My understanding of the standing orders is that it is a breach of the standing orders to be guilty of tedious repetition. The member for Hunter is clearly guilty of that parliamentary offence.

The DEPUTY SPEAKER (Mr Jenkins)—The honourable member will resume his seat.

Mr FITZGIBBON—I am very pleased the member for Fisher has turned up to undertake his speaking obligations today, unlike on the last occasion when he failed to take the opportunity to defend the small business community. What the minister told the House was this: ‘This is all about ensuring
that businesses have access to the small business test until we can make it better.’ They have access to the small business test now. The minister is trying to make their access to the small business test more difficult. What the minister is saying is: ‘Rather than give them access to the current scheme, we will change it when this gets royal assent in a couple of weeks time.’ But then his half promise is: ‘We’ll change it again in six months time.’

I simply say to the minister: ‘Leave the small business test as it is.’ It has been operating happily for a long time now. I am not saying it is perfect—and we are happy to talk about improvements—but do not change it and then change it again, Minister. Change the continuity of ownership test, leave the same business test alone and promise them the review. Then, instead of having two changes, they will have only one change. At the moment they are living under the current same business test, for six months they are going to live under the new same business test, with the hope, on a wing and a prayer, that after next year’s budget they are going to have another same business test.

I ask the minister: ‘What is the point in changing the small business test now if it is his genuine intention to change it again at budget time next year?’ Minister, it makes absolutely no sense whatsoever. Next time you get to your feet, you should give us the real explanation. Is it because you simply are not prepared to swallow your pride and back right down, or is there another event in operation here that we do not know about? You really need to explain the point of changing something now and changing it again in six months time—which, as I have said, will create enormous uncertainty, paperwork, compliance et cetera for the business community. Pull the bill. We will be happy to help you this time around.

Question agreed to.

HIGHER EDUCATION LEGISLATION AMENDMENT (2005 MEASURES No. 3) BILL 2005

Second Reading

Debate resumed.

The DEPUTY SPEAKER—The original question was that this bill be now read a second time. During the member for Jagajaga’s contribution, she moved an amendment. Is the amendment seconded?

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

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

Mr SLIPPER (Fisher) (5.14 pm)—I am pleased to rise in the House today to speak on the Higher Education Legislation Amendment (2005 Measures No. 3) Bill 2005. I was interested to hear the member for Hunter, when speaking on the prior bill, somehow suggest that the Governor-General ought to have an unfettered right to either grant or withhold royal assent to legislation passed by this parliament. I believe the member for Hunter is probably a republican, and I find it quite an interesting proposition that he would want the Governor-General to have that unfettered right.

The DEPUTY SPEAKER (Mr Jenkins)—The chair should probably have reminded the member for Hunter about standing order 88. I now remind the member for Fisher about standing order 88, but I cannot be too savage to him, given that I was lenient to the member for Hunter.
Mr SLIPPER—I did not want to reflect on anyone. I wanted to comment on the rather bizarre turnaround by your colleague the honourable member for Hunter.

The DEPUTY SPEAKER—The chair is neutral when in the chair.

Mr SLIPPER—I accept that, Mr Deputy Speaker Jenkins. You are certainly one of the better Labor occupants I have seen occupy that high office.

The DEPUTY SPEAKER—I think I have told the honourable member for Fisher before that flattery might not get him too far.

Mr SLIPPER—I am always happy to compliment the member for Scullin; I know that he makes a very worthwhile contribution. However, my contribution today is in relation to the Higher Education Legislation Amendment (2005 Measures No. 3) Bill 2005. I think most people would be relieved to know that Australian universities at last are starting to gear up more and more to become more competitive in the international tertiary education marketplace. Like other honourable members, I was concerned to see the ratings lists of international universities and to find that, until recently, no Australian university appeared in the top 20 and only one or two appeared in the top 50. I understand that this is changing somewhat and the University of Melbourne has received international recognition and other Australian universities are also now being seen as world-class tertiary institutions.

The fact that our institutions are becoming more competitive is a significant development in our tertiary sector. Large numbers of overseas students make the pilgrimage to our Australian institutions to get their tertiary qualifications and to do that in a society that is relaxed and comfortable and relatively safe compared with other global hot spots. I think most people in the community accept that international students bring significant overseas income into our country, and that is a good thing. In addition, they build linkages between their countries of origin and this country. When one sees the large number of alumni of Australian universities back in their home countries occupying positions of influence, authority and power, one realises that this has assisted our nation to become more accepted in our part of the world, and I think that is a very good thing.

In 2000, there were 182,000 students from overseas who were studying at Australian universities. Of those, 150,000 were onshore students and 56 per cent—that is, 102,000—were studying tertiary degrees. Around 31,000, or 17 per cent, were enrolled at technical institutions and colleges. They were the figures in 2000 and no doubt those figures have substantially increased between 2000 and 2005. The provisions of the Higher Education Legislation Amendment (2005 Measures No. 3) Bill strive to encourage further the ongoing development of this lucrative industry, an industry that is not only lucrative for our education sector but also lucrative as far as Australia’s international place in the world is concerned and the understanding we have with people in other parts of the globe.

While the traditional markets for international tertiary students are Singapore, Malaysia, Hong Kong and Indonesia, students are now coming in greater numbers from North and South America, Africa, Europe, Bangladesh and the Philippines. All these students from all these nations are contributing very substantially to the national health of the nation of Australia.

The Higher Education Legislation Amendment (2005 Measures No. 3) Bill builds on the achievements of Australian universities in developing tertiary education as an important export earner. This bill will help to improve the legislative systems in place to guide the operation of Australia’s
higher education sector. One of the most important modifications suggested by this bill will be the strengthening of accountability arrangements set out in the Higher Education Support Act 2003. These arrangements, as they are, are designed to give tertiary students the confidence that their institution has administrative structures in position that are fair and transparent.

Reforms of the higher education sector in recent years have encouraged institutions to set themselves apart from other universities, to market themselves as unique and to focus on achieving positive improvements in the areas of learning outcomes, teaching, workplace productivity, collaboration with other institutions and, most importantly, equity. The bill will also ensure that these institutions are accountable for their outcomes in these areas. The provisions in the bill embrace the ideas of fairness and transparency when it comes to the selection of students, and this reflects Australian government policy. The bill also ensures that the selection criteria used by the institutions for students are fair and reasonable in the providers’ view and, most importantly, they must be based on merit.

The Higher Education Legislation Amendment (2005 Measures No. 3) Bill also embodies the power for the minister to be able to request an audit of certain tertiary institutions to determine if they are complying with requirements under the act for financial viability, fairness, compliance and contribution, and fee requirements. I think that is really important, because in 2005 we expect our tertiary institutions to dot the i’s and cross the t’s and to fully observe the law. The ability being given by this bill to the minister to request an audit is a very important safeguard. The fact that the minister has the ability to request an audit will probably ensure that these audits will not be regularly necessary, because the institutions will know that they are being watched very closely.

This bill will not only give potential students the perception of attending an upstanding institution. It will also put in place a stricter requirement and ministerial powers to ensure that our universities continue to improve in the areas of both student and administrative outcomes. This will help us to boost further the real international attractiveness of our institutions, thereby increasing the number of international students who consider making the institution of their choice an Australian institution.

This is an important bill. The government is not minded to accept the amendment moved by the opposition, but that is probably no surprise to the opposition. We certainly would not want to give the shadow minister a Christmas present at this point, particularly when her request for such a Christmas gift is so fatally flawed. I commend the Higher Education Legislation Amendment (2005 Measures No. 3) Bill 2005 to the House.

Ms LIVERMORE (Capricornia) (5.22 pm)—The Higher Education Legislation Amendment (2005 Measures No. 3) Bill 2005 provides for mostly technical changes to the government’s principal Higher Education Support Act. Notwithstanding the technical nature of this bill, it cannot be seen in isolation from the government’s broader higher education policy and all that is wrong with this government’s education policy. This bill is one more product of this government’s reactionary and incoherent education policy framework. Those problems are listed in the second reading amendment moved by the shadow minister. They include things like the failure to adequately fund higher education, the massive increases in HECS debts facing most students and the introduction of $100,000-plus degrees in this country. Paragraph 4 of the motion sums it up when it
condemns the government for ‘pushing Australian universities further down an American style user pays university system’. That is certainly the case.

Of course, the other product of the government’s irrational and incoherent approach to higher education is the bill that passed through the House earlier today—the voluntary student unionism bill. You could not get a better example of the minister’s misplaced priorities than the effort he has put into that particular ideological obsession over the past 12 months or so. Instead of addressing the real challenges facing universities in Australia, the minister has been stuck fighting the old battles of the seventies. In his determination to pay back student unions for their activities some 30 years ago—and of course to bolster his credentials for the Liberal Party’s leadership race—the minister’s VSU law will close down the essential services that students rely on at campuses right around Australia, particularly at regional universities like Central Queensland University in my electorate.

Back to the bill. As I said at the start, we have to consider this bill in light of the government’s overall record in higher education. Before I address some of the specific measures of this bill, I would like to briefly outline what this government has done—or perhaps, more accurately, has not done—for Australia’s higher education sector over the past nine years. Perhaps the most worrying aspect of this government’s incoherent education policy is its absolute refusal to properly fund higher education, despite the role of education in creating a skilled, innovative and productive nation.

The minister for education throws around figures about the funding he has poured into the higher education sector. For example, he claims that over the past nine years the sector has received an increase of $4.4 billion and that funding per student has never dropped. The only problem is that the minister’s own department cannot even back him up on those figures. The unfortunate situation and the reality is that, since coming to office nine years ago, this government has slashed a massive $5 billion from our universities and funding per student has dropped by six per cent. The shameful truth is that Australia is the only OECD country to have significantly reduced public funding to our universities, while increasingly relying on private funding to prop our university system up.

It is interesting that the member speaking earlier was referring to the international rankings of universities, which are becoming more and more important for our universities’ viability, particularly in attracting international students, who now constitute a $6 billion a year export industry in Australia. I am not sure how the government expects that record and those rankings of our universities to hold up without appropriate support from the government through proper funding of universities. This government has not invested in Australia’s higher education sector. In fact it has failed to invest in Australia’s future. How can the minister for education keep a straight face when he talks about investing in Australia’s future when he has personally seen funding slashed so significantly from our universities?

Another very concerning aspect of this government’s education policy is its continual refusal to address the problem of inadequate indexation for our universities? Inadequate indexation has been a persistent and very legitimate concern of the Australian Vice-Chancellors’ Committee. The indexation formula that this government persists in using to calculate government university grants is grossly inadequate. It fails to compensate for the very real increases in the cost of providing quality education.
Unfortunately, this inadequate indexation of grants has led to significant problems in Australia’s higher education sector. One obvious consequence is that an extraordinary amount of financial pressure has been put on Australian universities. For example, the New South Wales Auditor-General released a report in May this year that revealed a deterioration in the financial status of universities in that state. The report revealed that around half of the universities in New South Wales were in deficit and some in serious deficit. How did the minister for education respond to these alarming findings? The minister has still refused to revise the indexation formula, even after the mounting evidence of the pressure that this is putting on our universities and the real threat that it poses to quality in our university system.

Australian universities have had little choice but to pass on the increasing costs of getting a tertiary education to students and their families. Under Labor, the introduction of the HECS scheme provided a fair and affordable way for Australia’s students to access a university education while making a partial contribution towards the cost of their education through the taxation system once they had graduated. However, HECS under the Howard government is unrecognisable. After squeezing universities for years, the Howard government gave them the option of charging a premium on HECS fees, and guess what? Most of them took that option—or, you would have to say, were forced into that option.

So most Australian university students have been faced with a 25 per cent increase in their HECS debts. We have witnessed almost every one of the 38 universities being forced to increase their fees through the HECS scheme just to stay financially viable. As Professor Peter Sheehan, the National Vice-Chancellor of the Australian Catholic University, said in a media statement at the time of its decision on HECS:

With the absence of full indexation of the government grant we have been faced with no other choice but to increase HECS in line with the majority of Australian universities.

In these circumstances, the minister has also allowed universities to charge up-front fees for courses and, not surprisingly, after nine long years of inadequate funding many of them have opted for that. So now we have Australian university courses costing students over $100,000. I will give the House just a couple of examples. Veterinary science at the University of Sydney will now set you back $147,600, while a degree in physiotherapy at the University of Queensland now costs a staggering $112,000. So much for the government’s promise to the Australian public that no university degree in Australia would ever cost over $100,000.

What we have seen over the past nine long years is not an investment in Australia’s future; what we have seen is a climb in the cost of getting an education in this country, which has put it beyond the reach of ordinary Australians. The government is sending the message loud and clear to Australians that a tertiary education equates with high fees and large debts. The message is that higher education is a privilege to be enjoyed by the wealthy, rather than an opportunity that is available to all on the basis of merit. It is a message sent by a government that is out of touch with the educational needs and aspirations of Australians and out of touch with the financial burdens that are being placed on Australian families.

It was only a few months ago that the minister for education made it very clear where this government stood on matters of equal opportunity in relation to higher education. When asked by ABC’s Four Corners program if he thought a university education
was a privilege, the minister for education responded:

I think that it’s a privilege.

This is a very worrying attitude to be displayed by the minister for education. On this side of the House, we believe that everyone should be able to access a quality and affordable education at all levels. Every Australian should be able to access a tertiary level education, not just the privileged few, as the minister for education would argue.

It is obvious that the message from this government that higher education is not for everyone but only for the wealthy is getting through. Just a few weeks ago we saw another drop in the number of Australians applying for a university place. Domestic enrolments dropped for only the second time in the past 50 years. The most dramatic falls were in regional areas like my electorate of Capricornia, where the Central Queensland University has 15 per cent fewer students applying for its courses in 2006. I wonder where my region of Central Queensland is going to get its nurses, its engineers, its teachers, its scientists and its researchers if that trend continues. We need to be training and qualifying people right in our region to do the jobs that are required. At a time when our neighbours and competitors in Asia are investing heavily in education and encouraging people to increase their skills and qualifications, our government is doing just the opposite. By making tertiary degrees unaffordable for so many in the community, the government’s policies are discouraging people from furthering their education.

While the opposition will not stand in the way of the various minor and technical elements of this bill, there are two particular clauses that are cause for concern, and I assure the House that the opposition will be watching the effects of these clauses very closely. The first area of concern is the fairness requirements outlined in schedule 2 of the act. The bill intends to insert the word ‘reasonable’ into the act so that the act will read that the provider:

... must have open, fair and transparent procedures that, in the provider’s reasonable view, are based on merit for making decisions about the selection of students who are to benefit from the grant, allocation, or payment.

Our concern is that the insertion of ‘reasonable’ has the potential to make this process less transparent. I recognise that the proposed changes to schedule 2 are mostly technical. However, given the government’s track record in failing to recognise that every Australian should be able to access a tertiary education on the basis of merit, I am concerned by any moves to make the selection criteria of students into university study any less transparent.

Legitimate concerns have been raised on this side of the House about the amendment to schedule 2. It is possible that these proposed changes may lead to a softening of the fairness and transparency requirement of the selection criteria in our universities. The amendments to schedule 2 add a subjective element to the equation. Rather than selection being based purely on objective merit requirements, the amendments give more leeway to providers to consider their own ‘reasonable’ view of merit. Obviously, any softening of the fairness and transparency of the selection criteria is entirely undesirable in terms of fairness and equal access to education. The opposition will be monitoring the impact of this change, to ensure that transparency and fairness remain a fundamental principle of the selection of students into courses of study.

I would also like to raise my concerns in the House today about the proposed amendments to schedule 4. The amendments introduce additional auditing requirements for non-table A higher education providers. The
amendments will allow the minister to require a non-table A provider to be audited with regard to financial viability, fairness, compliance, contribution and fee requirements. The amendments also provide that the audit must be conducted by a body determined by the minister and that the provider must fully comply with the auditing body and pay charges for the auditing.

The opposition believe that robust accountability for education institutions is absolutely necessary. Of course education providers should be held financially accountable. I also recognise that the proposed amendments are not overly onerous, especially as they only apply to non-table A providers. However, there are concerns about where these types of amendments will stop. While these amendments are not overly burdensome, the minister has shown a great deal of enthusiasm for meddling in the management of education providers, whether it is relations with their staff, the courses they will offer or, after today, how they will provide vital student services on their campuses. So we have to ask: what will stop this government legislating for more extensive, more intrusive and more administratively burdensome auditing requirements? What will stop this government making these requirements more onerous? And, perhaps more concerning, what will stop this government making these requirements apply to table A providers as well? I think the House needs to be wary of amendments such as those proposed to schedule 4. While the opposition have always called for robust financial accountability, we are also aware of the undesirability of excessive central regulation.

In summary, while this bill will do no harm to the higher education sector, it certainly does nothing to offer the kind of support that our universities and our students deserve from government. As a nation, we need individuals to be given the opportunity to make the most of their abilities if we are all to succeed and prosper. Right now the government is slamming the door on those opportunities for too many people. While the opposition will support this bill’s technical amendments, we will certainly be watching very closely to ensure that the quality and standards in Australian higher education and opportunities for students are not further undermined by this government.

Mr SNOWDON (Lingiari) (5.37 pm)—I am pleased to be able to make a contribution to this debate on the Higher Education Legislation Amendment (2005 Measures No. 3) Bill 2005, which amends the Higher Education Support Act 2003. Among a number of things, it will clarify the definition of ‘student load’ and clarify the quality and accountability requirements to ensure higher education providers’ selection procedures are based on merit in the provider’s reasonable view. I note the concerns which were expressed by the previous speaker, my colleague the member for Capricornia, on that particular issue. She outlined the opposition’s concerns about that amendment to schedule 2. The bill will clarify that guidelines for incidental fees and fees in respect of overseas students are to be specified in the Higher Education Provider Guidelines rather than in the Commonwealth Grant Scheme Guidelines.

It will provide an audit to conduct an operation of non-table A higher education providers. This was to determine their compliance with one or more of the requirements of the act, subheaded ‘financial viability requirements’, ‘fairness requirements’, ‘compliance requirements’ and ‘contribution and fee requirements’. Again I go back to the comments which were made by the member for Capricornia in her contribution. She outlined the opposition’s concerns about schedule 4. The bill will clarify the requirements that need to be satisfied before a person will
be taken to be a Commonwealth supported student. And it will reflect the new business name of Open Learning Australia: Open Universities Australia.

Whilst, as the member for Capricornia said, the opposition will not oppose the proposals that have been put forward, we do want to express our concern about the impacts that particularly schedules 2 and 4 may have, and we will be monitoring them into the future. The opposition amendment provides a bit of clarity as to where we might be heading in the higher education debate. The member for Jagajaga moved the following amendment:

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

1. breaking its promise not to increase the 35 per cent cap on full fee paying domestic undergraduate places;
2. failing to provide adequate indexation of university funding;
3. failing to provide enough university places to meet the high levels of unmet demand from eligible Australian applicants;
4. pushing Australian universities further down an American style user pays university system, and
5. pursuing an extreme ideological agenda, including measures such as punitive workplace relations requirements and so-called voluntary student unionism, instead of adequately addressing the real issues facing Australian universities.

Throughout the year I have spoken a number of times in this place about the attacks on higher education being carried out by the Howard government almost on a continuing basis. As I reflect on what I have said during these contributions to debate on various pieces of legislation which have passed through this place during the year, it is clear to me that the situation is simply getting worse, especially for regional universities like the Charles Darwin University, which serves my electorate and which indeed has a campus in Alice Springs. Charles Darwin University has its base in Darwin.

Mr Nairn—Established by the CLP.

Mr Snowdon—Established by the CLP, as my colleague over here says, but funded by the Labor Party.

Mr Nairn—Not originally funded by the Labor Party.

Mr Snowdon—The interjections come from a former resident of the Northern Territory and former voluble member of the CLP in the Northern Territory, currently the member for Eden-Monaro. He does have some history with the Northern Territory and some experience of it.

Mr Nairn—I’m very proud of it, too.

Mr Snowdon—He is very proud of it, and I applaud him for that. We have not always agreed, and we will not always agree in the future. We certainly will not agree about his interpretation, I am sure, of some of the things that the CLP have done to education in the Northern Territory. But it is true that they did initiate the development of the Charles Darwin University. For your information, Mr Deputy Speaker Lindsay—you may like to know this—it was formerly the Darwin Community College, and I taught in it. Then when it changed its name to another guise I taught at that as well.

Mr Nairn—The Darwin Institute of Technology.

Mr Snowdon—The Darwin Institute of Technology. Then it became Charles Darwin University, and I taught in that as well.

Mr Nairn—No, the Northern Territory University.

Mr Snowdon—I beg your pardon, the Northern Territory University.
The DEPUTY SPEAKER (Mr Lindsay)—What happened to Batchelor College?

Mr SNOWDON—It is still there. I will come to that in a moment. I have had the opportunity to work in that fine institution in its various guises. I thank my colleague for helping me in the construction of this speech! What we do know is that over the last number of years, since 1996, Charles Darwin University has suffered massively under the Howard government. It has a very difficult task because it seeks to deliver higher education services to a sparse population, a relatively low population and a population which is not centred on a large population centre—as in your instance, Mr Deputy Speaker, on the regional centre of Townsville. We have one large population base in Darwin of only 100,000-plus people, a smaller population base in Alice Springs of about 28,000 to 30,000 people and the opportunity to try and provide outreach services to other places around the Northern Territory. It is an extremely difficult task and it requires resourcing. I think it is a real issue. It is certainly a real issue for me. When I look at the services which are being provided to people who live in the bush, as I would describe it, access to higher education is a matter of major concern.

The government may have the desire and obsession to drive Australia down the American path of higher education but, in my view, it is tearing opportunities out of the reach of people in my electorate. To me, that is a major concern and I have expressed that sentiment previously in this place. One example of the impact on Charles Darwin University of the Americanisation of higher education is that the university has raised its HECS fees by a full 25 per cent. It was allowed to do that by the Howard government’s changes to higher education. The government’s farcically named Backing Australia’s Future package has led the way for full up-front fee degrees, for which students will have to buy their way through higher education rather than be rewarded for merit and academic achievement.

In October, in a contribution I made to a debate in this place on the question of voluntary student unionism, I told the House that, of the 1,100 units previously offered by the Charles Darwin University, 340 units had been cut in 2005. That is a remarkable number of units—a third of Charles Darwin University’s offerings—that were cut in 2005. That has occurred because of the cuts in government expenditure on and investment in higher education in the Northern Territory, largely by the Howard government.

It seems to me that we have a responsibility to all Australians. Whilst the government has an ideological view—a view that I do not accept—it has the responsibility for providing access to educational services for all Australians and at a reasonable cost. In the context of Northern Australia, certainly Charles Darwin University has been sacrificed at the altar of the government’s ideological expediency—and, frankly, I do not think that is good enough.

I have spoken previously also about the Charles Darwin University’s business school in Alice Springs. This year, nine courses were advertised. In the past, those nine subjects have had lecturers in front of students in classrooms in Alice Springs. However, this year, only two courses have lecturers in classrooms, and other courses are expected to be conducted online. Frankly, that is just not good enough. It means that, in Alice Springs, we are getting—with great respect to the professionalism of those who are responsible for those courses—second-rate university teaching. Those students need to interact with staff on a regular basis.

I have some experience of being an external lecturer at what is now a university. Pre-
viously, the Curtin University of Technology in Western Australia was the Western Australian Institute of Technology. As a part-time external tutor at that university, I was involved in teaching and looking after external students in the history department. As anyone who is involved in correspondence education will tell you, it is extremely difficult to monitor, advise and participate and engage with students in that sort of situation. We need to try and minimise what we are doing in impacting on remote area education by ensuring that, as far as is possible, we get lecturers in front of classes so that there is proper interaction and value is added to the education that students expect to receive.

I have also noted previously in a contribution in this place a piece written by Kent Rowe, who is President of the Charles Darwin University Students Union. He noted that, since the 1996 election, the Howard government has removed $6 million a year in recurrent funding from Charles Darwin University alone, or around $40 million to date. It is clear that the ideological obsessions of the Howard government have badly affected the services that Charles Darwin University can provide to people in my electorate—and the Howard government should be condemned for it. This has happened on two fronts: with its introduction of legislation to prevent universities from charging compulsory fees for student services and representation and with its moves to make university funding reliant on adopting its radical workplace relations changes.

In October, I spoke about the ideological obsession of the Howard government in introducing voluntary student unionism. It is willing to blow students’ access to essential services in a blatant case of payback politics. At CDU, many services are under threat from voluntary student unionism—an ideological obsession of the coalition. Today, in this chamber, we saw people applauding and clapping the minister on the back because the government had passed this piece of legislation through the House.

Dr Emerson—Big kids from student union days.

Mr Snowdon—that is right. What a shame job, to have the minister parading around this place, poking his chest out like some hairy peacock because he has had passed through this place successfully the voluntary student unionism legislation—this ideological obsession, for which the Howard government ought to be condemned. That legislation will do no good for education services in this country and, in large part, having been criticised by all sectors of higher education, it will have a dramatic, negative impact upon student life and upon the services that can be provided by the universities. I hope that there is enough gumption and guts in the Senate for some who sit on the government benches to walk across to the other side of the chamber and prevent the passage of this legislation.

We have seen time and time again this year that the government wants to silence its critics. It is worth saying this again: in just one month, I have been denied the chance to speak on vital legislation because debate is being gagged. Very recently, we saw sedition laws pass through this chamber that will threaten free speech in this country. This government cannot stand criticism of its political agenda, so it wants to silence all those who criticise it. To win the political battles that these pathetic individuals on the other side of the chamber could not win when they were involved in student politics whilst they were at university—and, I might say, while they were enjoying a system that was supportive of their academic aspirations and that was, for most of them, free—they now want to impose full fee paying obligations on Australian students.
We have seen what that means. It was outlined in some detail this afternoon by the shadow minister, the member for Jagajaga, when she pointed out the increasing cost of courses and degrees. In 1996 an arts degree was $7,300 and this year it averaged $15,000; a science degree was $7,300 and this year it averaged $20,000; a law degree was $12,000 and this year it averaged $40,000. In 1996, the staff-student ratio was 15.6 students per member of staff and now it is 20.7 students per member of staff. There were 60 full fee paying places in Australia’s universities that cost more than $100,000 this year, and 20,000 qualified people missed out on a place in a university in 2005. Just last year, for the second time only in 50 years, the number of Australians going to university declined. Where does the responsibility for that lie? I suspect the government will blame the children, the students, or maybe they will—

Dr Emerson—Probably the student unions.

