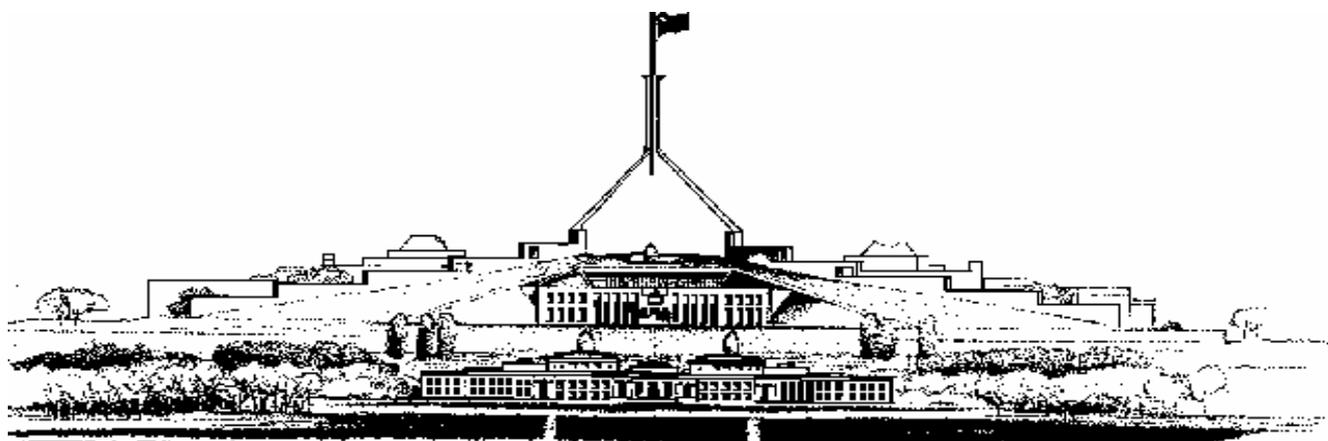




COMMONWEALTH OF AUSTRALIA

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**Official Hansard**

**No. 15, 2003**

**Wednesday, 8 October 2003**

FORTIETH PARLIAMENT  
FIRST SESSION—SIXTH PERIOD

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES



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### SITTING DAYS—2003

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May	13, 14, 15, 26, 27, 28, 29
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August	11, 12, 13, 14, 18, 19, 20, 21
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November	3, 4, 5, 6, 24, 25, 26, 27
December	1, 2, 3, 4

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*Wednesday, 8 October 2003*

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

**MIGRATION LEGISLATION  
AMENDMENT (MIGRATION AGENTS  
INTEGRITY MEASURES) BILL 2003**

Cognate bill:

**MIGRATION AGENTS  
REGISTRATION APPLICATION  
CHARGE AMENDMENT BILL 2003**

**Second Reading**

Debate resumed from 7 October, on motion by **Dr Kemp**:

That this bill be now read a second time.

upon which **Mr Laurie Ferguson** moved by way of amendment:

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

“whilst not declining to give the bill a second reading, the House:

- (1) supports the continuation of a statutory form of regulation of migration agents, believing that complete voluntary self-regulation, as advocated by the Coalition in the past, would seriously endanger vulnerable clients and badly undermine the integrity of our migration system;
- (2) expresses its dismay that the Government has allowed privileged access to Ministers, and Ministerial and Departmental staff, to a number of unregistered agents who are close associates of the Coalition;
- (3) notes growing concern about the Ministerial intervention process, particularly in so far as it entails unequal access by certain groups and individuals and arbitrary and non-transparent decision making by the Minister;
- (4) requires the Department of Immigration & Multicultural & Indigenous Affairs to display a stronger resolve to investigate and prosecute individuals engaged in unregistered practice, people trafficking, migration fraud and other offences under the Act,

including matters referred to the Department by the Migration Agents Registration Authority (MARA);

- (5) urges MARA to address concerns about its visibility, efficiency, and accessibility and improve its means of communication with consumers, registered agents, ethnic community organisations and media outlets; and
- (6) requests the Minister for Citizenship and Multicultural Affairs to give priority attention to the need to bring overseas agents into the regulatory system and to develop a mechanism to require agents to maintain adequate professional indemnity insurance as a condition of registration”.