Mr SNOWDON—Yes, the responsibility of the student unions. Or perhaps the government will blame the parents. Is it any wonder? As I have said previously, the government is attempting to Americanise the Australian university sector. As the member for Jagajaga pointed out in her contribution this morning, more than 60 degrees have cost over $100,000 this year, and 20,000 qualified people missed out on a place in a university in 2005. Just last year, for the second time only in 50 years, the number of Australians going to university declined. Where does the responsibility for that lie? I suspect the government will blame the children, the students, or maybe they will—

Dr Emerson—Not in an era of declining fertility do you have—

Mr SNOWDON—Not in our house, mate!

Mr Nairn interjecting—

Mr SNOWDON—Very well done. We live in Alice Springs. We have no option, like other parents who live in Alice Springs. If their children want to go and become a vet, a doctor, a drama teacher or whatever, they have no choice but to leave Alice Springs. What does that mean for the cost to the family? Already they wear the burden of having to send their children away. But then, if I lived here in Canberra and my child were attending the ANU or the University of Canberra, we could absorb their living costs into the household budget. That is not the case if they have to go away to university, and of course this has not been properly considered by this government.

When they now promote the idea of the Americanisation of the Australian university sector, they are adding disincentive upon disincentive for those people who live in the bush to go away to university. It seems to me that they will pay the price for that in the longer term. This should not be about
dumbing down the society; this should be about providing the greatest possible access to all Australians who have the qualifications to attend a higher education institution. This is not what the government are doing. We have seen by the additional costs what is happening in that regard.

We already know about the impact of the workplace changes to higher education. Some of the proposals in the bill that we confronted here earlier in the year included requiring education providers to offer AWAs to all new employees by November 2005 and to all other employees by 31 August 2006 and requiring certified agreements to include a clause that expressly allowed AWAs to operate to the exclusion of the certified agreement or to prevail where there is an inconsistency.

Of course, universities like Charles Darwin University, which serves my electorate, will be required to implement these radical changes to the way they employ academic and administrative staff, in order to access the funding they need to continue providing educational services. They are being told that, unless they adopt this absurd proposition—another set of ideological obsessions of this government which it has enshrined in legislation—and unless they jump through this ideological hurdle, they will not get funding. How bizarre is that? Because they may have a view different from that of the government about workplace relations, they are threatened with cuts in funding. The proposals would have meant that, if the CDU certified agreement was not compliant with changes by September 2006, CDU would lose out on receiving a five per cent increase on its basic grant for 2006 and a further 7.5 per cent in 2007. That is morally indefensible. A university—in this case CDU, which is having difficulty with the cuts in funding that it has had to wear since 1996—is now in that position.

Whilst the bill that we are discussing this evening bears largely on technical issues, there are a number of matters—two matters in particular—which the member for Capricornia advised the House that we would be particularly monitoring. But I note the amendment that has been put by the opposition spokesperson, and I ask the House to endorse it, because it reflects the poor situation, the outstandingly bad situation, that we are now confronting in the higher education sector because of the malpractice and poor service of this government.

The DEPUTY SPEAKER (Mr Lindsay)—I thank the member for Lingiari. The question is that the words proposed to be omitted stand part of the question. I just advise the member for Rankin: something may happen in your speech.

Dr Emerson—Wonderful things may happen in my speech.

The DEPUTY SPEAKER—I think you understand what I am referring to.

Dr Emerson—You are trying to give me a message in a bottle.

The DEPUTY SPEAKER—Yes.

Dr Emerson (Rankin) (5.57 pm)—Sometimes it is said that the differences between Labor and the coalition are not very great and that it can be a case of Tweedledee and Tweedledum. Never could that be further from the truth. In the last days of this year of 2005, in this parliament, a chasm exists between the views and philosophy of the coalition government and those of the Australian Labor Party. That chasm has opened up so clearly and so widely with the tragic passage of the industrial relations legislation. It exists profoundly in relation to the so-called Welfare to Work measures, which in fact are welfare to welfare measures that put some of the most vulnerable people in our country onto lesser benefits in a very punitive and vicious way; and now, today, it exists in relation to
the treatment and funding of university education in Australia.

The Higher Education Legislation Amendment (2005 Measures No. 3) Bill 2005 is minor and of a technical nature. On that basis, Labor supports it. Nevertheless, it gives us the opportunity through the second reading amendment to make some observations about this government’s approach to university funding, the philosophy behind that approach and the fundamentally different approach that Labor embraces.

I had occasion to make some remarks in the media not long ago. In response to those remarks, the Minister for Education, Science and Training revealed the true intentions of this government. He said to the Australian newspaper on 15 September:

Based on the demographics we know we are facing and the increasing tightening of the labour market, I will be surprised if there is a significant increase in demand for higher education above what it is today. There will be an increase in demand until 2014, and then it will decline.

The minister for education is indicating that, as far as the coalition is concerned, the number of university places for Australian students will decline over the next 10 years. He describes this as a decline in demand. When the price is as high as it is under this government, then of course demand will fall away. That is just as this government wants it. It wants universities to be the domain of the privileged in this country, and it wants the sons and daughters of working Australians to aim lower—that is, to not aim for a university education. When the shadow minister for education, I and other members of the Labor opposition say that it is right and proper that young people from working class backgrounds should be able to aim for a higher education, a university education, we are described as ‘job snobs’—the words of the minister for education.

I understand that the message in the bottle has now arrived. In view of its importance, I seek leave to continue my remarks at a later stage.

Leave granted; debate adjourned.

EMPLOYMENT AND WORKPLACE RELATIONS LEGISLATION AMENDMENT (WELFARE TO WORK AND OTHER MEASURES) BILL 2005

Consideration of Senate Message

Bill returned from the Senate with amendments.

Ordered that the amendments be considered immediately.

Senate’s amendments—

1. Schedule 4, item 7, page 39 (line 7), omit “may”, substitute “must”.

2. Schedule 4, item 7, page 39 (after line 8), after subsection 501A(4), insert:

(4A) To avoid doubt, a determination under subsection (4) does not limit the Secretary’s discretion to exclude other kinds of requirements from a particular agreement under subsection (1).

3. Schedule 4, item 7, page 44 (after line 27), after subsection 502(4), insert:

(4A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (4)(j), particular paid work is unsuitable for a person.

(4B) To avoid doubt, a determination under subsection (4A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (4)(j), particular paid work is unsuitable for a person.

4. Schedule 4, item 7, page 47 (after line 22), after subsection 502C(2), insert:

(2A) The Secretary must, by legislative instrument, specify matters that the Secretary must take into account in deciding whether there are special circum-
stances relating to a person’s family that make it appropriate to make a determination under this section.

(2B) To avoid doubt, an instrument made under subsection (2A) does not limit the matters that the Secretary may take into account in making a determination under subsection (2).

(5) Schedule 4, item 9, page 57 (after line 20), after subsection 500ZA(2), insert:

(2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing a parenting payment participation failure.

(2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing the parenting payment participation failure referred to in subsection (1).

(6) Schedule 4, item 9, page 58 (after line 29), after subsection 500ZB(2), insert:

(2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for a failure of a kind referred to in paragraph (1)(c).

(2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for the failure referred to in paragraph (1)(c).

(7) Schedule 4, item 9, page 60 (after line 11), after subsection 500ZE(1), insert:

(1A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (1)(d), a person had a reasonable excuse for refusing or failing to accept a suitable offer of employment.

(1B) To avoid doubt, a determination under subsection (1A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (1)(d), a person had a reasonable excuse for refusing or failing to accept a suitable offer of employment referred to in that paragraph.

(8) Schedule 5, item 16, page 70 (after line 8), after subsection 541D(1AB), insert:

(1AC) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (1)(i), particular paid work is unsuitable for a person.

(1AD) To avoid doubt, a determination under subsection (1AC) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (1)(i), particular paid work is unsuitable for a person.

(9) Schedule 5, item 25, page 72 (after line 22), after subsection 542F(2), insert:

(2A) The Secretary must, by legislative instrument, specify matters that the Secretary must take into account in deciding whether there are special circumstances relating to a person’s family that make it appropriate to make a determination under this section.

(2B) To avoid doubt, an instrument made under subsection (2A) does not limit the matters that the Secretary may take into account in making a determination under subsection (2).

(10) Schedule 5, item 35, page 77 (line 20), omit “may”, substitute “must”.

(11) Schedule 5, item 35, page 77 (after line 21), after subsection 544B(1B), insert:

(1C) To avoid doubt, a determination under subsection (1B) does not limit the Secretary’s discretion to exclude other
kinds of requirements from a particular agreement under subsection (1).

(12) Schedule 5, item 46, page 82 (after line 33), after subsection 550(2), insert:

(2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing a youth allowance participation failure.

(2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing the youth allowance participation failure referred to in subsection (1).

(13) Schedule 5, item 46, page 85 (after line 21), after subsection 550B(2), insert:

(2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing an austudy participation failure.

(2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing an austudy participation failure referred to in subsection (1).

(14) Schedule 5, item 46, page 87 (after line 15), after subsection 551(1), insert:

(1A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (1)(d), a person had a reasonable excuse for refusing or failing to accept a suitable offer of employment referred to in that paragraph.

(15) Schedule 6, item 2, page 94 (after line 5), after subsection 576(2), insert:

(2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing an austudy participation failure.

(2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing an austudy participation failure referred to in subsection (1).

(16) Schedule 6, item 2, page 95 (after line 12), after subsection 576A(2), insert:

(2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for a failure of a kind mentioned in paragraph (1)(c).

(2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for the failure referred to in paragraph (1)(c).

(17) Schedule 7, page 111 (after line 2), after item 30, insert:

30A After subsection 601(2AB)

Insert:

(2AC) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of
paragraph (2A)(j), particular paid work is unsuitable for a person.

(2AD) To avoid doubt, a determination under subsection (2AC) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (2A)(j), particular paid work is unsuitable for a person.

(18) Schedule 7, item 41, page 112 (after line 19), after subsection 602B(2), insert:

(2A) The Secretary must, by legislative instrument, specify matters that the Secretary must take into account in deciding whether there are special circumstances relating to a person’s family that make it appropriate to make a determination under this section.

(2B) To avoid doubt, an instrument made under subsection (2A) does not limit the matters that the Secretary may take into account in making a determination under subsection (2).

(19) Schedule 7, item 63, page 119 (line 11), omit “may”, substitute “must”.

(20) Schedule 7, item 63, page 119 (after line 12), after subsection 606(1B), insert:

(1C) To avoid doubt, a determination under subsection (1B) does not limit the Secretary’s discretion to exclude other kinds of requirements from a particular agreement under subsection (1).

(21) Schedule 7, item 73, page 124 (after line 15), after subsection 624(2), insert:

(2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing the newstart participation failure referred to in subsection (1).

(22) Schedule 7, item 73, page 126 (after line 8), after subsection 626(2), insert:

(2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for a failure of a kind referred to in paragraph (1)(c).

(2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for the failure referred to in paragraph (1)(c).

(23) Schedule 7, item 73, page 127 (after line 32), after subsection 629(1), insert:

(1A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (1)(d), a person had a reasonable excuse for refusing or failing to accept a suitable offer of employment.

(1B) To avoid doubt, a determination under subsection (1A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (1)(d), a person had a reasonable excuse for refusing or failing to accept a suitable offer of employment referred to in that paragraph.

(24) Schedule 10, item 12, page 145 (after line 22), after subsection 731B(1B), insert:

(1C) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (1)(i), particular paid work is unsuitable for a person.

(1D) To avoid doubt, a determination under subsection (1C) does not limit the matters that the Secretary may take into account in deciding whether, for the
pursues of paragraph (1)(i), particular paid work is unsuitable for a person.

(25) Schedule 10, item 17, page 146 (after line 27), after subsection 731DA(2), insert:

(2A) The Secretary must, by legislative instrument, specify matters that the Secretary must take into account in deciding whether there are special circumstances relating to a person’s family that make it appropriate to make a determination under this section.

(2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for a failure of a kind referred to in paragraph (1)(c).

(26) Schedule 10, item 32, page 152 (line 1), omit “may”, substitute “must”.

(27) Schedule 10, item 32, page 152 (after line 2), after subsection 731M(1B), insert:

(1C) To avoid doubt, a determination under subsection (1B) does not limit the Secretary’s discretion to exclude other kinds of requirements from a particular agreement under subsection (1).

(28) Schedule 10, item 43, page 156 (after line 18), after subsection 740(2), insert:

(2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of subsection (2), a person had a reasonable excuse for committing a special benefit participation failure.

(2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (1)(d), a person had a reasonable excuse for refusing or failing to accept a suitable offer of employment.

(29) Schedule 10, item 43, page 158 (after line 8), after subsection 742(2), insert:

(2A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for a failure of a kind referred to in paragraph (1)(c).

(2B) To avoid doubt, a determination under subsection (2A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (2)(a), a person had a reasonable excuse for the failure referred to in paragraph (1)(c).

(30) Schedule 10, item 43, page 159 (after line 32), after subsection 745(1), insert:

(1A) The Secretary must, by legislative instrument, determine matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (1)(d), a person had a reasonable excuse for refusing or failing to accept a suitable offer of employment.

(1B) To avoid doubt, a determination under subsection (1A) does not limit the matters that the Secretary may take into account in deciding whether, for the purposes of paragraph (1)(d), a person had a reasonable excuse for refusing or failing to accept a suitable offer of employment referred to in that paragraph.

Mr ANDREWS (Menzies—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (6.03 pm)—I move:

That the amendments be agreed to.

I do not propose to take much time of the House, because these matters were canvassed in earlier debate today. The amendments largely relate to the government’s acceptance of the recommendations of the majority of the Senate committee which inquired into the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005. I therefore commend these amendments to the House.

Ms MACKLIN (Jagajaga) (6.04 pm)—by leave—I move:
(1) Senate amendment 3, after subsection (4B) insert the following subsection:

(4C) The matters determined in subsection (4A) must include that particular paid work is unsuitable for a person if the cost of child care would result in a very low or negative gain from that work.

(2) Senate amendment 8, after subsection (IAD) insert the following subsection:

(IAE) The matters determined in subsection (1AC) must include that particular paid work is unsuitable for a person if the cost of child care would result in a very low or negative gain from that work.

(3) Senate amendment 17, after subsection (2AD) insert the following subsection:

(2AE) The matters determined in subsection (2AC) must include that particular paid work is unsuitable for a person if the cost of child care would result in a very low or negative gain from that work.

(4) Senate amendment 24, after subsection (1D) insert the following subsection:

(1E) The matters determined in subsection (1C) must include that particular paid work is unsuitable for a person if the cost of child care would result in a very low or negative gain from that work.

The amendments that the government are seeking to move tonight unfortunately do not stop these welfare changes being a fraud on vulnerable Australians. It is a very sad fact that as a result of the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005 we are now going to see the creation of a large number of American-style working poor, because this legislation moves people from one welfare payment to a lower welfare payment. It will take money out of the pockets of some of the poorest Australians.

The extraordinary thing about this legislation is that it will not only move people from one welfare payment to a lower welfare payment but also reduce the financial return from work. It will make it less financially attractive to go to work than to stay on welfare. To make that very plain: when people with a disability or single parents move into work under these changes, they will still give as much as 75c of every dollar that they earn back to the government. Anyone who thinks that these amendments make this legislation any less of a fraud unfortunately has been a victim of that fraud.

The amendments that I have moved expose just one small part of that fraud—that is, the Prime Minister’s child-care guarantee. On 2 June, the Prime Minister was shamed by the member for Sydney into promising the following:

If the cost of child care would result in a very low or negative financial gain from working, the parent will not be required to accept the job.

The problem is that the Prime Minister gave this promise here in the House of Representatives, but there is no reference to it in the legislation. Here in the parliament tonight—at the eleventh hour—we are seeking to do what the Prime Minister and the Minister for Employment and Workplace Relations, who is at the table, should have done, which is make sure that this promise was included in the legislation.

My amendments bring the Prime Minister’s guarantee into the relevant sections of the amendments that the House is receiving from the Senate right now. In practice, the amendments will mean that single parents who have a requirement to look for work, whether they are on parenting payment, youth allowance, Newstart allowance or special benefit, will not have to accept a job when their earnings are eaten up by the cost of child care.

When we call a division on this tonight, we will expect all members of the government to vote for these amendments, because they are about a promise that was given by
the Prime Minister of this country here in this parliament in June this year. I hope that we will have every member of the government supporting the amendments. All that we are asking them to do is vote for the prime ministerial promise. Labor’s amendments say:

... particular paid work is unsuitable for a person if the cost of child care would result in a very low or negative gain from that work.

We do not pretend for a minute that these amendments make the legislation acceptable. For that, you would need a blowtorch. But they do hold the government accountable for the promise it made, and they particularly hold the Prime Minister accountable. He made this promise right here in the House of Representatives. He made it to the parents who want to work but cannot find affordable child care. I commend the amendments to the House.

Ms PLIBERSEK (Sydney) (6.09 pm)—I second the amendments to the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005 moved by the member for Jagajaga. The words in the amendments give effect to the Prime Minister’s promise of 2 June. The question really is: is the Prime Minister a man of his word or is he not? The Prime Minister said on 2 June:

If ... the cost of [child] care would result in a very low or negative financial gain from working, the parent would not be required to accept the job.

We have kept our amendment to these very simple terms. It is our intention to put into this legislation the guarantee that the Prime Minister says that he has already given to Australian parents. Has he given a guarantee or not?

In this bill, there is no reference at all to the cost of child care. That concerns me greatly. We were only able to extract a promise from the Prime Minister on 2 June after he was shamed into acknowledging that there would be circumstances in which parents returning to the work force or going into the work force after having their children would be worse off not just because of effective marginal tax rates or the very clear disincentives that are written into this legislation but because of actually, literally losing money because their child care would cost more than they would be gaining from their work. The Prime Minister had dragged from him this promise that, if the benefit from working was outweighed by the cost of child care or there was a very low gain from working, parents would not be forced to accept that job offer. Where is it in the legislation? Nowhere.

The bureaucrats were dragged out to defend it during the Senate inquiry into the welfare bill. Their defence, which I think you would have to say was fairly flimsy, was that proposed new section 501A(7)(g) protects sole parents from child-care bills that wipe out their wage. Let us have a look at what that section actually says. It says that, in considering whether to approve a parenting payment activity agreement, the secretary of the department is to take into account ‘the financial costs of compliance with the agreement’. There is nothing specific there about child care. There is nothing specific there about a very low or negative gain. There is no mention of child care there.

The relevant section of the explanatory memorandum says that it reflects matters that are ‘are taken into account in respect of activity agreement under other income support payments’. Child-care costs are not currently taken into account under other payments at all. Child-care costs are not taken into account under other payments. There is no mention of the cost of child care. It just shows the poverty of the agreement that the Prime Minister had dragged out of him on 2 June.
Is there any other section of the explanatory memorandum that should give parents comfort? No, there is not. Page 41 of the explanatory memorandum says:

The Secretary will bear in mind the cost of child care and accessibility of the child care when making a determination as to the appropriateness of the child care.

The problem with this is that the devil is in the detail. The devil is in the discretion given to Centrelink officers and others to interpret the will of the secretary. You could have, conceivably—very easily—two Centrelink officers in two different towns, one of whom says that spending 20 per cent of your gross income on child care is too much and does not make forcing you to take this job worth while and another who says that 80 per cent of your gross income is not too much because you are gaining all the associated benefits of working and one of these days you will be earning more and be able to afford your child care a bit more easily.

There is nothing in this legislation that enacts the Prime Minister’s guarantee that, if the cost of child care would result in a very low or negative gain from work, parents will not be forced into the work force, leaving their kids at home, leaving their kids in sub-standard conditions. (Time expired)

Mr ANDREWS (Menzies—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (6.14 pm)—The government is ensuring that child-care costs will not absorb all the money that mothers on income support earn through paid work. Any suggestion to the contrary is simply mischievous. Parents on income support are only required to accept a part-time job once their youngest child is at school. So what we are largely talking about here is outside-school hours care rather than long day care. After-school hours care for parents on income support is heavily and generously subsidised by the government once child-care benefit and JET are taken into account. Low-income families receive the greatest support with the cost of child care through the child-care benefit. For example, a low-income family using after-school care pays about $1 per hour. Families using vacation care are only paying 35c per hour. A number of families will be eligible for JET child-care assistance. The maximum fee a family using JET will pay is $2 per session, regardless of the number of children in care. So the opposition chooses to confuse the issues by not pointing out that the Welfare to Work package aims to maximise the opportunity of parents of school age children, for example, through the additional 84,300 child-care places for school age children, which is a cost of some $260 million over four years.

The commitment to sensible child-care costs is reflected in the protective provisions of the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005 and is specifically cited in the explanatory memorandum. My department will be developing guidelines on how the costs of child care will be taken into account in accessing suitability for a job. Indeed, in the development of these guidelines, we are consulting widely. We are consulting with the various welfare groups and we will be consulting through the Welfare Consultative Forum, which includes amongst its membership representatives of or persons who are involved with organisations such as Mission Australia, the Smith Family, Catholic Welfare, ACOSS and others. So we are developing these guidelines and it will be done in consultation with the relevant and interested parties.

We also have guidelines on other types of costs. For example, we do not expect a person to take a job if they would need to spend more than 10 per cent of their gross wage on
travel costs. Guidelines such as this ensure people can afford to take up part-time work and increase their income from work. For these reasons, because these matters are being addressed and will be addressed in a comprehensive way through consultation with the various parties that I have mentioned, the government rejects the amendments which have been put before the House this afternoon and the matter will be addressed in the way in which I have indicated.

Ms PLIBERSEK (Sydney) (6.17 pm)—I would like the Minister for Employment and Workplace Relations to explain why he is not prepared to meet the Prime Minister’s own commitment given in this place on 2 June. These are his own words. What is there to object to in the Prime Minister’s own words? Why will you not support the commitment that the Prime Minister made in this place?

I would also like to ask the minister: how can you justify, intellectually or morally, this double standard? There is a 60-minute travel rule—unfortunately, it is nowhere in the legislation and nowhere in the explanatory memorandum but is committed to by your own press release and Minister Dutton’s press release—and a rule that says that, if you were forced to spend more than 10 per cent of your income on travel, then you do not need to take up the offer. Why can you be so specific about the cost of transport and yet, when it comes to child care, you will not say 10 per cent, you will not say 20 per cent, you will not say 50 per cent, you will not say 80 per cent? Why the double standard?

Mr ANDREWS (Menzies—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (6.18 pm)—If I can briefly reply to the member for Sydney, the commitment which the Prime Minister made will be met by the government, but the government proposes to do this by way of the mechanism of guidelines and regulation rather than through the legislation. That is the way in which—

Ms Plibersek interjecting—

Mr ANDREWS—The honourable member says, ‘Why do you do it in relation to travel?’ We do it in relation to travel. We have it in regulations and guidelines so that flexibility can be applied to particular cases. We are going to do the same thing in relation to this. That is the most sensible way, we believe, to move forward in this direction. But, as I said, what the Prime Minister said will be borne out in the final version of this legislation and guidelines and regulations as supplied to individuals. We are not walking away or running away in any sense of it from what the Prime Minister has said. We will put it in the regulations, as we have indicated we will.

Ms Plibersek—Put it in the bill.

Mr ANDREWS—We can argue all night about whether it is in the regulations or the bill. The government has considered this. It has made a decision that it is appropriate for these things to be in regulations and guidelines.

Question put:

That the amendment (Ms Macklin’s) be agreed to.

The House divided. [6.23 pm]

(The Deputy Speaker—Mr Lindsay)

Ayes…………. 58
Noes…………. 78
Majority…….. 20

AYES

Adams, D.G.H. Beazley, K.C.
Bevis, A.R. Bird, S.
Bowen, C. Burke, A.E.
Burke, A.S. Byrne, A.M.
Corcoran, A.K. Crean, S.F.
Danby, M. * Edwards, G.J.
Elliot, J. Ellis, A.L.


* denotes teller

Question negatived.

Original question agreed to.

HIGHER EDUCATION LEGISLATION AMENDMENT (2005 MEASURES No. 3) BILL 2005

Second Reading

Debate resumed.

Dr EMERSON (Rankin) (6.30 pm)—In my remarks on the Higher Education Legislation Amendment (2005 Budget Measures) Bill 2005, I have already observed that this government considers access to a higher education should be available only to those who have the financial means to pay for it. That is an absolutely shocking indictment on this government. If ever there were a black mark against the government it is through the industrial relations legislation that passed through this chamber today and the Welfare to Work measures, which in fact are welfare to welfare measures—vicious, punitive measures that have just been passed now. Here we are on higher education and the government is occupying the position that those who can afford to pay for a university education should be able to obtain that education; for those who cannot, that is too bad—they should be aspiring to a technical education.

I want to say quite clearly that those young people who aspire to a technical or a vocational education have every right to do so. It is a legitimate and very worthy pursuit.
But those young Australians who are the sons and daughters of the working people of this country from less privileged backgrounds, who aspire to a higher education, should not be shut out of a higher education by prohibitive fees. Yet that is exactly what is happening in this country. In 1999 the Prime Minister solemnly said in this parliament and outside that there would be no $100,000 university fees. That was an ironclad promise.

Ms George—Another one.

Dr Emerson—Another ironclad promise in the Tony Abbott mould. There was no qualification to this promise and yet, in 2005, there are 60 full fee paying places in courses in Australia’s universities which cost more than $100,000. That is 60 violations of that promise. By way of example: a medical-law degree at Monash University costs a staggering $256,000; dental science at Melbourne University costs $150,000; physiotherapy at the University of Queensland, $112,000; and medicine at Adelaide University, $151,000. So there it is: the sons and daughters of working Australians are being shut out of a university education by this government’s prohibitive fee policy.

I am glad to see the Minister for Education, Science and Training in the chamber. I was referring to his comments before this debate was interrupted. He basically said that anyone in the Labor Party who aspires to the sons and daughters of working Australians being able to have a higher education is a job snob, and he condemned us for it. He also condemned me personally for having an aspiration to double the proportion of young people going on to university. At present, around 30 per cent of young people go on to university, which is a very big increase on the eight per cent or so who used to go on to university in the pre-Whitlam era. So there has been progress, from eight per cent to 30 per cent. But the fact of the matter is that, in the modern global economy, access to a higher education and the proportion of people who are able to complete a higher education is a fundamental determinant of productivity growth and the future prosperity of nations. It is a fundamental influence on the wealth of nations.

The Deutsche Bank has done an analysis which concludes that access to higher education is so important in productivity growth and future prosperity. Alarmingly, the analysis forecasts that Australia will rank last among 33 countries in growth in years of education between now and 2020. By 2020, our neighbours China and India will be the largest and third-largest economies in the world, and already they are producing more than 2½ million university graduates a year. Australian universities are producing just 160,000 young graduates a year. I believe that it is a legitimate aspiration to double the proportion of young people going on to university, say by 2020, from 30 per cent to 60 per cent. The education minister has described that aspiration of mine as madness. He said it is mad to imagine that there should be a doubling of the proportion of young Australians going on to university. The British Prime Minister, Tony Blair, has set a target of 50 per cent of young Britons participating in higher education by 2010, so what is mad about the idea of 60 per cent of young Australians going on to university by 2020, a full 10 years after that?

The minister has asserted that he would have to trawl through the nursing homes of Australia to find the people to go on to university to meet that aspiration of a doubling of the proportion of young people going on to university. Where is the maths, Minister? If 30 per cent of young people go on to university now and we double that to 60 per cent of young people, you do not need to go near a nursing home, although the minister
can go near a nursing if he so wishes. It might be a good place for him to go if he truly believes that it is wrong and that it is madness that we should be talking about the target of 60 per cent of young Australians completing a university degree by the year 2020. The minister has said that he would have to trawl through the nursing homes to find those people. Why not start with the more than 20,000 Australian school students who qualify for a university place but who are locked out of the university system by the government’s limit on places? And why not encourage more of the 70 per cent of young Australians who do not go on to university to consider a university education?

The OECD finds that, since 1996, almost all of its member countries have supplemented increases in private funding of tertiary education with extra public funding. But it identifies a major exception, and that exception, shamefully, is Australia. What has happened in Australia is that increases in private funding of universities have substituted for increases in public funding of universities, such is this government’s mad ideological obsession. We stand almost alone amongst the countries of the OECD in that shameful record.

The fact is that cash starved universities are responding in the expected way to the fact that they are not receiving anywhere near full indexation of their costs. That means that they have to find the money somewhere. How are they finding the money? They are finding it through the application of full fees to foreign students. A very simple analysis by Professor Bob Birrell and associates has found that, since this government came to office, virtually all of the growth in the student load of Australian universities has been from full fee paying foreign students.

How the Minister for Education, Science and Training can consider that he and this government are doing a good job when there has been virtually no growth in the number of Australian graduates in our universities is beyond me. Instead of devising innovative policies and putting a bit of extra public funding into the universities, the minister and the other ‘big kids’ on the coalition side have occupied themselves for the last year with the issue of voluntary student unionism. They are reliving their student days and squaring up for battles that they engaged in and lost. They have occupied so much of the time of this parliament and of the cabinet on the issue of voluntary student unionism instead of developing creative policies that would allow all young Australians, irrespective of their backgrounds and their financial circumstances, to be able to go on to university and obtain a university degree.

The government made profound changes to university funding arrangements, effective from the beginning of 2005. It increased to 35 per cent the proportion of Australian students who could be full fee paying students. It also lifted the cap on HECS funding, allowing universities to charge a 25 per cent increase in HECS fees. All but three universities have responded in the expected way because they are being starved of cash by this government. We have moved from a situation where, under previous Labor governments, all young people who aspired to go on to university, who had the intellectual capacity and who worked hard to do so, could go on to a university education.

Professor Bruce Chapman, the architect of HECS, has confirmed through studies that HECS, as it is structured, has not been a deterrent to young people from disadvantaged backgrounds going on to university. But when you change the arrangements to increase HECS fees by 25 per cent and increase the proportion of young Australians
who are full fee paying students then you will get a genuine deterrence, and that is what is happening. Last year, for only the second time in the last half a century, the number of Australian students going to university has fallen. That is on this minister’s watch. It is not only a matter of negligence but a matter of deliberate government policy. This government is obsessed with technical education, which is fine, but to the exclusion of a university education.

I find it disgraceful that the ministers and other frontbenchers responsible for this policy have almost all benefited from a university education provided by previous Labor governments—the Whitlam government and, following it seven years later, the Hawke government and then the Keating government. So they were there, they got the benefit of a higher education, and then they turn around and say to young people from disadvantaged backgrounds: ‘You are not cut out for a university education. We are going to shut the gate on you and shut you out of a university education.’ If there was ever a more profound policy difference and philosophical difference between the Australian Labor Party and the coalition, it lies in the area of industrial relations, but it is second only to this government’s policy and philosophy in relation to universities.

I have proposed that banks and superannuation funds might be able to contribute private funding for the public good. I am not hung up on the idea that all extra funding going into universities must be public funding. I think there is a very strong case for extra private funding of universities and a very strong case for extra public funding of universities. But when I did propose that perhaps superannuation funds and banks, through what I called Australian student equities, could help out by investing in the talents of young people, again the minister for education described it as ideological madness. He said that we were ideologues for suggesting that such a policy should apply. The minister is supposed to be from the market side of the debate. He should be someone who welcomes extra private funding of universities, but he describes it as madness.

We have the perverse situation where the minister, Commissar Nelson, is presiding over a central planning agency here in Canberra which eminent economist Max Cordon has described as ‘Moscow on the Molonglo’. So we have Commissar Nelson, in his central planning agency, telling every university which places they can have and which places they cannot have and running a Soviet style command and control economy. He is supposed to be a Liberal. We know that he came from the Labor Party, but we have disowned him since. He obviously came from a very backward part of the Labor Party, a part of the Labor Party that was dismantled with the dismantling of the Berlin Wall. But obviously this minister harks back to the days when the Berlin Wall was up and central planning was all the rage. So Commissar Nelson is sitting there in the command and control centre in Moscow on the Molonglo and telling the universities what to do, when to do it, how much they can charge and how many places they can have. I am on the Labor side, and I think there is an argument for less restrictive regulations on our universities. You do not have to control everything, Minister. The fact is that many of our universities now obtain only 30 per cent of their funding from government funding. The reason for that is that this government has starved them of public funding so they are heading that way, yet the minister wants to control their every move—every breath they take, every move they make, he is watching them.

The minister cannot seem to get over his old Soviet style predilections from when he was member of the Labor Party. We need
more private resources in the universities, for the public good, and we need to combine those private resources, for the public good, with extra public resources so that we can genuinely give every young Australian who aspires to a higher education an opportunity to have a university education, to improve themselves in life and to express and develop their talents in a creative society. Higher education is not only the source of productivity growth; it is the key that unlocks the door both to productive growth and to opportunity for all young Australians. *(Time expired)*

Dr NELSON (Bradfield—Minister for Education, Science and Training) (6.47 pm)—I thank all those who have contributed to the debate on the Higher Education Legislation Amendment (2005 Measures No. 3) Bill 2005, although I did not agree with quite a bit of what was said by those on the opposite side. However, it is worth pointing out that the government—in fact, two years ago this week—passed groundbreaking legislation for reforms of higher education. The end result of that has been an increased $11 billion in investment over a decade in universities, 40,000 additional government funded HECS places over the next five years and $400 million to support scholarships for living and accommodation costs for 43,000 Australian students. We have moved the universities to fund them on the basis of what they actually deliver and to provide performance based funding pools. I announced only last week the first allocation of the $251 million learning and teaching performance fund, from which Wollongong and Swinburne universities, for example, were ranked in the top five.

I turn now to some of the comments made by the member for Rankin. Firstly, the lifetime chance of higher education in Australia at the moment is approaching 50 per cent, with 30 per cent of students going directly from school to university. If you were to have a 60 per cent participation in higher education by 2020, you would need students with an IQ of 90 going into the university system. The member for Rankin should know that the forward demographics for university demand show that we expect demand to increase by about 12 per cent by 2020 in Queensland and by seven per cent in Western Australia. We are anticipating a five per cent reduction in Victoria, a 12 per cent reduction in South Australia and an 18 per cent reduction in Tasmania. This year, university demand is down by $8½ per cent for non-school leavers and up 1.5 per cent for school leavers. Overall, demand is down 2½ per cent. The simple reason that demand is down is that the labour market is very tight. There is plenty of work, plenty of overtime and plenty of jobs, so non-school leavers, in particular, given the opportunity cost of going back to university, will understandably take a job. When the Labor Party was in government and we had 1.1 million Australians who were unemployed—11 per cent, in fact, in 1993—140,000 people could not get into university in January 1993. The reason they were queued up was that they could not get a job.

One of the other things the member for Rankin might appreciate is that if there is a 60 per cent participation rate in a country with collapsing age dependency ratios and falling demand in terms of the demographic for higher education, you also have to take into account a 40 per cent attrition rate and reasonable failure rates. At the moment in Australia the lowest published entry score was a tertiary entrance rank of 32 for information and communication technology at RMIT. How low does the Labor Party really want entry standards to go in Australian universities?

The other great inconsistency, which has been covered in one of the opposition’s amendments, is the so-called cap on Austra-
lian fee payers. The ridiculous part about this is that Labor Party policy is that there should not be a single Australian paying his or her own way in an Australian university. The Labor Party supports no cap because it believes that there should not be any Australian students paying their own way in Australian universities. The Labor Party is hypocritical in complaining about a move on the cap. Equally, the Labor Party often says that the government should listen to the vice-chancellors, but the call for the removal of the cap has actually come from the vice-chancellors. I have said that I would be prepared to entertain it in the context of other changes that might also be put forward by the leaders of Australian higher education.

The argument has been put, for example, by Professor Ian Chubb, the Vice-Chancellor of the Australian National University, who says, ‘Why should there be no cap on foreign students but there be a cap on Australian students?’ The absurdity of Labor’s position is that there would be not a single Australian under a Labor government able to pay his or her own way in an Australian university, but an Australian can go to Malaysia and do a medical degree with Monash University. They can pay their own way and then come back into Australia with a Monash medical degree. That is amongst many of the inconsistencies in the Labor Party’s position and in the amendments being moved.

The particular bill that is before us contains measures that will enhance the legislative framework under which the higher education system operates. It will strengthen the accountability arrangements already in place under the Higher Education Support Act 2003 so that the Australian government and Australian students can be assured that all higher education providers have structures and procedures in place which are fair, transparent and accountable.

This bill will provide for ministerial discretion to require a compliance audit to be conducted on the operation of non-table A providers to determine their adherence to the financial viability, fairness, compliance and contribution and fee requirements of the act. It is envisaged that such compliance audits would be conducted on an as required basis in circumstances where the Commonwealth requires further assurance of the provider’s compliance with these matters.

The bill will also clarify the requirements that need to be satisfied before a person is taken to be a Commonwealth-supported student. It also makes some minor technical revisions to the Higher Education Support Act 2003, including amending it to reflect the new business name of Open Learning Australia—Open Universities Australia—and clarifying that the guidelines for incidental fees and fees in respect of overseas students are to be specified in the Higher Education Provider Guidelines rather than the Commonwealth Grant Scheme guidelines. It further clarifies the definition of ‘student load’ as it relates to a bridging course for overseas-trained professionals.

This bill also amends the Australian National University Act 1991 to repeal an obsolete heading. I urge members to support the bill. The government most certainly will not be accepting the amendments that have been proposed by the opposition, and I will make sure that the Hansard records that the Labor Party has called for further deregulation of Australian higher education in this debate. The member for Rankin and others have called for further deregulation. We heard comments about ‘the commissar’ and ‘the politburo’ and all those sorts of things. I say to the Labor Party: if the fact that, as minister, I require universities to train nurses in regional communities and I require universities to train podiatrists and I require a say over training people in scepticism and the
paranormal means that I am guilty of exces-
sive regulation, I stand accused and con-
demned.

The DEPUTY SPEAKER (Hon. BK
Bishop)—The immediate question is that the
words proposed to be omitted stand part of
the question.

Question agreed to.

The DEPUTY SPEAKER (Hon. BK
Bishop)—The question now is that this bill
be now read a second time.

Question agreed to.

Bill read a second time.

Third Reading

Dr NELSON (Bradfield—Minister for
Education, Science and Training) (6.55
pm)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

PARLIAMENTARY LIBRARY
COMMITTEE

Message received from the Senate inform-
ing the House of a resolution agreed to by
the Senate relating to a proposed Joint
Committee on the Parliamentary Library, and
requesting concurrence in this resolution.
Copies of the message have been placed on
the table.

Mr DUTTON (Dickson—Minister for
Workforce Participation) (6.56 pm)—I move:

That the message be taken into consideration
immediately.

Question agreed to.

Mr DUTTON (Dickson—Minister for
Workforce Participation) (6.56 pm)—I move:

That this House concurs in the resolution
transmitted in Senate message No. 233 of 7 De-
cember 2005 relating to the proposed Joint Com-
mittee on the Parliamentary Library.
ing senior officers liable for prosecution where it is proven that their negligence or recklessness led to the death of an employee under their supervision.

The ACT government’s evaluation of occupational health and safety laws identified problems in regard to private employers responsible for OH&S administration, who could evade responsibility for breaches of OH&S legislation by hiding behind a corporate veil. The ACT government believe that that same possibility exists for similar evasion by managers and senior executives in the public sector who are responsible for ensuring the enforcement of OH&S rules. The ACT authorities also believed that the charges and penalties were deficient in cases where accidents resulted in deaths in the workplace. Prosecution of corporate employers is difficult. The ACT government believes that its industrial manslaughter legislation provides a mechanism to facilitate the prosecution of companies and individuals found to be guilty of breaching OH&S requirements and causing death.

In defining a corporation as a legal person, able to be prosecuted for a criminal offence, the ACT government has said it intends that the law will be a forceful deterrent to those companies who evade their responsibilities in providing a safe workplace. Under current OH&S legislation it is easy to prosecute companies for breach of the OH&S laws. Fines, rather than jail terms, are imposed on these companies, because the legislation does not differentiate between breaches which result in minor injuries and breaches which result in death. Breaches which have resulted in workplace deaths have proved difficult to prosecute.

The Occupational Health and Safety Act 1989 (ACT) provides a fine for failure by an employer to:

... take all reasonably practicable steps to protect the health, safety and welfare at work of the employer’s employees.

This attracts a maximum penalty of $25,000 for an individual employer or $125,000 for a corporate employer. Those who argue for the industrial manslaughter laws say that the more substantial penalties would be effective, as the charges would be seen as genuinely criminal rather than quasi-criminal, as under the current OH&S regulatory regime.

The ACT government expressed in its submission to the Senate inquiry that existing pieces of OH&S legislation are:

... remedial rather than punitive in nature, ie they are there to improve the conditions of work, not to make the employer or employee suffer penalties for breaches of the law.

It is the view of the ACT government that the change to the law with regard to workplace deaths, so as to put these within the criminal jurisdiction, emphasises the value which society places on human life and on the dignity of employment.

Current attitudes to safety in some workplaces carry with them the notion of employees as assets which are attached to a business. This is not much further advanced than a past practice of seeing employees simply as units of labour and, by extension, the property of their employers. Consequently, the ACT government also places importance on the symbolism of industrial manslaughter legislation when considering its practical impact. With prosecution administered by the police and the Director of Public Prosecutions, rather than by an OH&S inspector, industrial manslaughter and workplace death is understood to be an intolerable risk, treated with greater severity than other OH&S infringements.

The bill specifically seeks to exclude the operation of the ACT’s industrial manslaughter laws. The ACT’s industrial manslaughter
laws do not apply to direct employees of Commonwealth departments, as these laws do not expressly bind the Commonwealth in the right of the Crown. However, the ACT industrial manslaughter laws do currently apply to Commonwealth government business enterprises, such as Telstra, Australia Post and the Health Insurance Commission. This bill would have the effect of making Telstra exempt from the ACT industrial manslaughter legislation but leaving Optus covered by the legislation.

The ACT government estimates that this bill, in exempting GBEs from the ACT’s industrial manslaughter laws, will affect fewer than 1,000 employees. Therefore, the practical effect of the proposed bill is minimal. However, the ACT government remains strongly opposed to this bill because it is an intrusion into the right of the ACT to determine the laws that apply in this territory. Also, large, well-resourced corporations such as Telstra should not be exempt from the ACT’s industrial manslaughter laws just because they are majority owned by the Commonwealth. The bill is also expressed to take effect retrospectively from 1 March 2004. As a matter of public policy, Labor opposes retrospective legislation.

Since this bill was first introduced, other states have moved to amend their legislation to address workplace deaths. This bill seeks to exclude Commonwealth employers and employees from the application of a law of a state or of a territory which, to quote section 11A(1) of the bill:

(a) imposes a criminal liability in respect of a person’s death that occurs during, or in relation to, the person’s employment or provision of services to another person; and

(b) is prescribed by the regulations.

It is unclear, particularly in the absence of the regulation referred to in the bill, whether the bill will apply to the various pieces of state workplace death legislation. This is something that the minister could address in his reply.

The Senate Employment, Workplace Relations and Education Legislation Committee considered the bill and reported on 10 May 2005. The government majority report supported the bill, stating that in the government’s view emphasis on education and compliance to prevent industrial accidents was the preferred approach and imprisonment was excessive. Labor and the Democrats produced minority reports on this bill. The Labor senators opposed the bill, arguing: Changes to the law in regard to workplace deaths, so as to put these within the criminal jurisdiction, will emphasise the value which society places on human life and on the dignity of employment. Current attitude to safety in some workplaces carries with it the notion of employees as assets which are attached to a business.

The Labor senators also opposed the overriding of state and territory jurisdiction by the Commonwealth. The Democrats supported the view that:

...the application of the criminal law of a State or Territory should not depend upon whether the employer is a Commonwealth authority or not. But the Democrats determined to formalise their position when the bill is considered in the Senate.

In conclusion, Labor believes that this bill will only create more confusion about which ACT employers are and are not covered by industrial manslaughter laws and will not remove uncertainty, as has been claimed by the government. Instead, the bill will effectively create a two-tiered system of occupational health and safety within the ACT. Further, it is unclear whether this will also be the case in other states that have introduced various versions of workplace death legislation. Labor opposes this bill.
Mr TUCKEY (O'Connor) (7.06 pm)—
The Occupational Health and Safety (Commonwealth Employment) Amendment (Promoting Safer Workplaces) Bill 2005 introduced by the Howard government today is a response to a piece of arrant stupidity presented to Australia by a governing body that, by any measure, should be a local government. It is headed by a chief minister called Stanhope who constantly makes the job he holds down look very foolish. I had considerable contact with him when I was Minister for Regional Services, Territories and Local Government, and I found him to be pedantic and silly on issues which I tried to address for the people of Canberra. On one occasion I saw him do a 180-degree turn from his highly principled position, after one of his aides obviously read him some of the public popularity figures on the issue.

To think that the many thousands of people in middle management or other parts of the Commonwealth employment structure in this town—which of course lives or dies on the activities of this parliament—could be charged with manslaughter! Of course they are subject to a high degree of probity in the very laws that have been produced by this Commonwealth government to manage industrial health and occupational health and safety throughout our workplaces. In order to refute any suggestion in any part of Australia—and this is a message, at least, to other state governments—that participating in this foolishness will be allowed to affect the employees of the Commonwealth, it is very timely that the minister has brought this legislation to the parliament.

The bill will exclude all Commonwealth employers, employing authorities and employees from the application of ACT industrial manslaughter laws and any other similar industrial manslaughter laws enacted by a state or territory in the future. This is all based on a premise associated with OH&S, an old adage that says prevention is better than cure. We attempt as best we might throughout Australia, typically, to protect people from themselves.

It is an amazing thing that people with the appropriate expertise can walk across Niagara Falls on a tightrope. You could put that tightrope over there and the average citizen, having good sense, would not walk on it. But there is a belief amongst legislators today that you should have enough signs out surrounding the rope to say, ‘Don’t walk on this rope.’ They think there should be signs saying, ‘Don’t dive into this bit of water in the ocean’—you would need such a sign every 20 or 30 metres around the coast of Australia. That is a totally impossible impracticability that keeps confronting the ratepayers of various local authorities. They are silly premises. I think our law has overemphasised the prevention concept, and the concept of self-preservation is being ignored, leading to a farcical situation.

To say that someone over in a property in Barton could be charged with manslaughter because something happened out in some part of Canberra to an employee of that department is outrageous. It is equally outrageous in terms of large corporations—companies that employ 30,000 or 40,000 people. Why should a senior official of that particular company be subject to a threat of manslaughter when in fact they have done their best and they have passed all the necessary resolutions through their board? What more can they do?

This circumstance of the potential for abuse of duty of care has just been highlighted in Western Australia. The deputy leader of the Liberal Party over there—prior to that appointment, I might add, but as a senior member of the opposition—accidentally shot his son in the thumb while they were out rabbit shooting. He was devas-
tated by the injury he did his son, but the powers that be prosecuted him for failure of duty of care. The magistrate in the end realised it was a witch-hunt and fined him $1,500—which was probably the least he could do under the legislation—but refused to record a conviction. In the meantime, the man felt obliged to retire from his position as deputy leader and from the front bench, with obviously some considerable financial loss.

While all that was going on because he was a Liberal, most unfortunately a well-respected and recognised rugby player backed over his baby daughter. It was a tragedy. Fortunately the child has survived, apparently without permanent injury. Is the Premier of Western Australia ringing up the Premier of, I think, Queensland and saying, ‘You’ve got to have this bloke for his failure to have a duty of care’? Any suggestion that either parent wished to inflict that injury on their child, one being mature and one being a baby, is ridiculous. But that is where we are at. It is quite possible, no doubt, under the state laws of Queensland, for this man to be charged with running over his own baby—if he were the Deputy Leader of the Opposition up there.

That is abuse, and this legislation is subject to abuse. Are we prepared to say that the footballer in Queensland should have been charged with industrial manslaughter if that baby had died? That is what we are talking about. We are talking about legislation gone berserk. I congratulate the minister and the government for having the proper responsibility to say, ‘Not in our backyard.’ If the Chief Minister of the ACT’s twopenny-halfpenny parliament believes that is a burden to put on the employers of the ACT, I guess we can only be grateful it is a very small area and people will be able to take the opportunity of going to Queanbeyan or somewhere to invest their money.

This whole issue is a matter of grave concern to me and my electorate. One of the great killers and maimers of people is the motor car. Manufacturers over time have done much to make vehicles safer and, quite properly, we have legislated that people should wear a seatbelt so that they have the opportunity of protecting themselves in that regard.

Ms Hall—Madam Deputy Speaker, I rise on a point of order. My point of order relates to standing order No. 70. The member is straying from the subject of the debate. He talks about motor vehicle accidents, which are in no way related to the workplace but rather to motor traffic—

The DEPUTY SPEAKER (Hon. BK Bishop)—I have listened attentively to the member for O’Connor and he is addressing the subject of the bill. There is no point of order.

Mr TUCKEY—Has the member for Shortland never heard of a taxi? Is a taxi a workplace? Some of the people she has serviced in her life get workers compensation from the moment they get in their private vehicle to drive to work. She is here because they became sick of having her where she used to be and she comes in and demonstrates her lack of knowledge of the matter before us, when I am talking about a motor car. Let me talk about motor vehicles and how many people are killed and maimed by them and about the protective mechanisms that are put within them.

Ms Hall interjecting—

The DEPUTY SPEAKER—The member for Shortland will desist. She will have her turn shortly.

Mr TUCKEY—Yes, won’t she. For goodness sake, I should stand around. It will be the biggest vacuum in my life if a motor car is not part of occupational health and safety.
Ms Hall interjecting—

The DEPUTY SPEAKER—The member for Shortland will desist.

Mr TUCKEY—The point I want to make is that, under the ACT law we are overriding here today, if an employee of any person—including the Commonwealth, up until this moment—went out in an older type vehicle without airbags and consequently, through the total fault of the driver, got killed while travelling within the ACT, the legislation could quite easily be read as saying that, because that vehicle was not equipped with airbags, a manslaughter charge could be levied against the individual who owned that vehicle and sent the person out to work in it. That is what we are talking about. But millions of cars in Australia do not have airbags. Clearly, that is the standard that is set today.

I want to talk further about that regarding other pieces of equipment that are operated within my electorate. My mother often said, ‘If you put a beggar on horseback, they will ride to the devil.’ That is a good thing to say about people who get empowered by legislation passed in places like this and go out full to the brim with their newly acquired power and try to apply a law in a machinery environment that encompasses many years. A car without an airbag—or without side-impact airbags or top-level airbags: what is the standard that might make you subject to a charge of manslaughter?

Regarding my electorate, all of a sudden the authorities of Western Australia have decided to attack machinery dealers. When a farmer has an old piece of equipment—in my electorate, the pressure is on getting bigger and better machinery all the time just to stay financially viable—they expect to be able to trade it in at the appropriate time and a machinery dealer allows them to do so. The dealer then puts that machinery—which they have paid for out of their capital costs, by borrowing the money on a floor plan or whatever—in their yard, on its arrival from the farming property. It is possible that in the time it took to get the vehicle from the farm to the dealer’s premises, for whatever reason, a guard has been removed or a decal, which sits somewhere out of sight and displays the appropriate standard requirements—it does not tell you to do anything; it just shows that the header, tractor or whatever vehicle it is is registered under standard XYZ or whatever—has fallen off. It is interesting that when that vehicle comes in, compared with the new beaut one that the farmer has just purchased, it no longer complies with modern law. But, if the vehicle dealer were to attempt to upgrade it to a modern standard, he would accept all the liability for that work.

So what has happened? Inspectors have come in and gone around to all these dealers and said, ‘You fix that machinery; you bring it up to the modern standard.’ The dealers say, ‘But we’re not allowed to do that,’ and are told, ‘Tough. You have an unsaleable piece of machinery. We’ll lock you up if you don’t fix it.’ The dealers cannot fix it. Of course, these beggars have a very interesting status. There is a lady—I think she is called Mrs Lynne—who runs this department and she says that all the machinery dealers love her. Just for your information, Madam Deputy Speaker, there are two pages in the farm weekly of just what the dealers are saying about these arrangements. Inspectors went into one place and started to put notices on an unfinished piece of equipment under manufacture. What was it going to look like when it was finished?