**Mr GAVAN O’CONNOR** (Corio) (9.02 a.m.)—The behaviour of the former Minister for Immigration and Multicultural and Indigenous Affairs in this matter is symptomatic of the deep malaise that now permeates the Howard government. The cash for visas scandal is all the evidence my constituents need to conclude that the Howard government is in terminal political decline. In my experience in Corio, I know of many people who have waited years and spent many thousands of dollars attempting to obtain visas so members of their family overseas can be with them in Australia. They have been bitterly disappointed when their applications have been refused, some of them many times. Can you imagine their disappointment when they see insiders making big donations to the Liberal Party—to the former minister’s campaigns—and having their applications easily approved? The recent actions of the minister simply mean one thing: if you have the money and the inside contacts, you can buy what you want in the Liberal Party.

Public policy in this government has a ‘For sale’ sign on it and the standards of ministers are now so low that they have brazenly flaunted them in this chamber. This obscenity must end. The sale of visas to moneyed insiders and the blatant misuse of ministerial

discretion in these matters must cease in order to restore some integrity to our migration system. It is vitally important that the government gets this legislation right to restore some integrity and confidence in this whole area of migration advice.

At the moment the option is available for consumers to obtain information on migration matters from several sources: under guidance, or perhaps individually, from departmental web sites; through free advice provided by migrant resource centres and the qualified agents who work in them; or, under this legislation, through paid advice from registered migration agents. They can, of course, obtain information and advice from unregistered agents, but those are the three major sources of advice available to consumers in this area. If the advice and assistance is obtained from the latter—via registered agents charging a fee for service—consumers ought to expect the highest possible standards of integrity, as there are some forces at work amongst those agents that make it imperative that this legislation is as tight as this parliament can make it.

Many migrants who have become Australian citizens are not familiar with these complex areas of policy and in their reliance on professionals they have a tendency to equate the size of the fee with a better chance of success for their application. And the more work each agent does—the more lines they write on behalf of clients and the more minutes they spend on the phone or elsewhere preparing applications—the more money they receive. Those fees range from \$500 for a basic information consultation to some \$5,000 plus for the tasks of filling in forms, arranging translation of documents, providing assessment of overseas qualifications and, in some cases, preparing statements and other supporting documentation to accompany visa applications. These are large sums of money and many low-income families

faced with this situation find it very difficult indeed to produce the amounts required to proceed with applications on behalf of their families and friends. I commend the services that are provided in our migrant resource centres throughout Australia to citizens on low incomes who are required by virtue of their economic position to access those services.

The general laws applying to migration agents apply to personnel in MRCs who do tremendous work in meeting the needs of those in our community who, for income reasons or the fact that English is not their first language, need very special guidance in the preparation of their applications. Services provided by MRC personnel are done on a confidential basis and have a certain integrity; there is no fee charged. These personnel are often engaged in other work in providing not only community education and services to refugees who are resettling in many communities but also information to many migrant families in their own language—something which is very costly to access if you go to a private migration agent. I encourage the government to continue to fund those areas simply because they provide not just advice in the migration area but also general counselling to applicants in a whole range of other areas as a result of that initial contact.

I have to declare my interest in this matter to the parliament, because my partner happens to work in one of those migrant resource centres in this capacity. I have an understanding of the enormous workload of people who work in migrant resource centres. I also know my electorate, and I know that many migrant families come from non-English-speaking backgrounds and are recently resettled refugees who do not have a command of the English language or knowledge of the Australian political process. If they go to an unscrupulous private agent,

they could be charged for the time spent at the table or the time spent by the agent on the phone to the department. They are in a very vulnerable position. It is important that at least basic advice is given which enables them to understand the processes without being charged for that advice. This is an important public service that is being provided in those migrant resource centres. I know that the people who serve in these centres are required to undertake intensive training. Information provided on a confidential basis without a fee or charge for that service is done with integrity.