By coincidence, some months ago I was making a purchase in a warehouse type facility and was sitting, waiting for the goods to come out from the warehouse at the back. Two young women with green clipboards walked in and I thought, ‘Uh oh, the inspec-
tors have arrived; I wonder what they’re here for.’ They walked straight up to the girl at reception and asked for the boss. They said, ‘Is Mr So-and-so here?’ The receptionist said, ‘No, he’s out trying to sell things to make a living.’ The girls then said, ‘Well, he should be here because we’ve arrived and we want to inspect your premises.’ Anyhow, while I was sitting there, they found someone else to accompany them and out they went. The place is a barn; in it are a few shelves on which they store the goods that they sell. One of the girls came back to the receptionist and said, ‘We couldn’t find anything to grab you for out there, but I noticed a distinct smell of cigarette smoke.’ According to her, somebody in this huge building had stood in a corner out of sight and had a puff on a fag. She wanted to find out who that was so that she could prosecute the boss, who was out on the road trying to sell things in order to make a living.

What OH&S benefit is achieved by that? Absolutely nothing. And what is achieved by going into a saleyard, looking at equipment that might be 10 years old, that was produced to the required standard at the time, and overnight, with no warnings, telling people that they cannot sell that—possibly sending people broke, because they are between a rock and a hard place—and saying, ‘It’s your problem, mate.’

This is an outrageous situation. It is just as bad as telling a person who puts someone in a car that does not have 10 airbags in it that they might be responsible and charged for manslaughter. It is about time, in all these processes, that there was an equalisation in the responsibility of the employee to ensure that they do everything possible to be safe—and that might include driving a bit more slowly in the car that the boss provided or observing traffic signs. But, no, unless you put a sign on the dash that says, ‘Please stop at stop signs;’ you can be held responsible.

It is an interesting thing, because I have argued for a long time about outworking and giving people—single parents, for instance—the opportunity to work from home. Immediately people say, ‘But what about the OH&S problems? Will their home be up to standard?’ I think about the lady who has her inspectors running around my electorate making life impossible for machinery dealers, and I wonder if every time she carves the family roast she puts on a steel mesh glove—because, if she does not, she is not sticking to her own rules. It would not be a bad idea.

Mr Windsor—Who’s this?

Mr TUCKEY—The head of the OH&S regulatory regime in WA. You want to watch out, Member, when they start in your electorate. You will find that they can close down machinery dealers and leave them with a yard full of second-hand plant. They are not allowed to fix it, they are not allowed to amend it and they are not allowed to sell it. But when the inspectors go into a factory and start putting yellow stickers on something that is only half finished, how can they do that? Who are the mugs they are employing to behave in that fashion? I could spend a large amount of my time reading from the report that is in this particular paper, highlighting these errors.

Of course we want to protect people. Of course we expect fair and reasonable efforts from the employer to make things as safe as possible. But, on the other hand, having done that and having put up the signs, if an employee injures themselves or is involved in a fatality, why would you think of charging someone with industrial manslaughter who probably was not in the workplace? I know that OH&S is the last bastion of the trade union movement. There is no need for them to be involved. We can have inspectors. I hope they are a little more sensible than those who went roaring around my electorate.
the other day, targeting shearsers and shearing sheds. The wool industry is in disarray. It is very hard to make money, and we have inspectors going into old, established shearing sheds that have been there forever and have a high record of no injuries and telling them to spend $10,000 or $20,000 before they shear their 500 sheep or whatever. It is outrageous and it is wrong. (Time expired)

Mr HAYES (Werriwa) (7.26 pm)—Once again we have a bill being debated in this place that seeks to override a decision of a legally constituted body. But on this occasion it is not the Australian Industrial Relations Commission, as we have seen in other legislation introduced in this place. This time the federal government is seeking to overturn the decision of another government. But, much like the rest of the legislative program of this government, it is not a case of stopping at just one government. The provisions of the Occupational Health and Safety (Commonwealth Employment) Amendment (Promoting Safer Workplaces) Bill 2005 act to curtail the operation of the industrial manslaughter laws of any state or territory into the future. I oppose this bill, both for what it does and for the premise on which it is based.

The Minister for Employment and Workplace Relations, in his second reading speech, started out by stating that these amendments:

... will reinforce and underscore the Commonwealth’s regulatory approach to workplace health and safety, which is to ensure that the main focus should be on preventing workplace injuries, rather than punishment after the event.

They are noble sentiments indeed, and I think that you would be hard pressed to find anybody who did not support the notion that it would be better to have an approach that supports occupational health and safety and does not rely solely on prevention through punishment. But companies have been introducing workplace changes for some years, and I think there is now a reasonably healthy regime out there which has been developing.

Whilst the government’s philosophy on this occasion, where it seeks to focus on injury prevention, may be noble to that extent, I do not know if it would translate into setting aside law enforcement so that we focused on crime prevention rather than punishment after the event. I do not know that the minister would find too many people who would agree with that approach. However, fundamentally there is probably little difference between the two in terms of general philosophy.

People always agree that law enforcement should have its focus on crime prevention, and it is certainly a guiding philosophy that most neighbourhood and community groups who are tasked with administering crime prevention programs would no doubt agree with. However, I do not know that anyone would go so far as to agree that, if a criminal act has taken place, the perpetrator should go unpunished just because the main focus should be on crime prevention. No-one is willing to let criminals go unpunished, so why should we adopt an approach to workers’ safety in which negligent employers can go unpunished? To my way of thinking, that just does not make sense.

The impetus for this bill is the passing by the ACT government of the Crimes (Industrial Manslaughter) Amendment Act. The act, among other things, moved industrial manslaughter from occupational health and safety legislation into the Crimes Act because the standard for conviction is higher.

Debate interrupted.

ADJOURNMENT

The SPEAKER—Order! It being 7.30 pm, I propose the question:

That the House do now adjourn.
Mr WINDSOR (New England) (7.30 pm)—I would like to speak about the taxation regime that is imposed in some cases on compensation for structural adjustment payments. I raised the issue in question time today. The Prime Minister took it on board and said that he will consider the issue as raised, but I would like to flesh it out a bit more. I referred particularly to the structural adjustment process that has been put in place under the auspices of the National Water Initiative, which was announced by the Prime Minister and the then Premier of New South Wales, Bob Carr, back on 9 June 2005.

Part of that process was a three-way split of the funding arrangements to bring water entitlements back to a sustainable fashion so that long-term environmental good within groundwater catchments could be adhered to. Fifty million dollars was promised by the Commonwealth government through the NWI process, $50 million by the state government and $50 million by the irrigators—the water entitlement holders. That was recognised as a major breakthrough—a part of the National Water Initiative where various groups could come together in a positive sense.

We have since found that the adjustment payments that would be made to the various groundwater irrigators across five valleys in New South Wales will be subject to income tax, even though it is recognised that they are capital in nature. That brings the focus very much on the processes that are at work within the government and the tax office in relation to these issues. I am formally calling tonight for a government inquiry into these processes, whether it be done through the parliamentary committee system, the Auditor-General or the ACCC—it will probably be left to greater minds than mine. I think it is time that we look at why some payments are treated differently to others.

I would like to highlight a few of those payments because it might assist the Prime Minister in answering the question. The dairy industry adjustment scheme was put in place in 2001. It was recognised that the $1.2 billion that was committed by the levy imposed on milk consumers—no governments were involved in this—was going to be insufficient to pay the income tax that would come from the adjustment process with the individual dairy farmers. You will remember that that was put in place to assist the dairy industry to adjust to the deregulation process.

The other day on radio, the former Deputy Prime Minister, John Anderson, admitted that the government decided to impose another 4c per litre levy on milk consumers to generate half a billion dollars in tax receipts. Whilst people were thinking they were paying that little bit more for milk to help the downtrodden dairy farmers, half a billion dollars was going into government coffers. That case was treated in a similar fashion to how the groundwater entitlement holders are being told by the tax office that they will be treated.

But not all adjustment packages are treated in that fashion. In fact, the sugar exit package is not taxed. In the Namoi structural adjustment scheme, which the member for Gwydir had custody of, the Carroll channel—I know this is parochial—was being funded to alleviate the same stressed groundwater systems to assist individual growers to bring river water into a groundwater system so that their livelihoods would not be impacted. Those payments were not taxed. In fact, the Commonwealth, through the Regional Partnerships program, paid the GST. There is different handling of these situations.
Another example, for the South Australians, is the Mount Lofty Sustainable Water Management project, which was put in place to formalise water arrangements so that there would be a sustainable and environmentally good future for the water resource in that area. I do not think it is taxed. Maybe the Prime Minister would be able to clarify that. I am calling for an inquiry into the mechanisms at work in relation to the taxation of compensation. (Time expired)

Graffiti

Mr WOOD (La Trobe) (7.35 pm)—I rise tonight to bring light to the issue of the glorification of graffiti on the internet. Dimity Barber of Leader Community Newspapers has dedicated much time and many resources to investigating this important issue. Graffiti, or graff as it is otherwise known, has traditionally been limited to appearing on our local streets, trains, fences and buildings.

This issue has transformed to a new level, as we now see web sites advertising works of graffiti, with most web sites even breaking down the search by suburb. Access to these sites gives these so-called artists an opportunity to post pictures advertising their own creations to the network of graffiti enthusiasts. The internet has vastly broadened the network of current and potential graffiti artists. The impact of graffiti is immeasurable, whether it be the cost of removal or the violation felt by elderly residents when their property, such as a fence, is covered in graffiti.

In 2001-02, La Trobe’s largest council, the City of Casey, committed to a graffiti management program to address the growing issue of graffiti. This includes the free 24-hour 1800 VANDAL program, which encourages residents to report graffiti vandalism and the council endeavours to remove the reported graffiti within 24 hours of notification.

Last year the council spent $115,000 removing graffiti throughout the municipality, and roughly the same has been spent this year. The city spends $60,000 each year on its education program, targeting primary and secondary schools to promote the message that ‘Graffiti is not cool’. The council has gone further than just eradicating graffiti and educating the local community. The city has developed local legislation making it a criminal offence to sell aerosol cans of spray paint to people under the age of 18 years.

The City of Casey is doing a great job on the ground addressing the graffiti problem. However, as the graffiti is now being photographed and published on the easily accessible internet, its good work is being undermined. Web site operators are developing networks publishing and advertising their works that deliberately break the law. These web sites encourage others to get out into the community with a spray can and deface property.

At the state level, the Victorian government is attempting to address the issue by developing a state graffiti strategy called ‘Safer streets and homes’. According to the Victorian government’s documentation, it provides:

... an integrated action framework to support the future management of graffiti in Victoria by both government and the community.

However, this strategy completely fails when dealing with graffiti internet operators. In Victoria, a graffitist can be charged under state legislation for various offences, such as wilful damage and criminal damage. I am of the opinion that graffiti web site operators could be charged for incitement to commit a criminal offence under 321G(1) of the Crimes Act. For that, a person would need to be charged under the criminal damage section.
It is therefore my belief that this issue should fall within the state’s responsibility. Local police who know their areas should have the provision to restrict the incitement of graffiti, not the Federal Police. The Victorian Attorney-General, Rob Hulls, believes that the regulation of the internet falls under Commonwealth jurisdiction. A spokesperson for Mr Hulls, Sally Finlay, was quoted in the Berwick Leader on Wednesday, 9 November 2005 as saying:

At state level, we are limited as to what we can do. We just don’t have any powers at local level.

I find this rather surprising. Recently in South Australia, a web site was closed down by the South Australian police for advertising and glorifying graffiti. I believe that this is the correct level at which to monitor and enforce graffiti incitement.

The good work being done by local councils such as that of the City of Casey is being undermined if the practice is being advertised and encouraged on the internet. The Victorian government’s strategy has a huge gap when it comes to graffiti on the internet. I believe that this matter must be addressed. Accordingly, I will write to the Commonwealth Attorney-General in an effort to encourage the Victorian state government to either prosecute offenders under current incitement provisions or, if there is some legal reason why this cannot occur, determine an outcome so that this can be achieved through a bipartisan approach.

(Vote expired)

Victory in the Pacific Day Medallions

Mr Rudd (Griffith) (7.40 pm)—My purpose in addressing the parliament today is to honour the contribution of many of Brisbane’s war veterans in our recent commemoration of the 60th anniversary of the conclusion of the Second World War. As part of our local commemorations, I hosted a ceremony on 25 October to present medallions to local veterans and their families. I would like to use this opportunity in the parliament today to honour their contribution to our country and to our community.

The Victory in the Pacific medallion presentation ceremony was held at the Easts Leagues Club in Coorparoo in Brisbane. Over 350 south-side residents attended the ceremony to celebrate the efforts of our local veterans. I was joined in honouring our veterans by Lieutenant-Colonel Anthony Anetts, commanding officer of the Bulimba Barracks, and state members of parliament Gary Fenlon and Pat Purcell. I want to give particular thanks to our guest speaker for the day, Marie Dwyer from the War Widows Guild. The War Widows Guild performs a first-class function in our community in supporting widows who have had to fend for themselves in what has often been a difficult life. I also want to pay thanks to Betty Sinden, who attended as a special guest, representing the Friends of Balmoral Cemetery. Sixty veterans received specially made commemorative medallions and were entertained by the Coorparoo Secondary College Saxophone Ensemble. I seek leave to table the names of those individuals who were honoured in our local ceremony.

Leave granted.

Mr Rudd—I thank the member for Sturt. It is important to note the contribution that Brisbane’s war veterans have made to our community and our country. The city of Brisbane played a vital role in Australia’s defence during the Second World War, serving as the headquarters for General Douglas MacArthur. None of us in this parliament—in particular, none of us from the state of Queensland—will ever forget the Brisbane Line.

After the war, many of Queensland’s returned soldiers and their families built their homes on Brisbane’s south side. Many of those homes were in suburbs that grew up in
my own electorate of Griffith—areas such as Coorparoo, Bulimba, Morningside, Greenslopes, Cannon Hill, Fairfield and Annerley—leaving a permanent mark on the development and character of many of our local suburbs. Over the last 60 years these veterans and their families have continued to serve our community through their volunteer work and participation in local community groups.

One of the remarkable things I find with veterans in my community—and I am sure I speak on behalf of all members of parliament—is that many decades after having completed their service for their country they are still actively engaged in service to their local community. It is no small coincidence that those who have given so much to their country feel compelled even into their later years to give all that they can to others in their community work.

The south side is home to a number of RSLs and service groups, who have ensured that the legacy and sacrifice of Australia’s veterans are remembered. These include the Cannon Hill District and Vietnam Services RSL, the Coorparoo and Districts RSL, the Hellenic RSL, the Holland Park-Mount Gravatt RSL, the Ithaca South Brisbane RSL, the National Servicemen’s RSL, the Norman Park RSL, the Stephens RSL and the Yeronga-Dutton Park RSL. It is my privilege to attend many of their Anzac Day services each 25 April.

I would also like to pay particular tribute to the Friends of Balmoral Cemetery. This is one of Brisbane’s oldest cemeteries, and it lies in the middle of my electorate. Some years ago a group of volunteers decided to form the association with the object of maintaining this important historical monument within our local community and within that to particularly take on the responsibility of maintaining the graves of veterans. Some hundreds of veterans from the Boer War to the present are buried in the Balmoral Cemetery and the Friends of Balmoral Cemetery have played a first-class role in ensuring that their legacy is properly honoured. They have also put together many local histories and biographies concerning those who are interred in the cemetery. I pay tribute to their community work.

I conclude by simply saying on behalf of the Australian parliament how much we honour the contribution of war veterans and their families in ensuring this country’s freedom. (Time expired)

**Victorian High Court Building**

Ms PANOPULOS (Indi) (7.45 pm)—I am compelled to rise this evening to plead for the preservation of an important part of Australian history and heritage and to mention a serious conflict of interest for the Victorian Attorney-General. In October this year the Victorian government lodged an application to demolish the old High Court building in Little Bourke Street in order to make way for a 10-storey Supreme Court building. I am advised that the application will be determined early next year.

The brave new world of the Bracks Labor government has form. It does not appreciate or attempt to preserve our history and heritage. Their arrogance extends to erasing history and in its place erecting monstrosities. We have seen a planning application to demolish three heritage listed buildings—part of Kew Cottages—in order to make way for high-density housing development. They have killed a national icon—the man from Snowy River—with their blanket ban on cattle grazing in the high country, even rejecting a $15 million Commonwealth government package for the environment and cultural heritage. Mr Hulls proposed an eyesore of a glass dome over the historic courtyard of the Supreme Court, and his tacky taste will only
be outdone by his proposal to demolish the historic High Court building. As both Victorian Minister for Planning and Attorney-General, Mr Hulls has a conflict of interest as his departments are both the applicant and the consenting authority for such an application.

Designed in 1928 the old High Court building is a fine example of the architecture of the era and of the work by JS Murdoch, the Chief Commonwealth Architect, who also designed Old Parliament House and the Canberra Hotel, among other important buildings around the nation. It was the first building designed and built specifically for the High Court of Australia. It was opened as the principal home of the court in 1928 and was continuously occupied for this purpose until the opening of the High Court building in Canberra in 1980.

The old High Court building is to the judicial branch of government what Old Parliament House is to the executive and legislative branches. Can anyone imagine the outcry if there were an application to demolish Old Parliament House? The judicial arm of our democracy, its history and its development are just as important as the development of our unique parliamentary system. It deserves equal protection. The building is listed on the Register of the National Estate, the Victorian Heritage Register and on the site-specific heritage overlay control under provisions in the City of Melbourne Planning Scheme.

During its occupation by the High Court of Australia, many important nation-shaping debates were conducted in the courtrooms in the building, particularly in court No. 1. These included the uniform tax case, the bank nationalisation case, the Communist Party case and the boilermakers case, as well as a number of challenges to the Whitlam government’s legislation such as the AAP case and the first territory senators case.

The historical significance of the building is enhanced by its close association with Australia’s greatest judge—Sir Owen Dixon, who was associated with the building for more than half of the period during which the building was used by the court. When the building was transferred to Victoria in 1999, the then Chief Justice of Victoria, John Phillips, said the:

... decision to purchase this building, if I may say so, is a far-sighted decision, a timely decision, it is a decision which will have great benefit for our court and the advancement of justice ...

In seeking to demolish the old High Court building, the Victorian government may be in breach of one of the terms of agreement under which the building was transferred to Victoria in 1999. Victoria’s heritage acknowledgement included listing on the Victorian Heritage Register, compliance with the Heritage Act 1995 and complying with conservation management works. No-one would have contemplated the destruction of this iconic building. Melbourne was the seat of the court for most of the last century. It beggars belief that a Victorian Attorney-General could seek to erase the physical reminder of the important part that Melbourne and Victoria played in the history of Federation.

The preservation of this building is critical to an understanding of our nation’s history. The importance of the great constitutional battles fought there cannot be overstated. No other democratic nation would treat such an important building with the contempt required to lodge an application to seek its destruction. On behalf of all Victorians, I beg Mr Hulls to reconsider this very rash decision.

Child Care

Mr DANBY (Melbourne Ports) (7.50 pm)—Earlier today in the Main Committee I
began raising the issue of child care in my electorate, particularly the shortage of places as a result of rapid growth in the number of young families going back to the inner suburbs, where the cost of land and housing is very high and both parents are working. There is a great demand for child care in the city of Port Phillip, which forms part of my electorate. We hear the government talking about its investment in child care, but people in Port Phillip are wondering where the money has gone, because we are not seeing the benefit.

In Port Phillip today the Port Phillip Council provides 221 child-care places through its own facilities and subsidises a number of others—335 exactly. Only 415 places are available in the private child-care sector and indeed there is a waiting list of 1,935. That is nearly 2,000 children who cannot find places in child care in one city alone, whose parents are therefore unable to participate in the work force as they want to and as they need to—with all the economic dislocations occurring with highly trained people, particularly women—for their families and for the wider community. The economic cost of this, if one looked at it rationally, would be quite large and would outweigh the benefit the federal government has gained by not properly contributing to child care. We only know of those statistics because of the excellent work of child-care activists in my electorate, such as Rebecca Bartel and people like Sonia Hood, who have had the good faith to try to see Senator Patterson about the federal government’s lack of activity in this area but have come up against a brick wall.

In child care, as in other areas, this government has a blind faith in market forces and the private sector, but in my electorate the private sector has not met the demand for child care. This is partly because of the very high cost of buying land in the area and the cost of decontaminating land in areas that were formerly used for industrial purposes. The cost of vacant land in Port Phillip is so high because private developers are buying it up for apartment blocks. More apartments mean more families and more children—but no new child-care centres.

The Port Phillip council estimate that the area needs four new child-care centres. The building costs alone for those would be $8.5 million—let alone the costs of land and decontamination. The Port Phillip council currently spend $1.25 million a year on child care, and this is not sustainable for a city of 82,000 people. Now the council have announced that they are being forced to scale back their child-care activities and they are moving to a user-pays system. This is very unfortunate. I am pleased that they have put some of these plans off for a year to give the parents more time to interact with them, but it is mainly because of federal government inactivity, which I will return to.

The blame does not lie with the council, as I said, which does its best with the available resources to meet the needs of its community. It does not lie with the Victorian state government, which has announced support for an additional child-care facility in Elwood, the Hub, which will be associated with the Elwood secondary school. It has donated land and also the old Albert Park Primary School for a child-care centre worth $3 million. Recently the state minister, Sheryl Garbutt, announced that the state government would fund a pilot waiting-list program for the whole inner-metropolitan area so that the current haphazard system of waiting becomes more attuned to the needs of parents.

The blame for this situation lies squarely, in my view, with this federal government. The minister, Senator Patterson, continues to tell us that there is no crisis in child care, that
more money than ever is being put into it and that, if there is no child care in inner-urban areas, it is all someone else’s fault. When she came to a public forum in St Kilda in November she had nothing to offer and she told local residents that they should find creative solutions to the problem. It is evident that the minister has little interest in the child-care crisis in my area or in helping the mothers and families who want child care for their infants and to get back into the work force. It is a fact that the minister does not understand that there is a problem in the area, if you look at her statements.

Why is it that, if so much money is being spent on child care, as the minister says, none of it is reaching the areas of acute need such as those in my electorate? It is partly because funds are being directed to regional and outer-suburban areas, where this government is worried about their marginal seats and wants to prop up its sitting members, and it is partly because this government has no clear picture of the real demand for child care. There is no central database of waiting lists or awareness of the demographic change. This government needs to sit down and consult with parents, with the City of Port Phillip and with the state government and fix the child-care crisis in my electorate.

Had Labor been elected, there would have been small amounts of money available for capital expenditure in community child care. This is the kind of thing that this federal government needs to consider, without wearing ideological blinkers and saying child care should only be done by ABC Learning and other fundraising donors. (Time expired)

South Australia: Crime

Mr FAWCETT (Wakefield) (7.55 pm)—One of the constant bits of feedback I get from people in the electorate of Wakefield is that they believe governments should be taking a lead and not passing blame between levels of government. It is interesting, then, when you take the opportunity to get feedback from people—which I do at every chance through publications I send out, including survey forms—that it comes back on a host of issues that are largely state issues. I draw the parliament’s attention to a survey I issued recently and the hundreds of responses that came back, with more than 90 per cent of them mentioning things such as crime, safety, hoon driving, drugs and, essentially, policing as issues of significant concern for the residents of Wakefield. Because of the large numbers of people who are reporting this to me, I am compelled to draw it to the attention of the parliament.

Many people are saying that this is a problem. The state government in South Australia says that it is not a problem and that, in fact, crime figures are reducing. The question has to be asked: is this just a perception on behalf of these people or is it a fact? If it is a fact: why? What should be done?

Mr Rann, the Premier of the current Labor state government, makes much of his ‘tough on crime’ approach. He is famous for the announcements that he makes. But a quick look at the facts reveals that in South Australia spending on policing under the Rann government is now the lowest in Australia: it is $230 per head versus the Australian average of $259 per head.

The Productivity Commission’s Report on Government Services 2005 has also discovered that South Australia is the only state or territory to have reduced police expenditure in 2003-04, against a national trend of increasing spending. Not surprisingly, with fewer police equipped with fewer resources, community satisfaction has fallen. Put into figures, it has fallen from 78.2 per cent in 2001-02 to 75.7 in 2003-04. So, despite the rhetoric, we are seeing a reduction in public
satisfaction because of a reduction in spending.

So how can the government say that crime is falling? It is interesting that policy documents given to the opposition recently indicated that police have been told to record only one offence per criminal incident, regardless of the number of offences that may have been committed—hence, the reporting statistics appear to go down. But, again, national statistics show the lie in that. Contrary to the impression created by the state government, the national Bureau of Statistics figures for 2004 show that in South Australia murder was 38 per cent higher than the national average; total homicide and related offences, which include things like death by dangerous driving, were 51 per cent higher; armed robbery was 10.4 per cent higher; unlawful entry with intent was 13.6 per cent higher; motor vehicle theft was 33.8 per cent higher; and other theft was 25.6 per cent higher.

Overall, the number of crimes in all categories across Australia has dropped since 2001. The decline over the period has been in the order of 26.8 per cent; whereas, in South Australia, it has been around 7.3 per cent. Largely, the drop in the crime rate nationally has to do with a buoyant economy and low unemployment flowing from this government’s good economic management.

There are also things like the fact that the crime prevention program, a very successful initiative of the previous state government, has been scrapped by the current Labor government. Extra police that were committed to have not materialised and the delivery date has been put off again until after the next state election.

Is it a case that these things are not affordable? Mr Speaker, I bring your attention and the attention of the parliament to the fact that this year alone South Australia has received some $187 million in GST over and above that which was promised under the guaranteed minimum amount. The state government shows its priorities in that it is planning to spend some $21 million on extending a tram-line rather than providing police and security for its citizens. Importantly, it is potentially wasting $150 million on opening bridges over the Port River—as opposed to fixed bridges. I call on the state government to get its priorities right and support the people of Wakefield with appropriate police resources.

The SPEAKER—Order! It being 8.00 pm, the debate is interrupted.