I support the amendment that has been moved by the member for Reid. This amendment has homed in on some very deep-seated problems in the area of government administration. There are some commendable aspects of this legislation which we will support, and I have already alluded to those in my remarks yesterday in this debate. It is very important that the government keep consulting with the industry on this matter and that they get this legislation right.

**Mr HATTON** (Blaxland) (9.12 a.m.)—I am happy to follow the member for Corio in this cognate debate on the Migration Legislation Amendment (Migration Agents Integrity Measures) Bill 2003 and the Migration Agents Registration Application Charge Amendment Bill 2003. What we have been provided with here is a significant government attempt to dress up the paltry condition in which they stand and have stood for many years in regard to their lack of control, lack of coherence and proper regulation for migration agents and, more particularly, for those who stand close to them. The member for Corio rightly pointed out at the end of his speech that there were a series of concerns raised by the members for Reid and Gellibrand. These concerns were previously raised by the former shadow minister, the member for Lalor: the whole manner of the

government and the previous Minister for Immigration and Multicultural and Indigenous Affairs, who was a minister and shadow minister in this area for a very long period of time, and the level at which the integrity of the immigration system has been dramatically eroded, effectively by a case of insider trading being allowed at large in the Paramatta region of Sydney.

One would expect that, given the amount of heat that has been generated by the opposition and applied to the government, when they come before us with the Migration Legislation Amendment (Migration Agents Integrity Measures) Bill 2003 they would get it right. One would expect that they would think that the trouble they were in was great enough and the extrication process had been long, extended and difficult enough, and that they should put a big black line underneath the whole procedure and try to move forward. They have not done it in this case, because the proposals here have a Karim Kisrwan clause. There is a special out for people who historically have provided advice and have argued that they have provided that advice for no charge.

The bill's explanatory memorandum is inordinately long, so you would expect just about everything to be covered. This particular section exempts from the offence provisions an unregistered agent providing immigration assistance in a ministerial intervention case, so long as such assistance is not given for a fee or reward. What have the questions at question time in this parliament been about for the past months? What have the censure motions been about? What has the debate concerning Mr Tan and Mr Kisrwan's actions in relation to a number of people over a number of years been about?

It was argued that there was no fee and no reward. It was argued that it was right and proper for this individual to intervene and do

a friendly act. It was argued that it was right for that intervention to come to the very table of the minister and that there was nothing wrong or improper about that. The minister could present that case as he chose to present it and argue it against all of the opposition's allegations, against all of the facts that were presented time and time again and against all of those facts that could still be presented over and over again at question time if Minister Ruddock was still in charge of immigration matters.

The history of these matters goes back to 1975 to 1977 and the embedded regime of access that saw certain individuals operating effectively as migration agents, as we understand the term now. They argued that there was no fee or reward in this, that they should have direct intervention with the minister and that there should be direct representation as well to the department. Over 30 years or more, there has been direct representation to the Parramatta office of the immigration department on case after case after case. I am sure when pressed the argument would be that there was no fee or reward involved.

We know that that argument was made in relation to the first major tranche of people who came out of the Lebanese civil war. When the effective contract was given to one person and that person's travel agency to bring 14,000 people out of Lebanon via Cyprus, that person signed up every hotel in Cyprus and interviewed people who wanted to get on the list of people who would come. They had no expenses themselves in terms of the cost of an air ticket or the cost of hotel accommodation in Cyprus. The only cost—but it is one that was never admitted to—was however much they would have to pay to get on to Karim Kisrwni's list.

They were told that they would not be charged a single thing for the fare or the accommodation because these were humanitar-

ian cases in the midst of a horrendous civil war in which Lebanon had moved into a situation of total anarchy. The whole society had chaotically fallen apart and people were doing everything they could to get out of the place. Some people chose not to accept the offer. Just over a month ago, a constituent told me that what I have just averred in the parliament is exactly what happened, because he personally saw it and heard it. When that offer was made, he refused it. He paid his own way to Australia. He did not seek to suborn the whole Australian immigration system. He did not seek to go to a dealer. He did not seek to do anything else but use his own resources to get out of Lebanon and come to Australia to build a life here. But thousands of other people did.