House adjourned at 8.00 pm

NOTICES

The following notices were given:

Mr Ruddock to present a bill for an act to amend the Family Law Act 1975, and for related purposes. (Family Law Amendment (Shared Parental Responsibility) Bill 2005)

Ms Julie Bishop to present a bill for an Act to guarantee the refund of certain bond balances, and for related purposes. (Aged Care (Bond Security) Bill 2005)

Ms Julie Bishop to present a bill for an act to amend the law relating to aged care, and for related purposes. (Aged Care Amendment (2005 Measures No. 1) Bill 2005)

Dr Stone to present a bill for an act to amend Commonwealth financial management legislation and other financial and reporting provisions, and for other purposes. (Financial Framework Legislation Amendment Bill (No. 2) 2005)

Dr Stone to present a bill for an act to amend the law relating to elections and referendums, and for related purposes. (Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Bill 2005)

Dr Stone to present a bill for an act to amend the Ministers of State Act 1952, and
Dr Stone to move:
That, in accordance with the provisions of the Public Works Committee Act 1969, it is expedient to carry out the following proposed work which was referred to the Parliamentary Standing Committee on Public Works and on which the committee has duly reported to Parliament: Fitout of new leased premises for Australian Customs Service at 1010 LaTrobe Street, Docklands, Melbourne, Vic.

Dr Stone to move:
That, in accordance with the provisions of the Public Works Committee Act 1969, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Fitout of new leased premises for the Australian Taxation Office at the site known as Section 84, Precincts B & C, Canberra, ACT.

Mr McGauran to move:
That standing orders 31 (automatic adjournment of the House) and 33 (limit on business after 9.30 pm) be suspended for the sitting on Thursday, 8 December 2005.

Mr Baird to move:
That this House:
(1) notes with sadness the execution of the young Australian man, Mr Van Tuong Nguyen, in Singapore on Friday 2 December 2005;
(2) extends the sympathies of the Australian Parliament to Mr Nguyen’s family;
(3) calls on Singapore to review its mandatory application of the death penalty;
(4) notes with concern the increasing use of the death penalty around the world;
(5) notes the demonstrable failure of the death penalty as a disincentive for crime;
(6) notes the death penalty’s finality in cases where the innocent are convicted of capital offence;
(7) opposes capital punishment in all forms; and
(8) calls on the Australian Government and this Parliament to use its influence to lobby other sovereign nations to abolish capital punishment as a method of administering criminal justice. (Notice given 7 December 2005.)

Mr Fitzgibbon to move:
That this House:
(1) refers to the Standing Committee on Economics, Finance and Public Administration for inquiry and report the most appropriate models for introducing greater scrutiny and transparency into the process for appointments to the Board of the Reserve Bank of Australia; and
(2) resolves that until the committee has reported on new measures and new measures have been introduced, the committee be required to consider all nominations for the Board prior to them being confirmed. (Notice given 7 December 2005.)
Wednesday, 7 December 2005

The DEPUTY SPEAKER (Hon. IR Causley) took the chair at 9.30 am.

STATEMENTS BY MEMBERS

Ms Irene Rose Moran

Mr MARTIN FERGUSON (Batman) (9.30 am)—I want to take the opportunity this morning to pay a tribute to Irene Rose Moran, who passed away on 28 November this year. As members of parliament we all appreciate the importance of having good staff. For that reason I want to pay a tribute to Irene today. Irene first came to work for me when I was President of the ACTU in the early 1990s, having worked for the ACTU prior to that. Irene was a woman from the suburbs, having grown up in the Dandenong area. She left school at year 10, was trained in accounting and bookkeeping and pursued a professional career which led her overseas, and this led to her love of travel.

In the late 1980s Irene chose to change direction in life and pursue a career working for the Australian trade union movement. Her values of care and loving were based on her respect and love for her family. She was the youngest of seven children, with five sisters, Thelma, Gwen, Frances, Maureen and Val, and a brother, Don. She was also very active in the Uniting Church. At a service last Friday at the Edithvale Uniting Church, we saw the respect that she had in the local community and the commitment and support she gave to that church.

Those values defined by her involvement in and love of her family and her support for her church led her to make a huge contribution to working people in this country, first as an employee of the ACTU and my personal assistant, and subsequently when I was elected to parliament in March 1996. She requested and I willingly accepted her proposal to transfer from the ACTU to my employ as one of my electorate secretaries.

I want to highlight Irene’s contribution to the union movement and the fact that many working people in this country are better off because of her involvement in key campaigns under the accord process. She was involved with the action program for working women, proper attention to equal pay and affirmative action in child care and had a desire to actually do something about working people such as clerks, child-care workers and meatworkers. She was also of immense assistance to all my constituents. The number of phone calls and expressions of sympathy that I have received in the last week and a half are beyond belief. On behalf of all those working people, I want to say: thanks for your dedicated loyalty and commitment, Irene. You will be sadly missed by working people, not only in Batman but throughout Australia, because of the huge contribution you made and huge dedication you showed to the cause. Vale, Irene Rose Moran.

Queensland Parliament

Mr JOHNSON (Ryan) (9.33 am)—Today in the parliament I want to condemn, absolutely and unequivocally, the Queensland parliament’s action last Friday to observe a minute’s silence for the execution of the young Vietnamese-Australian, Nguyen Tuong Van. It was a tragic loss, but for the Queensland parliament to take this step, with 49 of its members observing a minute’s silence to mark that young man’s life being taken away, was a gross act of disrespect and dishonour to the men and woman of this country who have given their lives in service and sacrifice for this nation.
I am sure all of us in the parliament and across the nation would have enormous compassion and enormous sympathy for the family, friends and relatives of the young man whose life was taken through execution in Singapore. But to take a very formal step in the parliament of a state of this country, where his life is honoured and elevated to a position alongside the men and woman of this country who have fought and died in war for the freedom of this country, is reprehensible in the extreme.

I want to take this opportunity in the parliament to thank all those in my constituency of Ryan who have written to me. I also want to acknowledge the very strong words of the Queensland subbranch of the RSL and to thank them for issuing their press release which equally condemns the Premier of Queensland, particularly since he holds the position of Chairman of the ANZAC Day Commemoration Committee of Queensland. I am sure that all members of the coalition would stand behind my sentiments here today to condemn unequivocally this action of the Queensland parliament. I want to absolutely condemn the actions of those who represent the state seats: the member for Indooroopilly, Ronan Lee, and in particular the state member for Mount Ommaney, Julie Attwood, who is associated with the Mount Ommaney RSL subbranch. I thank Mr Tom Davies of Ryan, who expressed in no uncertain terms his absolute disgust with this action of the Queensland parliament.

To the Premier and the members of the Labor Party in Queensland who stood in a mark of respect of this man’s life, shame on you! This man was a convicted drug dealer. He trafficked in heroin, and had that heroin come to this country, the number of Australian lives that would have been lost is beyond count. We all feel sympathy for his family, but at the end of the day this man’s life cannot be equated to the lives of men and women of this country who have given their lives in sacrifice of this country’s freedom. (Time expired)

Vietnam Veterans: Health of Children Study

Mr Griffin (Bruce) (9.36 am)—I rise today to speak on the proposed study into the health of the children of Vietnam veterans. On 28 May 2004 Labor announced that, if elected to government at the forthcoming election, we would conduct a full health study of all veterans’ children. Labor’s study was to cover the health of the children of all veterans, including those who served on peacekeeping missions and in recent deployments to the gulf, East Timor, Afghanistan and Iraq. In response to Labor’s policy announcement, the government came out and stated that it would examine the feasibility of conducting a study into the health of the children of Vietnam veterans. It was a poor copy of Labor’s policy.

The problems of children’s health are not restricted to Vietnam veterans’ children but include all those whose family circumstances suffered from service related stress or the unknown effects of exposure to hazardous substances. It has long been accepted that veterans’ children suffer psychologically as a result of family disturbance caused by service related stress. It has also been accepted that physical deformities can occur in the children of veterans due to the veterans’ exposure to hazardous chemicals. In the first health study of Vietnam veterans, conducted in 1998 by the Australian Institute of Health and Welfare, it was revealed that there was a disturbingly greater incidence of congenital abnormalities than in the normal population—namely, spina bifida, cleft palate, acute myeloid leukaemia and adrenal gland cancer. Health care is already provided to those with these conditions, despite the lack of firm scientific evidence of any causal link. Counselling is also available in a family context for those exhibiting symptoms of stress. The most disturbing indicator of behavioural difficulties
was the elevated risk of suicide, with the AIHW study showing that the suicide rate amongst
the children of Vietnam veterans was three times the expected rate, and death from other
causes including accidents was doubled.

It was stated in Senate estimates in November that the feasibility study on the children of
Vietnam veterans health study had been finalised and is currently in the hands of the Depart-
ment of Veterans’ Affairs. I would urge the department to examine the recommendations of
the feasibility study in a prompt manner so as to allow for its recommendations to be pre-
sented to the Minister for Veterans’ Affairs. The government at the last election, unlike Labor,
only committed itself to the feasibility study. It is now imperative that the minister, after con-
sidering the recommendations of the department, finally commit the government to undertak-
ing the health study of the children of Vietnam veterans.

As can only be imagined, there is an increasing concern within the veteran community over
the health implications that their service may have for their children. Parents exposed to haz-
ardous substances naturally make a link with service, but to date the research conducted is
inadequate. We must never forget the thousands of sons and daughters of veterans who wish
to know more about the health issues they may be facing and how to address these health
problems. Veterans and their families need to know more, just as the current serving members
of the ADF need to learn from the experience of our veterans and hopefully avoid some of the
difficulties faced in the past. This study must begin in earnest and all obstacles that would
delay its initiation must be removed. I would like to conclude today by thanking the members
of the Scientific Advisory Committee and especially members of the consultative forum for
the tireless work they have volunteered in this endeavour.

Queanbeyan

Mr NAIRN (Eden-Monaro—Parliamentary Secretary to the Prime Minister) (9.39 am)—
Today I wish to raise a matter which is effectively seeing the growth of Queanbeyan restricted
quite substantially. When the ACT was given self-government, one of its responsibilities was
to take control of water for this region. Googong Dam is wholly within New South Wales.
The ACT government supposedly has control over that water and for some time now has ef-
fectively been preventing Queanbeyan from growing because it is denying it water. The ACT
government claims that it provides Queanbeyan with water under a former Commonwealth
act, but that is to Queanbeyan as it was then. Not to allow Queanbeyan any growth is a ridicu-
lous situation. Queanbeyan has been growing quite substantially and there is certainly pres-
sure for it to grow further. A lot of the developers who used to develop in the ACT have, since
the Labor government came into power in the ACT, moved across the border because of the
virtual socialisation of land development in the ACT.

I believe the ACT government is holding back on an agreement with New South Wales to
provide this additional water because it wants to control all land development. It wants the
only land development to occur in the ACT. It has a Treasury problem and, therefore, if it can
control that, it will help its coffers.

I am pretty fed up with the arrogant attitude of the ACT government towards New South
Wales on this and other issues. We have had the jail plonked on our doorstep with no consul-
tation and now the ACT government is denying Queanbeyan water—and water, I might add,
which is totally captured and stored in New South Wales. It cannot continue and I will not
allow it to continue. I have looked at the Googong Dam Catchment Area Act and I believe it
is within the power of the Australian government to enter into an agreement directly with New South Wales with respect to water for a growing Queanbeyan and the ACT government would be required to adhere to the terms of that agreement. I intend writing to the Minister for Local Government, Territories and Roads, Jim Lloyd, along these lines.

If there is any doubt legally—and the legal eagles always get involved in these things—about the validity of such an agreement, I am ready to prepare a private member’s bill amending the Googong Dam act to ensure that the ACT government adheres to such an agreement. The time for stalling is now over. Either the ACT government agree immediately to provide water for Queanbeyan’s growth or I will act federally to force them.

Mr Russell Workman

Mr MURPHY (Lowe) (9.42 am)—This morning I bring to the attention of the parliament an example of a callous forced redundancy imposed on my constituent Mr Russell Workman, a museum photographer, who has provided 36 years of continuous loyal service to the University of Sydney. Mr Workman came to my office in October and described how a newly appointed Director of University Museums moved ruthlessly to end his employment by way of forced redundancy. Although Mr Workman and his colleagues are protected by the industrial instrument titled General Staff Agreement 2003-2006, it appears the university has little regard for this agreement and is not willing to reconsider its decision. Mr Workman told me, ‘I was asked by the new Director of University Museums to see him in his office. I had no idea why he wanted to see me. Immediately I arrived he told me he was restructuring the museums to his plans and I was redundant. When I told him I was less than three years to retirement and I would lose half my superannuation, projected over 20 years to be around $300,000, he talked over me, changing the subject.’

I wrote to the vice-chancellor, Professor Gavin Brown, concerned about the university’s conduct. In particular, I believe provisions in the staff agreement that require the university to (1) carefully consider alternatives and use targeted redundancies as a last resort, (2) conduct meaningful and timely consultation with affected staff before decisions are made, (3) provide reasons for declaring a position redundant and (4) give four weeks notice from the date of formal advice to allow the employee to take voluntary retrenchment or seek redeployment were all totally ignored.

The university’s reply did not begin to answer any of my questions. In 2003 and 2004 Mr Workman had two major archaeology publications illustrated with his photographs and, recently, 170 CD-ROMs have been archived of his digital photography. For all his loyal service Mr Workman was told that any staff member could do his job. As Mr Workman explained in a letter to me, ‘The actual reason the director wants me gone is that he sold his restructure plan to his superiors as being cost neutral and he wants my salary for planned new museum administrative positions.’

I note that the university’s so-called restructuring threatens to mothball a series of unique historic collections. I refer to a report in the Inner Western Suburbs Courier dated 6 December 2005 which says ‘current and former museum staff fear redundancies forced on long-term staff will lead to a knowledge crisis and the effective shelving of museum collections’. I will pursue this matter on behalf of Mr Workman. However, it is important to note that this case also highlights the cruel humbug and cant contained in the government’s argument to justify its extreme industrial relations changes—that is, the argument that employees do not need the
protection of general or collective agreements because they are always able to negotiate an individual agreement to their advantage. Mr Workman and his colleagues are fighting with their employer to honour a general staff agreement. What hope will any employee in any workplace have when forced to negotiate an individual agreement? Mr Workman and millions of Australians know that, without the protection of a no disadvantage test, they are not in a strong position to negotiate an individual agreement and therefore there can be no choice about the outcome. *(Time expired)*

**Moncrieff Electorate: Postal Services**

Mr CIOBO (Moncrieff) (9.45 am)—As I have outlined to the House on many occasions, the Gold Coast is the fastest growing city in Australia today. It is now Australia’s sixth largest city and we anticipate that, in the coming years, Queensland will become the second most populous state in Australia. It is for that reason and the rapid pace of growth on the Gold Coast that I today highlight a petition that has already been tabled with the House for a new post office at Worongary Village Shopping Centre. The Director of AHC Ltd, Mr Wayne Lester, came to meet me several months ago to talk about the need that he felt existed for a post office serving the suburbs of Worongary, Tallai and Merrimac. I am very supportive of the bid that Worongary Village Shopping Centre has put forward for a new post office.

I wrote to Australia Post requesting the installation of a licensed post office. Australia Post indicated in their reply that, in determining whether or not to install a licensed post office operation, they would take into account several factors: the actual anticipated levels of usage of an LPO—a licensed post office; the location of other postal facilities relative to the site where it is proposed that the LPO will go; and the rate of growth for a particular area. I believe that Worongary Village Shopping Centre satisfies the threshold criteria on two of those counts—the location of other postal facilities and the rate of growth for the particular area. There can be no doubt that the Gold Coast is growing rapidly and, with it, suburbs like Worongary, Tallai and Merrimac.

What is also clear is that Australia Post has a duty to a prospective purchaser to ensure that actual and anticipated levels of usage warrant the installation of a very expensive, high capital cost, licensed post office. Because of the duty of care that Australia Post must have towards those who would seek to operate and purchase a licensed post office, it is understandable that Australia Post requires that there be an adequate level of anticipated usage for the post office to be justified. Although we are not currently at that position, I am certain that over the coming years we will reach that threshold and a new licensed post office will be able to be installed at Worongary Village Shopping Centre.

This is something I believe the residents need, it is something I clearly understand residents are calling for and it is something I completely and totally support. I pledge to work closely with Wayne until we have the installation of a licensed post office. I strongly support this petition of 2,883 signatures. I congratulate the residents of Worongary, Tallai and Merrimac on getting behind this project. I will work closely with them, and I intend to continue to bring to the attention of Australia Post the important need for a new LPO at Worongary.

**Cyprus**

Mr GEORGANAS (Hindmarsh) (9.48 am)—I rise to acknowledge the visit of the Prime Minister of Turkey, Mr Erdogan, to Australia. In doing so, I urge the Australian Prime Minis-
ter to raise the issue of Cyprus with his Turkish counterpart. More particularly, I call on Mr Howard to raise with Mr Erdogan the issue of Cyprus and the absolute necessity for the withdrawal of all occupying troops from Cyprus. It is now more than 30 years since the 1974 Turkish invasion of Cyprus. As members may be aware, the invasion resulted in the expulsion of some 200,000 Cypriots from their country. They lost their homes and, in many cases, their friends and family were killed by the army and its confederates. Their property and their churches were illegally confiscated. They continue to be prevented from returning to their homes. In effect, they are refugees from their own country. The Turkish invasion of Cyprus and the subsequent partitioning of the island have rightly been condemned throughout the civilised world. Indeed, to this day the only country that recognises the Republic of Northern Cyprus is Turkey. Despite the passage of over 30 years, not one other country has been prepared to endorse or sanction the 1974 illegal invasion and occupation.

Tragically, though, Cyprus remains divided. More than 40,000 Turkish troops continue to be stationed on the island. This, as UN Secretary-General Kofi Annan reminds us, makes Cyprus one of the most militarised areas in the world. This is a most undesirable and a most unenviable status quo—one that is not in the best interests of either Greek or Turkish Cypriots. It is an intolerable situation which cannot, and must not, be allowed to continue.

Cyprus must again be united. The healing process must be accelerated. One crucial step has to be the removal of all occupying troops from the island. I urge the Prime Minister, both as a matter of principle and urgency, to raise this with Mr Erdogan when he meets with him tomorrow. Our Prime Minister has a duty to raise these issues with the visiting Turkish PM as many Australians are directly affected by the illegal occupation by Turkey of Northern Cyprus.

After 1974 many Cypriot refugees found their way to Australia and today have made Australia their homes. Many of these Cypriot refugees that settled here in Australia can never return to their birthplace. They have lost family homes that have been confiscated. So for these people, many of whom live in the electorate of Hindmarsh, we have a direct responsibility to ensure that we do all we can to solve an unacceptable situation that exists today in their birthland of Northern Cyprus. These people should have a right, just like anybody else, to be able to visit their birthplace and have the three freedoms of movement, settlement and ownership.

So it would have been remiss of me if I had not raised this matter today. I have a duty, as an elected member representing many Cypriot Australians in my electorate, to ensure that this issue is brought to the attention of the Turkish PM, to ensure that the Australian government raises the unacceptable issue of Cyprus with the Turkish PM on his visit.

I wish to raise another issue which relates to the mainland of Turkey—that is, the Christian Orthodox school of Halki, which has been around for hundreds of years, and the forcible closure by the Turkish authorities of this school. There has been an international campaign to convince the Turkish government to allow the Halki school to reopen. This matter should also be brought to the attention of the visiting PM by our Prime Minister.

**Dunkley Electorate: Police Resources**

Mr BILLSON (Dunkley—Parliamentary Secretary (Foreign Affairs) and Parliamentary Secretary to the Minister for Immigration and Multicultural and Indigenous Affairs) (9.52 am)—I rise today to once again draw attention to the need for additional police resources in the Greater Frankston and Mornington Peninsula area. I have raised this matter on a number
of occasions and have sought to constructively engage with the local police authorities, the local community, chambers of commerce and others that are part of the broad basis of concern within our community about the availability of policing resources.

The Greater Frankston and Mornington Peninsula region has a population of over a quarter of a million. During summer months in particular it swells substantially further than that, placing further strains on the resources of the police authorities. During off-peak times there can be as few as two patrol cars covering the entire region. I have previously mentioned my efforts to draw this to the attention of the state police minister. The minister advised me that it was an operational matter and it got bunted back to the police minister’s offices. All of that is fascinating, and I am sure some people are enjoying themselves greatly, but the reality is that we still have a concern and it needs to be addressed.

A crisis public meeting is to be held in Frankston next Wednesday. Recently 70 police from the region met with the police association to express their deep concerns. The association says staffing levels at Frankston are well below the established profile for a 24-hour police complex. It has been estimated that Frankston station has a current uniform profile of two senior sergeants, nine sergeants and 40 constables and senior constables, giving a total of 51 uniformed officers. It should have about 88, including 73 constables and senior constables, 13 sergeants and two senior sergeants. The police themselves are saying the resourcing issue is worse than ever.

I know this is a topical issue that comes up from time to time. It saddens me that some are viewing this very real problem—a very genuine concern within the local community, a very sincere belief by police officers themselves—as nothing more than an industrial campaign. It saddens me that they are missing the point. We have seen example after example—and I have raised some in this House—of how calls to police for assistance are either not responded to or are responded to many hours, or in some cases days, after the event. This is of very real concern. For people to discount this as simply an industrial campaign saddens me greatly because we do need extra resources in our area.

I have mentioned the patrol cars. We have officers who are still cadets and have not even left the academy who are appearing on staffing rosters. This is distorting the picture of the usable available tools that our police officers and the police command in our area have available to them. I admire the way the police go about their work in our region. They are extremely dedicated and committed. They are extraordinarily flexible in light of this very real resource demand. I think we need to focus on this area urgently. I call on the state local members of parliament to get active and involved and address this very real concern in our community.

Environment

Ms KATE ELLIS (Adelaide) (9.55 am)—Today I rise to speak on the need for leadership and bold action to tackle environmental issues. For 10 long years, since the election of the Howard government, we have witnessed a devastating absence of innovative and visionary environmental policies. The government has turned its back on the dire environmental problems that face both our country and our world—problems like climate change, water quality, adequate water flows for rivers and estuaries, native vegetation and maintaining biodiversity in our ecosystems.
This is not the first time that I have spoken on issues of the environment and it will not be the last. It is about time that the government showed some leadership and developed some long-term goals. In recent years, we have read a number of disturbing reports about the state of the global environment, but what action do we see from this government? Pretty close to nothing. The government disregards the problems damaging our environment and blatantly refuses to commit to international efforts to combat climate change. Thanks to the Howard government, our leadership in reducing greenhouse gas emissions has been appalling and the government’s failure to ratify the Kyoto agreement has sacrificed our position as a leader in international negotiations.

Australians are now more concerned about the health of our environment—and, considering the current circumstances, we should be. More than ever, we are witnessing the devastating effects that humanity is having on our environment. But, fortunately, it is not all doom and gloom. I would like to commend the South Australian Labor government for their commitment to environmental policies and to listening to the concerns of the South Australian people in taking an active role on environmental issues.

The South Australian government has recently announced a series of initiatives, which I would like to outline to the House. By 1 January 2009, the use of single-use plastic bags will be banned in our state. The government has also converted 535 buses and 95 railcars to using biodiesel fuels, making Adelaide’s public transport fleet the greenest in Australia. South Australia now easily leads the nation in wind power, solar power and water recycling. Thanks to the South Australian government, the latest SA wind farm will save 300,000 tonnes of CO₂ from being pumped into the atmosphere—the equivalent of taking 70,000 cars off the road.

South Australia’s state Parliament House is now powered by solar energy, our state library is in the process of converting to solar energy and the government is currently installing 250 solar panels on the roofs of 250 South Australian schools. These are examples of innovative and long-term policies. I call on the Howard government to show us some more. This is the kind of leadership that the federal government should be demonstrating. I commend our South Australian Premier, Mike Rann, for both his vision and his leadership when it comes to tackling environmental issues. I just think it is an absolute pity for all of us, as Australians and, indeed, as members of the global community, that we do not have some national leadership from our federal government.

Motorcycle Charity Run

Mrs GASH (Gilmore) (9.58 am)—A few weeks ago at a veterans function, I was approached by Danny Kennedy, a Vietnam veteran and a member of the Ulysses MotorCycle Club, to see whether I would don the leathers and join him in a charity bike ride. Would I ever! My greatest love is motorbikes. This annual event sees a huge convoy of riders take to the highway to deliver Christmas toys to local children. So, naturally, I could not say no, and I turned up last Sunday at the Shoalhaven City Council car park, along with over 400 other riders. Also, the Minister for Education, Science and Training, Brendan Nelson, who is a member of the Ulysses club, joined in the ride, bringing his toys for the kids. I am grateful to him for choosing to get involved.

Even though I have my own motorcycle licence, I have no bike. So I accepted Danny’s offer of a dink on his Harley Davidson Goldwing ‘trike’. I should also like to thank Danny’s wife, Sue, for lending him to me for the morning. Danny came in a couple of days beforehand...
and fitted me for my helmet and clothes, so I was ready to go. I suppose the most heart-stirring moment was when all the bikes fired up at once. The roar of the engines was truly inspirational, and I know of one or two people who had a tear in the eye at that particular moment. The local police provided escort duty, and I must thank them for their cooperation and assistance in maintaining the integrity of the convoy right through to Berry Bowling Club.

The ride was exhilarating. I had forgotten until that moment what a joy and sense of freedom a bike can bring. The riders ranged from some very well-respected people on sleek machines to ‘rough trade’ bikies, but all with golden hearts. The ride took about 20 minutes through the lush countryside between Nowra and Berry and ended with a sausage sizzle and an opportunity to share the moment with fellow enthusiasts. I have resolved that next year I will ride again, but on my own bike—not that I did not enjoy yours, Danny.

These are terrific people—real salt of the earth. It is little wonder that so many people in later life sign up to the intrepid band called the Ulysses Club, whose motto is ‘Grow old disgracefully’. What they and other motorcycle riders did on that Sunday was no disgrace but a magnificent gesture of generosity and community spirit. I pay tribute to the South Coast Ulysses Club, who organised the event, and of course a very special thank you to Danny for giving me this fantastic opportunity.

I will give a brief history of the Ulysses club, which is for older motorcyclists. It is the largest organisation of its kind in Australia and is now a familiar part of this country’s riding scene. The original suggestion for a club for over-50s motorcyclists was put forward in the August 1983 edition of Bike Australia, and from that tenuous beginning it has never looked back. The club now boasts a large and extensive network of members throughout Australia. It describes very well indeed the sort of person who still has enough spark to go on riding in middle years and later times.

Sunday’s ride also drew some younger types, but all were motorcycle enthusiasts. All the toys collected were later distributed to local charities. It is important to observe that this act of giving not only benefits children and various charities but also created a warm glow for each and every rider. I hope that in years to come the convoy gets longer and longer, for as it does more and more people will come to appreciate this act of giving and perhaps they too will be inspired to become involved in the Christmas spirit. (Time expired)

The DEPUTY SPEAKER (Hon. IR Causley)—In accordance with sessional order 193, the time for statements by members has concluded.

ANGLO-AUSTRALIAN TELESCOPE AGREEMENT AMENDMENT BILL 2005

Second Reading

Debate resumed from 9 November, on motion by Dr Nelson:

That this bill be now read a second time.

Ms LIVERMORE (Capricornia) (10.01 am)—Labor support the Anglo-Australian Telescope Agreement Amendment Bill 2005, as it amends the Anglo-Australian Telescope Agreement Act 1970 to incorporate the 2005 supplementary agreement to the Anglo-Australian Telescope Agreement. In saying that we support this bill that is not to say that we support the government’s general approach to—I would say neglect of—science, research and, more generally, education in science and technology in this country. I will be moving a
second reading amendment to this bill at the conclusion of my remarks to reflect Labor’s concerns in those important areas.

This bill provides for the termination of both the original Anglo-Australian Telescope Agreement and the supplementary agreement on 30 June 2010. It allows for the transfer of ownership and control of the Anglo-Australian telescope to Australia. Finally, it establishes the United Kingdom’s funding levels for the telescope, as per the 2005 supplementary agreement, until the transfer of ownership to Australia in 2010. So far, the Anglo-Australian telescope has been funded on an equal basis by Australia and the UK. In fact, this bill and the comments by the Minister for Education, Science and Training do nothing to guarantee present funding levels to the telescope. The 2005 supplementary agreement could result in a cut in funding to the Anglo-Australian telescope, as the Australian government is not making up for the shortfall in funding provided by the United Kingdom in the lead-up to 2010. The scientific community is rightly worried about the government’s lack of commitment to such an excellent research facility.

This government’s contribution to science and research in this country has involved cuts to university funding and vetoing research grants it does not like, so we should not be at all surprised by this latest cut. The withdrawal of the UK from the agreement presents an opportunity for Australia to expand its research commitment and output in astronomy. Australian astronomers can now spend more time observing at the telescope because the agreement allows time to each country relative to its funding contribution. But Australian science could miss out if the government does not guarantee higher funding levels for the telescope.

The original Anglo-Australian Telescope Agreement, signed on 25 September 1969, allowed for the construction of the Anglo-Australian telescope at Siding Spring near Coonabarabran, New South Wales. Its mirror diameter of 3.9 metres and state-of-the-art design made it one of the largest and most sophisticated optical telescopes in existence at that time. Thirty years later the excellent design, a long period of stable funding and a continuing program of technical enhancements have kept the telescope at the leading edge of astronomical research against much international competition. Staff at the telescope are considered world leaders in many areas of astronomical instrumentation and are often asked to provide advice to other organisations and to build instruments for their telescopes. But the new generation of telescopes, with mirrors eight metres or more in diameter, are closing in on telescopes like the Anglo-Australian telescope. The UK terminated its involvement with the Anglo-Australian telescope to redirect its funding to the next generation eight-metre optical telescopes at the European Southern Observatory and Gemini Observatories.

The Anglo-Australian telescope cannot keep up with continuing to provide Australian astronomers, students and the general public with access to cutting-edge facilities unless the government gets its priorities straight. At the moment, Australia and the UK provide $A4.112 million to the Anglo-Australian Telescope Board, which is indexed annually. In the lead-up to 2010, the UK intends to reduce its funding contribution to $A2 million in 2006-07 and to $A1 million for each year after that until 2010. This is a shortfall of some $A11 million over four years, which is a massive amount.

The budget shows that the Commonwealth does not intend to increase its outlays on the Anglo-Australian telescope to compensate for the reduced UK funding. The government will contribute $4.5 million in 2005-06 and only $4.9 million in 2008-09. This is in contrast to the
$50 million that the Howard government blew, in about three nanoseconds, on its outrageous advertising campaign for the extreme industrial relations changes. The Prime Minister alone managed to spend $5.2 million in two years on overseas luxury travel bills, and the Department of Education, Science and Training spent $600,000 on canapes, champagne and corporate hospitality alone. So we know that this is a government that knows how to waste taxpayers’ money. It has become very good with the taxpayer credit card. Yet, when we have a valuable and critical facility such as the Anglo-Australian telescope, this government is nowhere to be seen. The sum of $11 million is peanuts for this extreme and extravagant government but, regardless, it is intent on destroying an important scientific asset.

Last year the Department of Education, Science and Training advised the parliamentary Joint Standing Committee on Treaties that any additional funding would have to be through competitive grants: for example, through individual researchers applying for Australian Research Council grants. By their very nature, competitive grants are uncertain. It is ludicrous for the government to suggest that an $11 million black hole could be replaced by competitive grants either to the 12 or so staff employed at the telescope or to external researchers buying observing time at the telescope.

Professor Penny Sackett, head of the Research Schools of Astronomy and Astrophysics at the Australian National University, told the Joint Standing Committee on Treaties that this funding uncertainty has caused great concern to the Australian scientific community. I would like to express my concern, however, that the declining budget for the AAO in the period 2006 to 2010 could have deleterious implications for the ability of this model national facility to maintain its excellent service to its user base while exploring new opportunities for optical infrared astronomy for the Australian community. A separate review of this matter would be timely. Even the government appointed Anglo-Australian Telescope Board could not resist saying:

The gradual withdrawal of the UK funding does provide the AATB with some challenges.

As this comes from careful and measured scientists who are not often prone to exaggeration, these words are alarming. The draft Australian decadal plan for 2006 to 2015 prioritises international collaborations on new generation optical telescopes and the major radio telescopes, but the Australian scientific community is concerned that Australia’s low contributions to very expensive international projects, usually around six per cent to 10 per cent, are a disincentive to successful collaboration and do little to enhance Australia’s international reputation in and contribution to astronomy. We must have excellent cutting-edge astronomical research facilities in Australia to allow for international collaboration and domestic projects and to provide a learning facility for Australian students.

The Anglo-Australian telescope is a national facility in high demand. Observing time is always oversubscribed. According to a recent study, the Anglo-Australian telescope is the most productive telescope greater than three metres in size as it has a high number of citations in scientific papers. In total, 112 AAT data papers were published in 2003-04—an all-time high. Its Two Degree Field Galaxy Red Shift Survey was the biggest galaxy survey ever made, producing a map showing the location of more than 221,000 galaxies in space. It was completed in 2003 and labelled, by a leading cosmologist, as ‘undoubtedly Australia’s largest contribution to astronomical research ever’.
The Anglo-Australian telescope has enabled the discovery of more than 20 planets around stars other than the sun and a new class of galaxies—very small ones known as ultra-compact dwarfs. The Anglo-Australian telescope website consistently attracts over one million hits per month. Through its strong links with universities in both Australia and the United Kingdom, the telescope plays an active role in higher education. This is a hardworking telescope and we must support it properly.

The telescope requires funding certainty to maintain its quality and scientific capacity. Given that the Mount Stromlo Observatory in Canberra was destroyed in the bushfires, there is even greater pressure on the Anglo-Australian telescope. But the Commonwealth government is not increasing its funding contribution to enable the Anglo-Australian telescope to meet growing demand. The minister for education has just washed his hands of this and asked the telescope board to raise external revenue from elsewhere—an extraordinary suggestion in a field which is reliant on public funding and which cannot easily go out and make a profit. This could destroy the telescope and its critical role in promoting Australian astronomy.

Where countries like the United States and the UK are increasing funding, Australian funding for astronomy is fading away. The government has already cut over $5 billion from our universities. Funding for research and development has dropped to 0.6 per cent of GDP—the lowest in two decades—and it will fall further under this government; there is no doubt about that. This all means fewer researchers and fewer students. Those young researchers are concerned that they have no prospects in astronomy if they stay in Australia. Young researchers at the Science Meets Parliament event this year knew that if they stayed in Australia they would have to give up astronomy altogether and become computer programmers.

There are a declining number of students applying to enter university physics and chemistry courses. Year 12 enrolments in physics, chemistry and advanced maths are falling steadily. Between 1980 and 2002 the proportion of year 12 students taking chemistry or physics nearly halved. We must engage young Australians in the wonders of science and the stars. We need to find new ways of instilling children with the wonder and curiosity about the world around them that will lead them to undertake scientific endeavours. Astronomy is an awe-inspiring opportunity to do just that: to capture our young people with the magic of the stars, to stretch their realm of understanding beyond our earthly confines and to engage them in the beauty and wonder of this universe. The Anglo-Australian telescope is part of our national wonder-making machine and it must be supported and funded to continue Australians' fascination with the skies.

The government must announce immediately additional funding support for the telescope. On balance, the supplementary agreement in this bill is necessary to continue the smooth operation of the Anglo-Australian telescope until at least 2010 and Labor will support it. However, as foreshadowed at the beginning of my remarks, I move:

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

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

(1) not making up for the approximately $11 million reduction in funding provided to the Anglo-Australian Telescope by the United Kingdom in the lead-up to the United Kingdom’s withdrawal from the Anglo-Australian Telescope Agreement in 2010;

(2) the Government’s lack of commitment to Australian astronomy by not adequately funding an excellent research facility, astronomy research and science in our universities;
(3) jeopardising science and research in Australia by dropping its investment to 0.6 per cent of GDP—the lowest level in two decades;
(4) its inaction while physics, chemistry and mathematics enrolments fall in schools and universities; and
(5) slashing over $5 billion from our universities despite a massive skills crisis in the sciences and engineering.

**The DEPUTY SPEAKER (Hon. IR Causley)**—Is the amendment seconded?

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

**Mrs May** (McPherson) (10.15 am)—The Anglo-Australian Telescope Agreement Amendment Bill 2005 amends the Anglo-Australian Telescope Agreement Act 1970 to incorporate the supplementary agreement to the Anglo-Australian Telescope Agreement. The supplementary agreement is a treaty action between the government of the Commonwealth of Australia and the government of the United Kingdom of Great Britain and Northern Ireland. It was signed by both parties in Canberra on 3 November 2005. As acting chair of the Joint Standing Committee on Treaties, I tabled report 68 in this parliament on 7 November 2005. The report noted it was in Australia’s interest for the treaty to be ratified. I advise the House today that during those deliberations and indeed the public inquiry there was certainly no dissent from the opposition with regard to the report or the ratification of that treaty.

The bill amends the original AAT Agreement which was signed on 25 September 1969 to modify arrangements for the operation of the Anglo-Australian telescope and associated facilities. The primary reason for the supplementary agreement is to provide for a gradual reduction in the UK’s involvement in the AAT, and it provides for the termination of the original agreement and the supplementary agreement on 30 June 2010 with the transfer of ownership and control of the facility to Australia.

Australia benefits from the incorporation of the supplementary agreement as it will provide for the UK’s commitment to the telescope to continue until Australia obtains sole ownership in July 2010. In other words, there will be a phase-out period over the next five years which will allow Australia extra time and a clear framework to determine its long-term policy in relation to the Anglo-Australian telescope. It will also give us time to look at funding issues. I take on board what the member for Capricornia said in her speech today, although I reject many of her comments with regard to the AAT and the transfer of ownership to Australia.

In the late 1960s, the United Kingdom and Australian governments agreed to undertake a significant collaboration in astronomy by jointly funding the construction and operation of the 3.9 metre Anglo-Australian telescope at Siding Spring in New South Wales. The Anglo-Australian telescope was at that time one of the largest and most sophisticated optical telescopes in existence. Evidence to the Joint Standing Committee on Treaties indicated that over the ensuing 30 years the AAT made a significant contribution to astronomy, both in Australia and internationally, and had been a major factor in Australia’s high international standing in the field of astronomy.

In evidence to the committee, Dr Arthur, the Group Manager, Innovation and Research Systems, from the Department of Education, Science and Training, advised the committee that the AAT remains one of the most productive telescopes in the world, particularly amongst...
the four-metre class of telescope. Among other things, the AAT has been noted for its survey work in mapping very large scale structures in the universe.

The United Kingdom government decided in 2001 that it would reallocate astronomy funding to other facilities such as the Gemini Observatory in Hawaii and the European Southern Observatory in Chile, which operate next-generation eight-metre optical telescopes. Under the current AAT agreement, either government has the right to terminate the agreement with five years notice, but instead of the UK issuing a five-year termination notice, the governments agreed to amend the agreement and set the end date for collaboration in 2010, at which time the AAT and associated facilities would pass to sole Australian ownership and control, where they are likely to provide a valuable scientific and educational tool for many years to come.

The supplementary agreement benefits Australia in a number of ways and allows during the transition period for new financing and access arrangements to be negotiated. It gives us time to determine our long-term position with regard to the AAT. The transition time extends the scientific and technological collaboration with the UK and maintains UK funding, albeit at a lower level, for an additional five years. Without that transition period, we may not have had that funding. I think the UK government has been extremely fair in the negotiation process in allowing that transition period of five years.

The supplementary agreement also provides early clarity regarding what will happen with the UK’s share of the equipment and facilities built up over 35 years. Essentially, the AAT will be gifted to Australia when the agreement ends in 2010. This gift will be a unique and valuable resource for research and teaching in astronomy for the foreseeable future. The AAT is the largest optical telescope that is ever likely to be built on the Australian mainland and has a notional value of around $48 million—a wonderful gift for Australia. A recent review of Australian astronomy found that the AAT will continue to be a world leader in survey astronomy for at least the next five years. Beyond that it would continue to be the largest source of observing time for Australian astronomers for some time, assuming it continues to operate.

The Australian government has made forward estimates to support the telescope. For the current year there is an allocation of $4.594 million, with forward estimates of $4.694 million in 2006-07, $4.798 million in 2007-08 and $4.903 million in 2008-09. Also, the Minister for Education, Science and Training, Dr Nelson, has approved a one-off grant of $2.05 million in 2005-06 to address a number of occupational health and safety issues at the Anglo-Australian telescope.

As the name suggests, the Anglo-Australian Observatory is a national facility shared predominantly with the United Kingdom, with other countries also able to use the facility. The facility is always in high demand and use of the facility is allocated based on the merit of proposed research programs. Through international collaboration during the life of the AAT, it has been involved in major surveys collecting information about tens of thousands of stars and hundreds of thousands of galaxies. These include the two-degree field galaxy red shift survey, which mapped more than 221,000 galaxies in space; the six-degree field galaxy survey of 20,000 quasars, or bright cores of distant galaxies, which will help to understand how the universe developed; and the radial velocity experiment, which will collect data on 80,000 stars to help reconstruct the history of the Milky Way.

There is no doubt the AAT is a valuable piece of equipment that has made a significant contribution to astronomy. Instead of terminating the agreement with Australia, the UK has
agreed to amend the existing agreement to continue the UK’s commitment to the AAT but at a reduced level until the termination of both agreements in 2010. The new termination date and the telescope handover arrangements will ensure long-term access for Australia to a valuable scientific instrument in the lead-up to Australia’s acquisition of the Anglo-Australian telescope. I commend the bill to the House.

Mr NAIRN (Eden-Monaro—Parliamentary Secretary to the Prime Minister) (10.23 am)—In summing up this debate on behalf of the Minister for Education, Science and Training, I thank the member for McPherson for her contribution. Before I sum up, I will first deal with the very late second reading amendment to the Anglo-Australian Telescope Agreement Amendment Bill 2005 put forward by the opposition. The member for Capricornia was obviously sent in here by the member for Jagajaga to read a speech and try to attack the government, but she, like so many opposite, is a political scientist, not a real scientist, and probably did not know quite what she was criticising the government about on astronomy, because what she said was just so far from the truth it is not funny. Let me deal briefly with the amendment put forward. It criticises the Australian government because the arrangement we have made with the United Kingdom provides that the United Kingdom will reduce its funding over a transitional period.

In Australia, it seems that when the various state Labor governments withdraw funding from something that has always been their responsibility the federal Labor Party immediately says: ‘Come on, you the Australian government should make up for the funding taken away by the states.’ And now it is saying that when another country makes a decision about its investment we are supposed to make up for that as well. More money than is claimed will be reduced will be made up in a whole variety of ways. For instance, even in the last four years, the Australian-Anglo Telescope has attracted $7.1 million in additional funding through competitive grants. It will be eligible for competitive grants both in the UK and in Australia—the AAT board will be able to apply for those. The AAT is currently bidding for an instrumentation project out of the Gemini and Subaru projects in Hawaii with a value of around $60 million, so to criticise the Australian government over this arrangement is, I find, quite amazing.

The member for Capricornia also attacked the Australian government about our so-called lack of commitment to astronomy. This is where she really did not know what she was talking about. Two weeks ago I was at the 40th birthday celebrations of the Molonglo Radio Telescope, which is in my electorate, close here to Canberra. It is a fantastic facility that so many people do not know about. It does superb work, and the Australian government’s commitment to that has been very strong. In fact, only a couple of days before I attended that 40th birthday celebration—where we had some of the great radio astronomers of Australia in attendance—I was able to announce, as part of the Australian Research Council grants, additional funding to that radio telescope. We have a very strong commitment to the Square Kilometre Array. The member for Capricornia did not mention that—she probably does not know what it is about—but it is a major international project on which Australia is certainly working very closely with our overseas colleagues. We also are working on the ELT, the Extremely Large Telescope—she did not mention that—and looking at where Australia might be involved in that in the future as well.

The Australian government will be committing $52 billion—unprecedented funding—in the 10 years between 2001-02 and 2011 for research and development. Just in the last year we
have seen a four per cent real increase in research and development, from $5.3 billion to $5.5 billion. In addition, the member for Capricornia’s amendment mentions inaction with respect to physics and chemistry. Here are some other aspects to consider: $29 million of scope funding for the Science Connections Program, which is aimed at year 10 students to encourage further study; $33 million for ASISTM, funding which brings schools, universities and industries together for young science students; and, from 2001 to 2003, a 14 per cent increase in science places at universities. So the amendment is just a stunt coming from an opposition that cannot bring itself to come out and support a bill totally—a good bill, which this is.

I will refer now to the rest of the bill as part of the summing up. The bill before the House is necessary to enact a number of changes that have recently been negotiated to the longstanding treaty between the governments of Australia and the United Kingdom regarding the Anglo-Australian Telescope at Siding Spring near Coonabarabran in New South Wales. Back in the late 1960s the governments made the decision to jointly build and operate a major new optical telescope. That decision was historic and significant for a number of reasons. At a time when most large telescopes were based in the Northern Hemisphere, it led to a substantial improvement in the capacity of astronomers to observe and understand the southern skies. It gave astronomers from both Australia and Britain access to one of the world’s most sophisticated optical telescopes, and it provided a focus for technological innovation and achievement that continues to the present.

This was a key aspect in the growth of astronomical science, not only in Australia but in the whole Southern Hemisphere. I did two years of astronomy at university as part of my degree, and Australia is so highly regarded in astronomical matters worldwide it is not funny. I really saw that when I worked overseas at a research agency where there were Australians and others who had done work in Australia and then took that knowledge overseas. Even today the Anglo-Australian telescope remains one of the most productive major telescopes in the world, particularly amongst the four-metre class of telescope. Recent scientific highlights include the discovery of the 100th extrasolar planet and the discovery of a new type of ultracompact dwarf galaxy.

The government is pleased that the new supplementary agreement extends the scientific and technological collaboration with Britain for a further five years. The new agreement also provides for an orderly wind-down of the UK’s involvement over that time and for the Anglo-Australian telescope to be transferred to sole Australian ownership in 2010, after which it will provide a valuable scientific and educational tool for Australia for many years to come. However, the conclusion of the Anglo-Australian Telescope Agreement in 2010 is unlikely to be the end of the immensely valuable collaboration with the UK in astronomy. I look forward to continuing cooperation to the benefit of both our scientific communities.

Another aspect that I might mention in the flow-on of this research and this knowledge here in Australia is to the instrumentation which, unbeknownst to a lot of people, is situated in my electorate. Not far from here, in Queanbeyan, is a company called Electro Optic Systems, which builds telescopes. One part of its operations, besides the laser tracking that it does, is in building telescopes that are going to various parts of the world. It has been the development of this knowledge and capacity here in Australia through this agreement over more than four decades that has helped develop this industry—a very strong and growing industry, I might add. I commend the bill to the House.
The DEPUTY SPEAKER (Hon. IR Causley)—The original question was that this bill be now read a second time. To this the honourable member for Capricornia has moved as an amendment that all words after ‘That’ be omitted with a view to substituting other words. The immediate question is that the words proposed to be omitted stand part of the question.

Question agreed to.
Original question agreed to.
Bill read a second time.

Ordered that the bill be reported to the House without amendment.

COMMITTEES

Procedure Committee

Report

Debate resumed from 28 November, on motion by Mrs May:

That the House take note of the report.

Ms HOARE (Charlton) (10.33 am)—I am pleased to speak to this report, *A History of the Procedure Committee on its 20th anniversary*. It marks and chronicles 20 years of the operation of the House of Representatives Standing Committee on Procedure, of which I am proud to be a member. Members over the years have spoken about the many and great achievements of this committee over the past 20 years, all of which are listed in this report and two of which I will go to shortly. First, I want to go to a major aspect of the Procedure Committee, and that is the contribution of backbenchers—both new and longer serving, government and opposition, experts in procedure and nonexperts with plenty of enthusiasm—to reforming the procedures of the House of Representatives.

The Procedure Committee effectively replaced the Standing Orders Committee of this House, although that was not meant to be at the time. The membership of the old Standing Orders Committee included members of parliament with vested interests, such as leaders of the House, managers of opposition business, ministers and shadow ministers. Thus, the membership of the Standing Orders Committee maintained and pursued vested interests, and those were the interests of government or opposition for the benefit of government or opposition.

However, 20 years of the Procedure Committee has allowed backbenchers to pursue changes. This history stands as a testament to the contribution of 53 members of parliament over the past 20 years to the changing and evolving procedures of the House of Representatives. All members who have contributed to the committee have truly wanted the institution to work not for vested interest but for the democracy of our country. All these contributions have come from various levels of expertise. Indeed, chapter 9 of the report includes a section entitled ‘Expertise versus effectiveness’. I believe the title should also include ‘enthusiasm’.

As a new non-expert member of the Procedure Committee, I have been very impressed by the level of discussion by all members concerning the various questions which have been before us over the past 12 months. I would like to pay tribute to the longest-serving member of the Procedure Committee, the Hon. Roger Price MP, the member for Chifley. I thank him for his wise guidance and counsel over the past 12 months.

I would like to refer to two major changes. The first being the establishment of the Main Committee, where we are now discussing this report. There were many long discussions about
the establishment of a second chamber in this place, where so-called non-controversial legis-
lcation could be discussed to allow ongoing operations and government business to move 
through parliament.

As a backbencher who has had various opportunities to speak in the Main Committee, I be-
lieve that it has been a success. There have been various discussions in the Procedure Com-
mittee over the past 12 months about how the Main Committee can perhaps be further en-
hanced and gain greater stature within the parliament. It was of concern to all of us, from a 
discussion that we had with them, that members of the press gallery did not realise, so many 
years after its establishment, that the Main Committee existed. So we have made sure that 
they do know now and, hopefully, they will reflect their new-found knowledge in their report-
ing.

The other procedural change that I would like to refer to relates to sitting hours. I think the 
issue of sitting hours will always involve ongoing discussion within both the Procedure 
Committee and the parliament in general. The former member for Charlton, Bob Brown, was 
the Chair of the Procedure Committee during the 1993-96 parliament, which amended the 
sitting hours to reflect more sensible times for members of parliament in this place. The sit-
ting hours at that time ended at 8 pm on most evenings during the week. The first thing that 
Prime Minister Howard did when he was elected in 1996 was to change those sitting hours 
back to the old times—back to the days of late nights. What was most extraordinary was that 
the House of Representatives standing orders allowed the parliament to sit until 11 o’clock at 
night, yet there was an hour and a half dinner break, when the work of the parliament stopped. 
There are not many places you can go to and there is not much you can do in an hour and a 
half, from 6.30 until eight o’clock in this place—and then you have to come back and debate 
legislation from eight o’clock to 11 o’clock at night.

Since 1998, when I first came into this place, I have had discussions with government 
members, where various government members have said that, as new government members in 
1996, the first vote that they took in the House of Representatives was a vote that they were 
entirely against, for various reasons: the vote to extend the sitting hours until 11 o’clock. I 
congratulate the Procedure Committee, chaired by the member for McPherson, on moving 
those times back to the more sensible sitting times that we enjoy today. It is interesting to note 
sitting hours introduced by the Prime Minister in 1996 were changed following lobbying 
by government members. They succeeded in their pursuit of changed sitting hours.

Following the use of the gag or guillotine over the past couple of weeks in this place and in 
the Senate, where the government is now using its power to gag debate and pursue its agenda 
without the proper scrutiny of this parliament, I would like to see the Procedure Committee 
look at the imposition of the gag or the guillotine by governments and to investigate how ef-
effectively it closes down the investigation of legislation and the pursuit of detailed amend-
ments to legislation by both government backbenchers and the opposition. I recommend that 
the Procedure Committee inquire into this over the course of this parliament.

In conclusion, I thank the chair—my good friend the member for McPherson—for her 
work over the past 12 months when I have been involved in the Procedure Committee, par-
ticularly in relation to this report. I also thank the deputy chair—the member for Banks—and 
all other members of the committee. I thank the secretariat: the secretary of the committee, 
Ms Judy Middlebrook; Ms Robyn McClelland; John Craig; Samantha Mannette; and Penny
Branson. I apologise to Robyn for what she might have seen as my pedantic dissection of this report in terms of grammar and punctuation. The member for McPherson nods. We were both electorate officers and we are very good proofreaders. It was a bane to the secretariat but they took it all in good humour and with generous goodwill.