It could be argued that there are no people who would give evidence that there was a fee or reward. But, in the last 7½ years that I have been the member for Blaxland and in the 11 years before that when I ran the electorate office—so my experience in these matters goes back almost 19 years—we had people come into the office who were not able to succeed in getting relatives to Australia because they only had 40 points instead of the required 95 points. Those people then went out and said that they did not care what the law was in Australia and that they would pay the money to someone who was not a registered migration agent—even though Labor brought in the whole scheme of registered migration agents in order to try to regularise what is covered in part in some of these measures, where it said that it was okay for a member of the family or a family friend to provide advice in regard to migration.

For a lot of my constituents, with their extended families, friends of the family and so on, it is a pretty quick step to get to someone who is not a registered migration agent, even though everything they do has the shape, colour, tenor and activity of a registered mi-

gration agent. The reward is not put up for the taxation department to determine whether money was gainfully received. The reward and the payment are not declared to the immigration department, the immigration minister or any other government minister. You find out about the reward through hearsay or, in my case, by directly being told by people who chose to come to the office I was working in.

Those people said, 'You told us we weren't eligible to get our relative in. You told us that it is the job of the Treasurer or the Prime Minister'—who was then the member for Blaxland—'to make the laws and see that they are enforced. You told us that it is his job'—as it was mine as an electorate officer—'to ensure that free and fair advice on immigration matters is given and, in particular, that Australian laws are not abrogated or breached.' Some of those people came back and said that they had paid the required \$20,000 or \$30,000 or \$40,000 to someone who was not a registered migration agent—they had paid it to someone who had been paid time and time again since 1975 to get people into Australia illegally. That money was then used to illegally get that person into the country through the backdoor of the Parramatta immigration office.

So for 13 years Labor was in charge of migration matters, for 13 years the opposition set out deliberately to attack the integrity of Labor's effective control of immigration in Australia, for 13 years there was a great deal of propagandising about Labor supposedly being soft on immigration. There was a backdoor for people who were otherwise incapable of getting their relatives in Australia, except by paying moneys illegally and bribing their way in—a backdoor for certain members of the community who chose to use it.

The provision which exempts from the offence provisions the provision by an unregistered agent of immigration assistance—not just in any case; in a ministerial intervention case—covers one person almost to the exclusion of just about everybody else involved. We all know, courtesy of questions and debate over the last number of months in this place, who that person is. Other people within the community have done the same sort of thing and, if the questioning had been allowed to continue, all of the rocks that needed to be turned over regarding this matter would have exposed time after time a series of people who are fixers—who do things outside and beyond the law.

Generally I am no great supporter of migration agents. I have seen time and time again in an electorate where people are not wealthy—and that certainly is the case in the seat of Blaxland—that they are willing to put up large amounts of money for advice that in a lot of cases is not very good, advice that is available to them more generally in the community at absolutely no charge. When Labor were in government, we not only set up the regulation of migration agents but also provided, through grants in aid, federal workers to work in offices in places like Bankstown where there were strong concentrations of immigrants, to give advice soundly, freely and professionally, without fear or favour and without pay or reward from those who would seek to intervene illegally. These workers got their pay and reward directly from the Commonwealth or state government to provide assistance to people at absolutely no cost.

Every member of parliament, whether of the House of Representatives or the Senate, is in that position as well. It is a heavy responsibility to have to deal with what is quite complex immigration law. But that heavy responsibility, as we know, is one of the chief vanguards in maintaining what this bill is

supposed to be about: the integrity and effective control of the immigration system. That integrity has been suborned by what has been done in the past. This particular provision seeks to retrospectively cover the minister and the people who in the past acted illegally by providing direct access to the minister, by providing assistance where there has been a simple statement made that there was no fee or reward—we know that there were moneys paid, but supposedly no direct fee and no reward.