In commending the report, and probably having my last opportunity to speak in this place before we rise for the summer recess, I wish all of my colleagues on the Procedure Committee and you, Mr Deputy Speaker, and everybody in this place a happy, safe and peaceful festive season. I hope that all of us will return in the new year. I think we all deserve to have a good break; we all need it. I thank all the staff who work in this place and wish them the best as well.

Mr HARTSUYKER (Cowper) (10.43 am)—I am pleased to be a member of the Procedure Committee, which has produced the report entitled A history of the Procedure Committee on its 20th anniversary. I believe that the way in which we go about our business in the House and the way we conduct ourselves should be the subject of review and scrutiny if we are to continue to be relevant to our constituents and to retain their respect. It would be all too easy for an institution such as this, which operates to a complicated and arcane set of rules, to resist change. It would be easy because meaningful change requires considerable focus—we are often fully occupied with the routine business of this House and our electorates—and it would be easy because often we are preoccupied with party political conflicts.

I commend this report as I believe it is important to record and reflect on the development of practices and procedures of the House of Representatives. As our report notes, this House did not devise its own rules and orders when it first sat in 1901. It started with a set of provisional standing orders drawing on colonial experience. Under our Westminster heritage, which remained in use for 50 years, the emphasis then, and for many years to follow, was on getting the business done. Enabling the government to legislate is one of our main functions, but we forget at our peril the duty to scrutinise, the duty to bring to the attention of the government of the day the concerns of our electorates. To do that, we need to have opportunities firmly embedded in the procedures of the House. Creating and maintaining those opportunities has rightly been the concern of the Procedure Committee since its inception.

Creating the conditions for an effective combination of legislation, scrutiny and representation is a tall order. Fortunately, we have not had to deal with many of the major issues that the mother parliament in the United Kingdom has been dealing with since 1265. It was not until 1377 that they got around to appointing their first Speaker, Thomas Hungerford, and not until 1414 that Henry V undertook that ‘nothing be enacted to the petition of the Commons contrary to their asking’. Relations with the monarch of the day did not always run smoothly. In 1642, Charles I attempted to arrest five members who were leading a campaign of reform—

Mrs May interjecting—

Mr HARTSUYKER—Heaven forbid!—thus giving the Speaker William Lenthall the opportunity to strike another blow for the independence of the House when he uttered these words to the King in refusing to betray the five:

May it please your Majesty, I have neither eyes to see nor tongue to speak in this place but as this House is pleased to direct me, whose servant I am here; and humbly beg your Majesty's pardon that I cannot give any other answer than this to what your Majesty is pleased to demand of me.
Needless to say, he was a lawyer. With one obvious exception, we have been spared major battles with our monarch or her representative.

A division having been called in the House of Representatives—

Sitting suspended from 10.46 am to 11.35 am

Mr HARTSUHYKER—I believe I was commenting on the fact that with one obvious exception we have been spared major battles with our monarch or her representative and that we have been provided with a sound working model on which to base our own methods of running this House effectively. As a sovereign nation, we have a responsibility to find our own solutions to our own problems. As the nation of Australia, we are indeed unique. For instance, Canberra is far more distant from many of our citizens than London is from most of Britain’s citizens. Developments such as the televising of proceedings and the growth of the internet have therefore more significance for us, as does the sheer size of some of our electorates and the distances that many members have to travel to see constituents and to attend this House. It is right therefore that the thrust of the committee’s work to date has been on giving all members more opportunities to participate in proceedings. We have new arrangements for private members’ business, including grievance debates, and we have the Main Committee, which started its work some five years before the Westminster equivalent. Community involvement in the House and its activities has been improved and sitting hours have been restructured, all of which I hope make the proceedings of the House more relevant and open to our constituents.

Where do we go from here? We need to give thought to a mechanism for ensuring that committee reports are properly considered and acted upon rather than being left in the air and at the mercy of the goodwill of political parties and the pressures of parliamentary business. The conduct of parliamentary question time has long been ripe for review. Are there processes of the House which have declining relevance to the House itself and the people we represent? Can we better use technology to more effectively conduct the business of the House? Electronic voting is a prime example of this. I believe the thrust of our work to enhance the role of individual members and to give them ample opportunity to bring the concerns of their constituents to the attention of the House should continue. But good intentions as expressed in committee reports are not enough. We must ensure that those good intentions are implemented.

Debate (on motion by Mr Neville) adjourned.

Agriculture, Fisheries and Forestry Committee
Report

Debate resumed from 28 November, on motion by Mr Schultz:

That the House take note of the report.

Mr ADAMS (Lyons) (11.38 am)—It is a pleasure to continue to talk about the report of the House of Representatives Standing Committee on Agriculture, Fisheries and Forestry entitled Taking control: a national approach to pest animals. This report took a substantial part of this year to prepare. I do not think many are aware of the number of pest animals that exist in Australia and also of the difficulties we sometimes have when native animals become pests and get involved in our farming communities and also in our forestry operations. We made a recommendation in relation to 1080 poison in the Tasmanian situation. I would like to mention
that in Tasmania the state government has phased out 1080 from forestry operations through its forestry commission but has left open the poison's use in the private sector, where farmers and private foresters can still use 1080 as a way of knocking down pest animals.

To explain that situation, the difficulty is that in Tasmania the planting of a plantation or renewing forestry means the planting of seedlings, which are very tasty to three species of the native animals. One is the possum and the other two are the wallaby and the pademelon. The pademelon is a small wallaby. They eat the top of those seedlings, which is a pretty costly operation, so there has been a process of poisoning using 1080 to knock down a certain number of those animals. There is always some criticism of the use of 1080 poisoning in Tasmania, but I point out that last year in Tasmania we used 10 kilos of 1080 poison. I understand that New South Wales uses 500 kilos. When I was in New Zealand, talking to the New Zealand government and their agencies in April this year, I learnt that they use over 2,000 kilos to keep down their wild animals—especially possums, which have a big effect on the dairy industry. Our recommendation grew out of evidence we received from the farmers and graziers that they still need an opportunity to knock down some of the native animals when they do certain operations.

Some of the major recommendations in the report came about from the evidence. One of the main recommendations is that we establish a national pest animals and weeds committee so that we pull together in the country a focus as to how we are doing things. The traditional way has been that the state government old agriculture department is the focus of this, whereas we really do need a national approach so we can use the best brains in the country from time to time to tackle the problem.

One recommendation is to make sure that we map populations—where they are going—of vertebrate and invertebrate pests to develop a risk assessment process for pest species that exist in the country and probably have not yet established fully. We are thinking into the future. Another recommendation is to develop national pest animal welfare standards: if we are going to knock animals over, we should do it in the best possible way. I think that is a good recommendation for the way we should be operating in Australia.

We certainly took evidence on the camel and the donkey problems, especially in the Kimberleys and in northern Western Australia. People would not understand that the donkey issue had become quite a problem up there. The problem was being attacked through shooting from helicopters, mainly by catching a jenny donkey and putting a radio collar on that donkey. As the donkey herds with other donkeys, it gives trackers an opportunity of finding those herds throughout the months. That has been a very successful operation with the local processes funded by the Western Australian government through their board structure and by the pastoralists who pay towards that as well.

On the camel problem in areas of Aboriginal settlements, the camels go in, drink out of the toilet bowl and then try to smash the toilet bowl to find the water underneath it—and therefore destroy property and cause a problem. Anybody who has been in that country in Central Australia will understand about the waterholes: some small, very deep waterholes have developed that are maybe one, two or three metres across and probably three or four metres deep. Camels will actually fall into these, trying to get water out of the bottom, and end up dying in there—and therefore destroying that water source for Aboriginal people. The pastoralists gave evidence of the damage the camels were doing to their fencing and mustering operations.
Camels cause major problems, also going to environmental issues. Great herds of camels are doing damage to some of the natural vegetation in that pretty desperate country, which will take some time to redevelop itself.

The committee took much evidence on the issue of dogs, especially those close to Canberra, in the Cooma area. The front page of the report has a photograph of a sheep that has been very badly mauled by dogs. This was to try to make some impact and show that people are very concerned about their stock being hit by dogs. These dogs have interbred with dingoes. They are wild dogs. They could be half alsatian that have bred with dingoes and become wild. Many of these dogs exist. They come out of the national parks—the high country—in packs or alone and destroy wildlife. It is a major problem that needs to be tackled across state borders and with a national approach.

There are an estimated 23 million wild pigs in Australia. It is an enormous problem. They are carriers of disease. We could be hit with diseases coming into the north, and pigs could be the vectors of those diseases around Australia. It is a major issue. I know that it is a major concern to the veterinary committees that gave evidence to us. It is an issue that needs focus. We need to be aware of it and tackle it in a better way than we have.

We recommend in the report that the private sector become involved in this issue. We have never really had much private sector involvement in making baits and that sort of thing. I understand that people from some of the stations in the northern part and other areas of Queensland put forward the idea of going out in a chopper to shoot some wild horses. They would be butchered and, over a couple of days, their meat would be cut into chunks and laced with 1080. It would then be loaded into choppers, which would fly up and scatter it around the country so that pigs would come along and eat it—and that, of course, would be their demise. It is not a very sophisticated way of doing it. We could probably do it in a much better way in 2005 and beyond.

We need to look at that in a new way. To an extent that has already started with the development of a bait which has a corn base—it is reasonably solid; it is a bit like a small salami—and some 1080 paste added to it. That can be released by aerial baiting. That has come about because money could be made from it. If we get private sector involvement in this, there could be an ongoing process, a new focus and some more research. I think that is a very sensible way of doing it.

Recommendation 6 talks about interested groups coming together. Recommendation 11 talks about prevention and early detection of pests. There is no doubt that the best way of doing these things is to get focused. We need to ensure that, if we find a pest that has invaded Australia, we put every resource we possibly can into eliminating it first up, because once a pest gets a hold, it is just about impossible to eliminate it totally.

Recommendation 13 refers to Australia Post. Australia Post cannot inspect internal post in Australia. It probably needs to. We made a recommendation that we look at that and at whether we need a change of law to allow state and territory governments some inspection powers for quarantine purposes. There is the issue of sleeper pests who may awake. Again, we need a national focus on what we need to do there.

In recommendation 17 we recommend that, through the Department of Agriculture, Fisheries and Forestry, the government give some support to the examination and trials which have
been started at ports with monitoring systems for pests coming into Australia that may attack our forestry industry. We have been very neglectful of that and we need to lift our game. Some very good work has been done through Forestry Tasmania and a very good recommendation has been made in that area.

Overall, it is a very good report with a lot of recommendations, which I hope will be taken up by federal and state ministers when they meet. These responsibilities need a collaborative effort. Pests cross state boundaries and we need to make sure that state and federal governments work together to overcome these enormous problems.

This is the last time I will speak in the Main Committee before Christmas. I take this opportunity to wish the clerks and all the attendants a merry Christmas and a happy and healthy new year.

Debate (on motion by Mr Neville) adjourned.

DISTINGUISHED VISITORS

The DEPUTY SPEAKER (Mr Hatton) (11.51 am)—I welcome officials from the parliament of Pakistan, who are here for a number of weeks having a look at the way we do it in Australia. I trust that the time you have been here already has been instructive, that the rest of your stay is pleasant and that you have a safe trip back to Pakistan.

Honourable members—Hear, hear!

COMMITTEES

Joint Standing Committee on Aboriginal and Torres Strait Islander Land Fund Report

Debate resumed from 2 November, on motion by Mr Abbott:

That the House take note of the report.

Mr SNOWDON (Lingiari) (11.52 am)—I am pleased to address the report of the parliamentary Joint Standing Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, entitled Native Title and the Aboriginal and Torres Strait Islander Land Fund—Parliamentary Joint Committee—Report—19th report—Second interim report for the s.206(d) inquiry—Indigenous land use agreements—Government response, particularly as it relates to Indigenous land use agreements. I note the government has accepted, at least in part, some of the committee’s conclusions and recommendations—that is, the principle that agreements provide the most effective way of achieving lasting outcomes is of central importance in the Native Title Act. It is worth pointing out that the Indigenous land use agreements were a result of the amendments to the Native Title Act in 1998. That is important because those amendments came about as a result of initiatives from Indigenous Australians to try to improve in the legislation the way in which they could deal with land where they had rights under the Native Title Act.

Prior to the 1998 amendments, there was general consensus that there was a need to improve the agreement-making provisions under the legislation. The original act was inadequate in that regard. As someone who was working for Indigenous organisations at the time of the 1998 amendments, I know that the very strong thrust of their view was that the only way in which they could treat their land appropriately under the Native Title Act was to reach agreements with the ILUA proposals. This provides them with a framework and a capacity to con-
tract arrangements with users of the land—for all manner of purposes—so that they can gain a substantial benefit, not only for themselves but for their communities. It is interesting to understand that the ILUA proposals have been developed to such an extent that they provide a capacity, particularly in the Northern Territory, the area with which I am most conversant, to deal with land in a way which, hitherto, Indigenous organisations were unable to.

I note that in the case of the Northern Territory these agreements have been wide ranging. They have addressed issues in the pastoral areas and have addressed issues to do with community living areas, mining and exploration, and parks and reserves. I will quote if I may from the Central Land Council annual report of 2004-05, in which they refer to Indigenous land use agreements and other agreements. The Central Land Council is a native title representative body under the native title legislation, as is the Northern Land Council for the northern half of the Northern Territory. ‘The CLC, under this legislation, has implemented a clear strategy to secure beneficial outcomes for native title holders through negotiated Indigenous land use agreements and other agreements, including good faith agreements under section 31 of the Native Title Act.’

I think we need to comprehend here that there was a myth. From 1996, when the original native title legislation went through the parliament, to 1998, when the legislation was being debated, there was a view from some in the community—particularly from some in the pastoral industry and the mining sector—that somehow or other the world would end if Indigenous Australians’ rights to land were recognised in the form that was proposed under the native title legislation and that their commercial interests would be undermined.

Of course, what we have learnt as a result of goodwill from the Indigenous landowners—in this case, in the Northern Territory the native title holders and applicants—and from people who are fair-minded and of good faith in the pastoral industries and the mining sector in the Northern Territory is that their mutual interests came together under this legislation so that they were able to reach agreements which were beneficial to all parties. Unlike the previous Northern Territory administration, the current Labor government—elected in 2001—has adopted a very proactive stance and approach to dealing with Indigenous people and their land-owning arrangements, both under the native title legislation and under the Aboriginal Land Rights (Northern Territory) Act. In this context it is beneficial and important that we appreciate what this means.

I mentioned earlier the relationship with the pastoral industry. The CLC, as I am advised through its annual report, has executed 24 agreements in respect of exploration and mining, including 12 Indigenous land use agreements, that have been registered with the Native Title Tribunal. A number of these agreements were reached in 2005 and some of them are quite significant. They relate to places right throughout Central Australia. I can refer to some of them already: there was an agreement with Magellan at an area called Lake Lewis for mining and with Otter Gold, Tanami and Exploration NL at Coniston at Napperby. Then there are section 31 agreements with a whole range of mining interests at Supplejack, Napperby and Tennant Creek. These are important because they have demonstrated the capacity for the mining industry to work constructively with Indigenous interests through the native title legislation and, as a result of that legislation, formulate ILUAs to their mutual benefit.

We need to contemplate—and it might be worth while recognising—that the previous conservative administration in the Northern Territory took the view that they were not prepared to
accept the existence of native title legislation and opposed at every opportunity attempts by Indigenous people to deal with their native title interests on land, particularly in the pastoral sector. They had no time for Indigenous interests in relation to land which might otherwise be seen as crown land.

The current Northern Territory government took the view, after they were elected in 2001, that they would accept the existence of native title and immediately set about a process whereby they could negotiate a set of arrangements and agreements about how they might deal with native title in the Northern Territory. As part of that process, they reached an agreement with the two Northern Territory land councils—the Northern Land Council and the Central Land Council—which operate as native title representative bodies. They set out to register a number of Indigenous land use agreements, which were then published by the Northern Territory government. These are quite extensive. They will guarantee now and into the future access to parks and reserves in the Northern Territory that historically had been Northern Territory land, but now recognising them as having an Aboriginal interest and an underlying title—a native title—and the Indigenous landowners reaching agreement with the Northern Territory government that these lands could be used for the benefit of all Territorians and, indeed, all Australians.

This was done without any great sense of drama. It has not been easy. Of course, the negotiations, as you will appreciate, were difficult, but they have reached a successful outcome. They mean that, through the process of negotiating Indigenous land use agreements, very large areas of the Northern Territory, parks and reserves, are now under land use agreements. Not only are there new management plans being developed for these lands—which will involve Indigenous people and give them a direct benefit as a result—but also they provide a management plan which gives Indigenous people the capacity to influence how the land is utilised and how it is managed in an appropriate way jointly with the Northern Territory government.

Those sorts of historical arrangements did not exist prior to the election of the current Labor Northern Territory government in 2001. The previous conservative government of the Country Liberal Party took the view that they not only opposed land rights under the Aboriginal Land Rights (Northern Territory) Act but that they would oppose at every opportunity the prospect of Indigenous Australians having their rights recognised under the native title legislation. Because a different view has been adopted by the current government, we have seen very successful outcomes in negotiating Indigenous land use agreements with the Northern Territory government regarding parks and reserves. There have been a couple of exceptions where difficulties have arisen, but by and large they have reached agreement.

A division having been called in the House of Representatives—

Sitting suspended from 12.03 pm to 12.17 pm

Mr SNOWDON—Of course the interesting thing about the document we are referring to is that it was published in 2001. At that point I was a member of the committee and participated in this inquiry. We now know that things have moved on since then and the experience of the native title representative bodies, representing native title applicants and native title holders, has grown. As I said earlier, in the Northern Territory this has meant a very mature approach by both the native title rep bodies and commercial interests, as well as the Northern Territory government, in using ILUAs to the mutual benefit of all parties.
One of the interesting things that I think needs to be contemplated is the resourcing of native title representative bodies to carry out the functions under the Native Title Act. There are significant issues that the Commonwealth needs to confront. I note that the minister has indicated a desire to amend the native title legislation in a rather perfunctory way. He has not indicated what those amendments will be. I hope they will include amendments which might adequately address the funding of native title rep bodies so they can properly carry out their functions. When you look at the roles of the native title rep bodies and the statutory authorities which are there to administer native title, relatively speaking, the native title rep bodies are dramatically underfunded.

On the other hand, the Native Title Tribunal is more than adequately funded. We noted during the inquiries that were undertaken as far back as 2001 that, because of the lack of resources, many of the rep bodies, when making submissions to the committee, indicated they found it very difficult to carry out their functions in a proper and appropriate manner. In the context of these ILUAs, because they lacked funding at that point, they found it difficult to properly represent the interests of their clients. Clearly, as I said earlier, things have progressed since that time, but it remains the case that there has been a severe underfunding of native title rep bodies and that the issue of funding needs to be addressed. The funding arrangement needs to be rebalanced so that more resources are given to native title rep bodies and fewer resources are given to the tribunal.

I am someone who was glad to be part of the Keating cabinet considerations of the Native Title Act. I am pleased to have been someone who was able to be in the parliament and vote for that historic piece of legislation. I am pleased to have been able to assist Indigenous interests in putting proposals to amend the Native Title Act in 1998. And I am pleased to now be engaged with Indigenous interests across Australia, but particularly in the Northern Territory, around issues to do with native title. But I am most concerned: I do not believe the government has properly and adequately addressed the needs of the native title rep bodies so they can properly carry out their functions.

I note that it is important that the government scrutinise the work of these bodies, and that they be properly accountable. But it is also true that we need to be accountable downwards as well as upwards. It is very difficult for these native title rep bodies to carry out their functions if they are not adequately and properly resourced. I say to the government: of all the recommendations they ought to be considering, one of the most important is to properly and adequately fund these organisations. As to the other matters addressed in the report, I make the point that the report was done in 2001. We have moved a long way in terms of experience since then, and it may now be time to have another inquiry—or at least revisit the issues addressed in this inquiry—to see how, contemporaneously, they might be changed. I say to the government: this is a very paltry response to a report of 2001. Why has it taken almost five years?

Mr Snowdon: I note that it is important that the government scrutinise the work of these bodies, and that they be properly accountable. But it is also true that we need to be accountable downwards as well as upwards. It is very difficult for these native title rep bodies to carry out their functions if they are not adequately and properly resourced. I say to the government: of all the recommendations they ought to be considering, one of the most important is to properly and adequately fund these organisations. As to the other matters addressed in the report, I make the point that the report was done in 2001. We have moved a long way in terms of experience since then, and it may now be time to have another inquiry—or at least revisit the issues addressed in this inquiry—to see how, contemporaneously, they might be changed. I say to the government: this is a very paltry response to a report of 2001. Why has it taken almost five years?

The DEPUTY SPEAKER: I thank the member for Snowdon.

Mr Snowdon: I note that it is important that the government scrutinise the work of these bodies, and that they be properly accountable. But it is also true that we need to be accountable downwards as well as upwards. It is very difficult for these native title rep bodies to carry out their functions if they are not adequately and properly resourced. I say to the government: of all the recommendations they ought to be considering, one of the most important is to properly and adequately fund these organisations. As to the other matters addressed in the report, I make the point that the report was done in 2001. We have moved a long way in terms of experience since then, and it may now be time to have another inquiry—or at least revisit the issues addressed in this inquiry—to see how, contemporaneously, they might be changed. I say to the government: this is a very paltry response to a report of 2001. Why has it taken almost five years?
deceased. I certainly would not wish that unhappy state upon the honourable member for Lingiari. The member for Lingiari did raise a valid point in his speech, namely, the amount of time it has taken to respond to this report. I think that is regrettable. The government endorses the parliamentary joint committee’s general findings about Indigenous land use agreements, but, as has been indicated, 2001 is quite a considerable time ago and maybe there ought to be a further investigation into the matters looked at by the joint committee at that time.

Since their inception, these Indigenous land use agreements have proven to be a popular mechanism for resolving native title issues. As at 21 November this year, there were 224 registered Indigenous land use agreements, with a further 19 agreements going through the registration process. The majority of the recommendations, five of the eight, cover issues that are being reviewed as part of the reforms to the native title system that the Attorney-General mentioned on 7 September. That review may go some distance towards making sure that a full inquiry into these matters by a parliamentary committee is not now necessary.

The five of eight issues include a number of things: recommendation 3, respondent funding; technical amendment, recommendation 7; examination of prescribed bodies corporate, recommendation 8; native title representative body reform, recommendation 4; and the claims resolution review, recommendation 6. These are the subject of separate consultation processes, which are currently under way. Although it has been useful to hear the different issues raised, to further debate these issues before the outcome of consultation is known would be premature and may pre-empt the review.

I am advised that, in developing the native title reform package, the government will take into account the committee’s report into Indigenous land use agreements along with other committee reports and submissions to the committee’s current inquiry into native title representative bodies. As I said earlier, I am sorry that the government has taken so long to respond to this report. If we are to have a vibrant committee system it is important that responses be timely. Of course, governments have incredible pressure on their resources and their time, and sometimes the bureaucracy can only move so quickly, so it is not always possible, within a time frame, to achieve the results one would like. I do not want to be too critical but I think it is important that we not be in the position of debating our response some years after the event.

I understand that a number of people are listed to speak in the adjournment debate and that, if I do not terminate my remarks at this point, some people may miss that opportunity. So, at this stage, I seek leave to continue my remarks on a later occasion.

The DEPUTY SPEAKER (Mr Lindsay)—I must inquire of the whips whether that is the arrangement.

Mr SLIPPER—Mr Deputy Speaker, my understanding is that, if I seek leave to continue my remarks on a later occasion, when this matter is relisted I will be the first person to receive the call. Subsequent speakers on the speakers list would not then be deprived of the opportunity to make a contribution.

The DEPUTY SPEAKER—The Clerk’s advice is that you are not required to seek leave at this time. The member for Kingsford Smith will be able to speak in this debate. The debate will be adjourned to another day and then you can seek leave to continue your remarks. Are you happy with that? The device achieves what you want to achieve. You will be able to continue your remarks.
Mr SLIPPER—Having spoken to the Clerk earlier, my understanding was that, if I was to seek leave to continue my remarks, that would be the end of this debate in the Main Committee today and we would then move to the adjournment debate and the adjournment speakers would have the opportunity of making their contributions. But, from what you have said, my understanding is that, if I do not seek leave now, the debate on this matter will continue and the full list of adjournment speakers will not have the opportunity of making their speeches. I am relaxed about it either way, to be honest. I do not mind continuing, but I looked at the list of adjournment speakers and thought that everybody should be given an opportunity. But if the whips, in their wisdom, have collectively decided otherwise, I am happy to defer to that collective wisdom.

Ms Hall—Mr Deputy Speaker, there has been a decision that the debate should continue with the member for Kingsford Smith and then we will go to the adjournment debate. The adjournment debate was only put in as a filler because we did not think debate on the legislation would go for long enough.

Mr Barresi—I concur with the member for Shortland that the debate should continue. The member for Fisher will be able to continue his contributions and he will be followed by the member for Kingsford Smith. Whatever time remains will be available for the adjournment debate.

The DEPUTY SPEAKER—The member for Fisher may continue his remarks and should withdraw his request for leave.

Mr SLIPPER—Thank you, Mr Deputy Speaker, and I withdraw that request. The situation in the Main Committee today is obviously changing from moment to moment. I had a different understanding initially, but if the whips have so agreed I am more than happy to proceed on the basis of what the whips have in fact determined should occur on this particular occasion.

I believe that the work done by this joint committee is particularly valuable. The committee’s members work very well together. But, as I was saying a moment ago, it is regrettable that it has taken as long as it has to gain a government response to the report. However, as I also pointed out, a number of the matters which were included in the recommendations being debated have been looked at by the government and are in fact being reviewed as part of the reforms to the native title system that were announced on 7 September this year by the honourable Attorney-General—and I outlined those five matters just a few minutes ago. It really is important for Australia that we get the system of native title right. I was interested in a statement made by the member for Lingiari that the Native Title Tribunal is very well funded but certain other native title bodies are not. This is a matter which clearly ought to be looked at and no doubt will be looked at by the government. I see the member for Kingsford Smith is here, and I will be happy to conclude my remarks at this point to give him a reasonable opportunity to speak.

Mr GARRETT (Kingsford Smith) (12.31 pm)—I thank the member for Fisher for providing me with the opportunity to make some brief remarks about the second interim report on the section 206(d) inquiry into Indigenous land use agreements. I note and endorse the comments of my colleague the member for Lingiari in relation to the government’s response to this report. It is, as a matter of consequence, important for the government to provide a timely response to parliamentary joint committee reports of this kind. The fact that the report is dated
September 2001 but that only in the last week of parliament in 2005 are we in a position to consider that government response indicates, I think, some need for the government to be mindful of a much more speedy response to enable us to have an adequate debate about such issues.

A number of recommendations were raised in the committee’s report to the parliament. The government’s response indicates that it has taken them seriously and it has taken the report seriously, and I want to acknowledge the fact that the government has done that. Given the government’s responses, it is probably as important to examine briefly, given that I want to provide sufficient opportunity to speak to those who have prepared themselves for the adjournment debate, the context of proposed changes to the overall approach to ownership and control of Aboriginal land in Australia, particularly in the Northern Territory, given the ongoing need for clarity and efficacy and the need for ongoing protection and enhancement of traditional cultural rights in relation to land in terms of all of the likely interactions between commercial entities, individuals, pastoral lease owners, mining companies and so on. To that extent, we are in a period of some significant debate about the reform process, particularly concerning the government’s intention to amend the Aboriginal Land Rights (Northern Territory) Act 1976 and proposed discussions that relate to the Native Title Act 1993.

I note that one of the abiding features of this debate, particularly from our perspective, is the need to discern clearly, firstly, what has legitimacy in terms of improved policy outcomes as to both the administration and the undertaking of the land rights regimes spoken of generally and, secondly, what relates to the political motivations that are inherent in the various reform agendas that are about. I note that the Prime Minister is on the record as saying that the government’s intention is not to seek to wind back or undermine native title and land rights. It is in that context that we have to examine not only the government’s response to this report but also, and more importantly, the overall reform agenda that the government is bringing forward.

I will not recite history and in a sense go back to the opposition that the government has had in relation to its reform agenda, even to the extent of the original decisions by the High Court and the subsequent enactment of legislation by the Keating government. But I do note with some concern the reappearance in the media of articles by commentators, including historians and others, seeking in a sense to link the issue of economic independence and the capacity of Indigenous communities to bring themselves out of poverty with a repudiation of the determinations that were made by the High Court which were subsequently reflected in the legislation of the time. It seems to me that, of all the government’s responses—not only to a committee of this kind but more generally to the question of Indigenous aspiration—this is in a sense distinguishing the politics from the necessary policy while we on our side of the fence are saying very clearly that we expect the policy to be wholehearted in its embrace of Indigenous interest and rights.

I note very briefly, by way of closing, something of some concern to members of the House, which relates to the employment of Aboriginal and Torres Strait Islanders within the government in terms of the policy commitments that emanate not only from our consideration of land rights legislation but more generally from the situation Aboriginal people find themselves in. Commitments that governments have made to actually do something ‘practical’ mean that, in something as basic as employment within the Public Service, there is an expec-
tation, amongst other things, that you would increase the capacity of Indigenous people to be employed. That is not the case. The Minister for Health and Ageing yesterday made reference in question time to some of the health initiatives. Again, we are falling far short.

But I am mindful of the fact that time is of the essence in this last week. I do note that the government has made its response to the second interim report. It has come very late in the day. I will not now discuss in detail some of those substantial responses that it has made; I will let those comments come in debate at a later time.

Debate (on motion by Mr Barresi) adjourned.

ADJOURNMENT

Mr BARRESI (Deakin) (12.36 pm)—I move:
That the Main Committee do now adjourn.

Word War II Commemorative Medallions

Mr SLIPPER (Fisher) (12.36 pm)—I would like to take this opportunity to comment on the incredibly worthwhile experiences that I have had this year, with which other members would concur, during the presentation of the World War II Commemorative Medallions commissioned by the Australian government to coincide with the 60th anniversary of the end of the Second World War. The medallions are being distributed this year, I am told, to some 400,000 Australian, Commonwealth and allied World War II veterans, their widows and widowers. Some 252,000 have already received their medallions.

In my own electorate of Fisher, on the Sunshine Coast of Queensland—the most desirable part of our country in which to live—we have had some 2,962 eligible recipients. They were all invited by the Department of Veterans’ Affairs to choose whether they wanted to have the medallions posted to them through the mail or to be presented with them personally by a representative of the Australian government. All of these veterans, widows and widowers are today quite elderly senior citizens. They have made a wonderful contribution to Australia. For various reasons, including frailty and illness, some have been unable to attend the presentation ceremonies on public occasions, but those who did attend found the ceremony a wonderful experience. Many people have reported being quite emotional at receiving the medallions, which symbolise our nation’s gratitude to the contributions that they made towards the freedom, stability and way of life that we have as a nation, which has made Australia the envy of people throughout the world.

One gentleman who remembers receiving his medals through the mail at the end of the Second World War commented that having the medallion personally presented by an Australian government representative was an event he would not have missed for anything. He was literally beaming with satisfaction to be able to be called out by name at a formal presentation function, to stride out to the front and to then proudly accept his medallion with a group of his family and friends present as witnesses. The 60th anniversary medallion to him represented a type of closure some six decades after the fighting had ceased. There was no shortage of watery eyes amongst those who came forward to accept their medallions. Some others wept considerable tears, especially when considering those who fought beside them who did not come back.

Another emotional recipient mentioned that she had married as a teenager, and soon afterwards her husband was shipped out to fight. The war took away the first years of their mar-
riage together. It was an incredibly selfless sacrifice that they made for their country. Many young couples at that time made that sort of sacrifice. I think that in 2005 we find it hard to understand how people could essentially be married and immediately separated for years on end from their life partner. The commemorative medallion, referring to this lady who married as a teenager, was accepted proudly by her on behalf of her late husband.

These medallions could be described as somewhat like large gold-coloured coins. The obverse design shows the Commonwealth coat of arms with the words inscribed ‘World War II service to Australia’. The reverse design shows a contemporary map of Australia. Three sets of lines across the map symbolise service in the Army, represented by horizontal straight lines across our continent; Navy, wavy lines below the horizontal lines to indicate the waves of the sea; and Air Force, lines that curve upwards to mirror the flight paths of the warplanes that took to the skies in defence of our country. That reverse design also features the imprint ‘1945 to 2005’ to indicate that 60 years have passed since the end of this international conflict.

A division having been called in the House of Representatives—

Sitting suspended from 12.41 pm to 12.49 pm

Mr SLIPPER—As I was saying before I was so rudely interrupted by the division in the main chamber, the medallions were accompanied by a card certificate signed by the Prime Minister, the Minister for Veterans’ Affairs and me as the local member. We have had a range of ceremonies and they are continuing to be held. At the ceremonies there is a tremendous feeling of warmth and sense of appreciation that we as a nation owe to those who risked so much during the Second World War. All the veterans, widows and widowers who made these incredible personal sacrifices deserve to be recognised for what they have done for our country. An interesting thing is that they made their contribution not expecting anything in return.

The commemorative medallion is a relatively small memento of the substantial gratitude the Australian government feels towards the recipients. They have received their commemorative medallions as a thankyou gesture from the government. To those who fought for Australia to make our country what it is today, I want to say as the federal member for Fisher that I personally honour you, I personally appreciate your contribution and I must say that your contribution has made Australia a much better place in which to live.

Dental Care

Mr GEORGANAS (Hindmarsh) (12.50 pm)—Today I rise to speak on the issue of the need for a Commonwealth funded dental health scheme. I have done this on a number of previous occasions. The need for such a scheme is undeniable. There is now evidence that it must be supplemented by an increase in the number of training places for dentists available in our universities.

The Australian Institute of Health and Welfare is expecting waiting times for dental care to keep growing as the demand for dentists increases. Even though a 10 per cent increase in the number of practising dentists in South Australia is expected by 2015, visit lengths are increasing, so demand is expected to increase by almost 20 per cent by the year 2015. Demand by those eligible for public, state funded dental care is likely to increase by about 30 per cent over the next 10 years, while demand by those not eligible will increase by only about 14 per cent. It is estimated that South Australia would need another 190 dentists over the next 10 years to keep up with demand.
At the University of Adelaide, student numbers for dentistry have increased. That is clearly welcome news. But there are now problems with adequate resourcing for these students. There is a need for more teaching staff and more equipment.

Adding to the demand is the fact that the progress made in children’s oral health during the early 1990s is now being reversed. In coming years, these children will need more ongoing dental care than the generation who were going through school in the last decade. Since the late 1990s, dental decay in both primary and secondary school children has been increasing in South Australia. As always, it is those on low incomes who are doing it toughest. People on pensions are more likely than the rest of the population to have decay; they are twice as likely to have lost teeth through decay; and 44 per cent of concession card holders aged between 45 and 64 avoid or put off going to the dentist because of the cost.

This federal government says that dental care is not its responsibility and that it is up to the states. That is what we hear. Once again, I refer to the Australian Constitution, which clearly states in section 51:

The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to—

amongst other things—

dental services ...

The Australian Constitution explicitly states that dental care is a federal government responsibility. Yet on 23 June this year this government’s Parliamentary Secretary to the Minister for Health and Ageing said on Adelaide Radio 5AA, on the Leon Byner program:

... section 51 makes absolutely no mention of dental services at all. So he—

he was referring to me; I had been on earlier that day—

completely misled your listeners into believing the Commonwealth had constitutional responsibility for dental services. We simply do not.

They were the words of the parliamentary secretary for health. I have the section here. I ask the parliamentary secretary to come and take a look at it. I have even circled the area where it says that it is absolutely the federal government’s responsibility—that dental services are the federal government’s responsibility. I suggest that someone other than me was misleading the South Australian public on that day.

We had a Commonwealth Dental Health Program in 1996. In 1996, under this Howard government, that program was ended. The Australian Dental Association says that the program significantly reduced waiting lists. Today there are around 650,000 people in Australia waiting for public dental care. In some areas the waiting times are longer than three years. In South Australia, thanks to increased funding by the state government, that figure has been reduced to around two years. That is still clearly far too long. Throughout Australia, the number of people on the waiting lists has increased by 42 per cent since the Commonwealth Dental Health Program was stopped.

I feel like a broken record, but this government just is not listening. There is a clear connection between gum disease and coronary disease. Cardiovascular disease is Australia’s leading cause of death. Ignoring the dental care needs of Australians is a life and death matter. The community is sick of the federal government trying to pass the buck on to the states.
The situation is already bad enough, but with demand for dentists increasing it is only going to get worse. We need more dentists and therefore more training places for dentists and we need a national dental health program as a matter of urgency. The government has a history of misleading the public as to its responsibility for dental care by stating the opposite of the truth, as the Parliamentary Secretary to the Minister for Health and Ageing did on that day on 5AA. Clearly not one person in this country can ever expect this Liberal government to provide dental services. Not one person in this country can vote for the Liberal government and even hope for federal dental services. Not one person in my electorate of Hindmarsh can look to any Liberal party member or candidate and think that that person will ever support in this place federal dental services. There is only going to be one candidate running for Hindmarsh in 2007 that has any intention whatsoever of providing federal dental services, and it will not be the Liberal candidate. I am committed to a federal dental scheme. (Time expired)

**Victory in the Pacific Medallions**

Mrs GASH (Gilmore) (12.55 pm)—The Victory in the Pacific medallion presentation ceremonies we have been conducting in the Gilmore electorate have proved a tremendous success. To see the joy on the faces of people receiving the medallions is something in itself. During my ceremonies, each and every recipient tells a little story about their history. Most are positive, a few were sad and some were exceptional, but each and every story was unique and it was truly moving to hear some of them. I must admit that on more than one occasion tears welled in my eyes. Whilst it is such a simple gesture, it meant everything to those elderly Australians who were there on the day. The most moving were the stories of a handful of ex-POWs. It is not until you hear them in their own words that you begin to feel the passion of their suffering. Only then do you come to realise just a fraction of what it must have been like to endure the pain and suffering and to finally survive.

One of the stories came from Barry Williams, a member of the Huskisson RSL sub-branch. He gave me a little handmade booklet, simple in its presentation, which recounted the horrors of the war from one of our ex-POWs, Roydon Charles Cornford. Roydon is 83 years old and lives in Vincentia on the shores of Jervis Bay. It was a courageous thing of him to write the book and I hope in doing so he let go of some of the demons that possessed him. Mr Cornford starts his story at Tamarkan on the banks of the infamous River Kwai, where he was a prisoner. He describes his journey, first to Indochina, now called south Vietnam, a battleground for Australians 25 years later, where he was imprisoned in Saigon. His journey took him to another familiar place, Cap St Jacques near Vung Tau in Phuoc Tuy province, where Aussie soldiers served for almost 10 years in the Vietnam conflict.

He embarked to Cambodia suffering deprivation along with his mates. From there it was down through Malaysia to an island off Singapore. The thread of his tale was the last leg of his trip, which would have taken him to Japan. He and 2,217 other POWs were loaded on two Japanese troop ships, the Rakuyo Maru and the Kachiboki Maru. He tells of how the prisoners were loaded, along with a cargo of rubber and the Japanese comfort girls, all overseen by cruel Korean guards who were armed with sharpened bamboo sticks. They were held on board before sailing two days later as part of a large convoy consisting of oil tankers, armed escorts and other cargo ships.

Six days after sailing, the air cover was discontinued and that night 500 of the POWs on his ship were sleeping on deck. A loud explosion accompanied a bright flash signalling the sink-
ing of one of the destroyers. Immediately all hell broke loose as an oil tanker exploded in a brilliant ball of flame, lighting up the surrounding ocean. The light revealed the water littered with Japanese crew from the destroyer and oil tanker. The Japanese escorts zipped everywhere, dropping depth charges as yet another ship was hit. It was at that moment that two torpedoes hit his ship causing panic and flooding the hold that contained the POWs. As the ship stabilised, the panic subsided and arrangements were made to abandon ship. Naturally, the Japanese and Koreans commandeered the lifeboats, leaving whatever flotsam there was, including the rubber, for the rest. He then goes on to describe the events that followed with survivors clinging to anything they could find as yet another escort ship exploded.

The next morning two Japanese ships came back and picked up the Japanese survivors, leaving the boats for the POWs who were in the water—350 POWs spread between 11 boats, the rest tying their two rafts together, the only thing they could cling to because everything else had turned oily. Those in the boats drifted off and Mr Cornford later learned that the Japanese returned and machine-gunned them.

After the third night they heard the sound of engines, but they could not see any aircraft and suddenly they realised it was a submarine that had surfaced near them and had started taking the survivors. Mr Cornford said:

I can remember lifting my hands up, pleading with the sailors not to grab my arms because they were just blisters and sores. They got us on deck and surprisingly, we could walk. Our submarine, the USS Pampanito, which rescued us was one of the four American submarines that attacked the convoy.

Of the 2,218 POWs that set sail from Cap St Jacques, less than a handful were rescued and the balance of the survivors were lost in a typhoon that had come up. Mr Cornford ends his story with the words ‘God bless America’, adding that the submarine USS Pampanito is on display at Pier 45 in San Francisco.

My words cannot give justice to his story, for I am constrained by time, but I urge all members to take time to listen to the stories of these people because, unless they are recorded, they will be lost to time. I was moved by many of these stories, brief as they were. They are the crown jewels of our proud heritage and we must make every effort to preserve them for later generations.

Child Care

Mr DANBY (Melbourne Ports) (12.59 pm)—I want to speak about the expense and shortage of child care in my electorate, particularly in the city of Port Phillip, which takes in Port Melbourne, South Melbourne, Albert Park, St Kilda and Elwood. After many years of decline these suburbs are now experiencing rapid growth. Families with young children are moving back into the inner suburbs. Many of these families are servicing mortgages in an area where the cost of land and housing is very high. In most families both parents are working. Many of them are paying high fees to give their children the education of their choice. In these areas there is a great demand for child care. I know it is true in similar inner urban areas across Australia.

The government like to tell us how much they are spending on child care. The figure of $8.5 billion is quoted. But the people of Port Phillip are wondering where the money is going, because they certainly are not seeing the benefit of it. In Port Phillip today the council provides 221 child-care places through its own facilities and subsidises another 335. Only 415
places are available in private sector child care, but there is a waiting list of 1,935—nearly 2,000 children cannot find places in child care and parents are therefore unable to participate in the work force as they want to and need to. In child care, as in other areas, this government have a blind faith in market forces and the private sector. But in my electorate the private sector has not met the demand for child care. This is partly because of the very high cost of buying land.

A division having been called in the House of Representatives—

Main Committee adjourned at 1.02 pm
QUESTIONS IN WRITING

Commonwealth Departments: Programs and Grants
(Question Nos 1934 to 1952)

Ms Burke asked all ministers, in writing, on 9 August 2005:

(1) What programmes have been administered by the Minister’s department in the electoral division of
   (a) Chisholm, (b) Aston, (c) Deakin, (d) La Trobe, (e) Higgins, (f) Kooyong, (g) Menzies, and (h) Casey for each financial year since 1996.

(2) In respect of each project or program referred to in part (1), (a) what is its name, (b) who operates it, (c) what are its aims and objectives, (d) what funding has it received each financial year since 1996 and (e) in what year did Commonwealth funding commence.

(3) What grants and benefits have been provided to individuals, businesses and organisations by the Minister’s department in the electoral division of (a) Chisholm, (b) Aston, (c) Deakin, (d) La Trobe, (e) Higgins, (f) Kooyong, (g) Menzies, and (h) Casey for each financial year since 1996.

Mr Abbott—The Special Minister of State has supplied the following answer on behalf of all ministers to the honourable member’s question:
The legislation establishing every Australian Government programme is allocated to particular ministers under the Administrative Arrangements Order. Descriptions of programmes are available in various publicly available documents. Providing details of the benefits and grants provided under those programmes would involve an unreasonable diversion of resources and in some cases, may breach the privacy rights of the individuals who received benefits under various programmes.

Commonwealth Departments: Programs and Grants
(Question Nos 2013 to 2031)

Ms Bird asked all ministers, in writing, on 10 August 2005:

(1) What programmes have been administered by the Minister’s department in the electoral division of
   (a) Cunningham, (b) Throsby, (c) Gilmore, (d) Hughes, (c) Macarthur, and (d) Hume for each financial year since 1996.

(2) In respect of each program and/or project referred to in part (1), (a) what is its name, (b) who administers it, (c) what are its objectives, (d) what funding has it received in each financial year since 1996, and (e) in what year did Commonwealth funding commence.

(3) What grants and benefits have been provided by the Minister’s department to (a) individuals, (b) businesses, and (c) organisations in the electoral division of (i) Cunningham, (ii) Throsby, (iii) Gilmore, (iv) Hughes, (v) Macarthur, and (vi) Hume for each financial year since 1996.

(4) What pilot programmes and/or projects has the Minister’s department (a) funded and (b) administered in the electoral division of (i) Cunningham, (ii) Throsby, (iii) Gilmore, (iv) Hughes, (v) Macarthur, and (vi) Hume for each financial year since 1996.

Mr Abbott—The Special Minister of State has supplied the following answer on behalf of all ministers to the honourable member’s question:
The legislation establishing every Australian Government programme is allocated to particular ministers under the Administrative Arrangements Order. Descriptions of programmes are available in various publicly available documents. Providing details of the benefits and grants provided under those programmes would involve an unreasonable diversion of resources and in some cases, may breach the privacy rights of the individuals who received benefits under various programmes.

QUESTIONS IN WRITING
Commonwealth Departments: Programs and Grants
(Question Nos 2117 to 2135)

Mr Hayes asked all ministers, in writing, on 18 August 2005:

(1) What programmes have been administered by the Minister’s department in the electoral division of (a) Werriwa, (b) Macarthur (c) Hughes (d) Fowler, (e) Prospect, and (f) Hume for each financial year since 1996.

(2) In respect of each project or programme referred to in (1), (a) what is its name, (b) who operates it, (c) what are its aims and objectives, (d) what funding has it received each financial year since 1996 and (e) in what year did Commonwealth funding commence.

(3) What grants and benefits have been provided to individuals, businesses and organisations by the Minister’s department in the electoral division of (a) Werriwa, (b) Macarthur (c) Hughes (d) Fowler, (e) Prospect, and (f) Hume for each financial year since 1996.

Mr Abbott — The Special Minister of State has supplied the following answer on behalf of all ministers to the honourable member’s question:

The legislation establishing every Australian Government programme is allocated to particular ministers under the Administrative Arrangements Order. Descriptions of the programmes are available in various publicly available documents and providing details of the benefits and grants provided under those programmes would involve an unreasonable diversion of resources and in some cases, may breach the privacy rights of the individuals who received benefits under various programmes.

Minister for Fisheries, Forestry and Conservation
(Question No. 2178)

Mr Bowen asked the Minister representing the Minister for Fisheries, Forestry and Conservation, in writing, on 18 August 2005:

(1) Has the Minister received any training, coaching or assistance in public speaking or voice projection at public expense since the Minister took office; if so, what was the cost of this training.

(2) What is the name and postal address of the individual or organisation(s) which provided the training.

Mr McGauran — The Minister for Fisheries, Forestry and Conservation has provided the following answer to the honourable member’s question:

(1) No.

(2) Not applicable.

Domestic and Overseas Air Travel
(Question No. 2433)

Mr Quick asked the Minister representing the Minister for Defence, in writing, on 11 October 2005:

(1) For 2004-2005, what sum was spent by the Minister’s department on domestic and international air travel.

(2) For 2004-2005, what proportion of domestic air travel by employees of the Minister’s department was provided by (a) Qantas, (b) Regional Express, and (c) Virgin Blue.

(3) For 2004-2005, what sum was spent by the Minister’s department on domestic air travel provided by (i) Qantas, (ii) Regional Express, and (iii) Virgin Blue.
(4) For 2004-2005, what sum was spent by the Minister’s department on (a) economy and (b) business
class travel on (i) domestic routes and (ii) international routes.

(5) For 2004-2005, what proportion of the expenditure on air travel by the Minister’s department was
on the domestic route (a) Sydney to Canberra, (b) Melbourne to Canberra, (c) Sydney to Mel-
bourne, (d) Sydney to Brisbane, (e) Melbourne to Hobart or Launceston, and (f) Sydney to Perth.

(6) For 2004-2005, how many employees of the Minister’s department had membership of the (a) Qantas
Chairman’s Lounge, (b) Qantas Club, (c) Regional Express Membership Lounge, and (d) Virgin
Blue’s Blue Room paid for by the department.

(7) Which company provides travel management services to the Minister’s department.

Mrs De-Anne Kelly—The Minister for Defence has provided the following answer to the
honourable member’s question:

(1) Type of Air Travel 2004-05

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic</td>
<td>$94,550,025</td>
</tr>
<tr>
<td>International</td>
<td>$54,066,822</td>
</tr>
<tr>
<td>Total</td>
<td>$148,616,847</td>
</tr>
</tbody>
</table>

(2) Airline 2004-05

<table>
<thead>
<tr>
<th>Airline</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Qantas (includes QantasLink)</td>
<td>91%</td>
</tr>
<tr>
<td>Rex</td>
<td>1.08%</td>
</tr>
<tr>
<td>Virgin</td>
<td>1.41%</td>
</tr>
</tbody>
</table>

Note: Other airlines make up the balance of 6.51 per cent.

(3) Airline 2004-05

<table>
<thead>
<tr>
<th>Airline</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Qantas (includes QantasLink)</td>
<td>$79,373,475</td>
</tr>
<tr>
<td>Rex</td>
<td>$941,175</td>
</tr>
<tr>
<td>Virgin</td>
<td>$1,226,361</td>
</tr>
</tbody>
</table>

(4) Business 2004-05

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic routes</td>
<td>$3,597,647</td>
</tr>
<tr>
<td>International</td>
<td>$27,077,170</td>
</tr>
<tr>
<td>Total</td>
<td>$30,674,816</td>
</tr>
<tr>
<td>Economy</td>
<td>2004-05</td>
</tr>
<tr>
<td>Domestic routes</td>
<td>$90,952,378</td>
</tr>
<tr>
<td>International</td>
<td>$19,441,176</td>
</tr>
<tr>
<td>Total</td>
<td>$110,393,554</td>
</tr>
</tbody>
</table>

Total international air travel expenditure for first class travel is $7,548,476.
The above table also includes Virgin Blue and Jetstar data. The information for these carriers is only available from 1 September 2004 to 30 June 2005.

There was no cost to the department; except for the cost of Qantas Club memberships for APS Level 6 and below, and the military equivalents, if that person travels 12 return trips or more per year. This data is not electronically recorded and not available.

Qantas Airways Limited.

ABC Asia Pacific
(Question No. 2543)

Mr Gibbons asked the Minister for Education, Science and Training, in writing, on 31 October 2005:

(1) Is he aware that ABC Asia Pacific has lost its contract with the Government to televise English language teaching in Southeast Asia?

(2) Is he aware how successful this program has been?

(3) Is he aware that a request for tender has recently been released by the Department of Foreign Affairs?

(4) Can he explain why the Government is buying into this kind of commercial consideration of what is already a very successful enterprise.

Dr Nelson—The answer to the honourable member’s question is as follows:

(1) The Commonwealth’s current contract with the ABC for the operation of the ABC Asia Pacific (ABCAP) regional television service ends in August 2006. The Department of Foreign Affairs and Trade (DFAT) manages this contract. English language training programs form part of ABCAP’s programming schedule. There is no specific contract between DFAT and the ABC for the provision of English language programming on ABCAP.

(2) Feedback received by DFAT suggests that English language training programming and associated material on the ABCAP website is a successful part of ABCAP’s program line up.

(3) The ABC was selected through a tender process held in early 2001 to deliver a television service to the Asia-Pacific region on behalf of the Commonwealth. The contract with the ABC for that service ends in August 2006. DFAT issued a Request for Tender on 7 September 2005 for the provision of an Australian television service to the Asia Pacific Region for the period 2006-2011.

(4) In June 2005 the Government decided that in a competitive environment, a tender would achieve the best possible outcome for Australia’s broadcasting presence in the Asia Pacific region for 2006-11.