This is an utter and complete scandal that is decades long in the making. This bill should go further. This bill should exclude this attempt to retrospectively guarantee an out for the people who have sought to suborn the integrity of our immigration system. These people thought it was okay to spend \$10,000, \$20,000, \$30,000 or \$40,000 to get to the front of the queue illegally, that it was okay to go back to the office of the chief law maker in this land to spit in the face not only of the people who had given them the correct immigration advice—that is, with 40 points they had no case to get into the country—but also of the Commonwealth government of Australia by saying that it is possible in Australia to buy your way into this country illegally because the enforcement of our laws is not strict enough, because there are certain practitioners who are operating in the department here and overseas who were not caught and brought to book, and because there were other practitioners who would not bring to book this whole mode of practice. We find here, in this very bill which seeks to cover up the gaping hole in the Liberal's garments in regard to this, that they cannot even bring themselves to do it here.

This government talks tough on immigration, but in government and in opposition it always had a backdoor for people who were willing to pay. That backdoor is still here in this bill. The new minister needs to take ac-

count of the fact that the old regime is finished and should be written off totally. This particular provision emerges from the ancient regime of the Liberal Party in regard to migration control and access—to that whole band of access that has existed in Western Sydney and north-western Sydney to perpetrate what should never have been perpetrated.

I know how hard it is for the people in my electorate to get free and fair advice. People pay solicitors or registered migration agents for advice—and there are a number of those who do a good and effective job—but they have to pay up-front \$1,000, \$1,500, \$2,000, \$3,000 or \$4,000 for advice that otherwise could have been given freely and fairly through the general assistance provided by the Department of Immigration and Multicultural and Indigenous Affairs, by their federal member or senator or by community groups that still provide that kind of casework. It is not there in the way it was when Labor was in power. Labor's concern to look to the needs of the poor, the indigent and those in difficulties meant that we had grants in aid to provide that kind of service in competition with registered migration agents. Under this government, registered migration agents have become the poor of the system. It is right and proper that in a number of these measures—substantial measures that are being taken in regard to these matters—the system is tightened up. This system needs tightening not just at the perimeters or fringes of this garment but also at the very throat—the part which leads to the minister's office.

This particular matter, the question of allowing ministerial intervention and maintaining a fiction that you need ministerial intervention for a whole series of flexibility reasons and so on, goes to the core of the problems that we have had with the corruption of the integrity of our system. Unless this gov-

ernment does away with ministerial intervention, unless this particular minister does away with this particular clause, there can be no faith whatsoever that the Liberal government has learnt anything from the past months. There can be no faith that a new minister for immigration will cut out the cancer of corruption that has been there for 30 years or more, because the door is still open here.

This is retrospective but it is also prospective in terms of anybody in the community offering advice to the minister or operating in the way that Karim Kisrwani has operated in the past. He has been able to walk into immigration department offices in Paramatta and elsewhere and, in a lordly way, effectively present himself not just as the offsider of the minister but almost as if he were the minister for immigration. That person has argued that he has done none of this for pay or reward. Believe that if you will. I do not, but believe it if you will. I think the majority of people in Australia would not believe that, given the evidence that has been presented. This legislation substantially attempts to grandfather what has been done since 1975 to 1977. It attempts to grandfather a corrupting system which should be cut out and totally dealt with. This government should finally run an immigration system—and a system in relation to migration agents—that has real integrity and real purpose and which deals effectively with all of Australia's citizens on an equal basis before the law.

**Mr PRICE** (Chifley) (9.32 a.m.)—I rise to support the Migration Legislation Amendment (Migration Agents Integrity Measures) Bill 2003 and the amendment moved by the honourable member for Reid. This is a bill concerning migration agents, and I guess I need to say to the House that I have form in this matter. I have been so annoyed and angry about the way my constitu-

ents have been ripped off by migration agents that I refused to see anyone who had been through a migration agent. When ordinary working people are spending between \$6,000 and \$7,000 on going to a migration agent and having representations made and then, at the very end of the process, are being sent to me as a last ditch attempt to sort the problem out, perhaps you can understand, Mr Speaker, why I got so angry about it.

But I have to say that I have recently changed. I was prevailed upon by the office of the state member for Blacktown, Paul Gibson, to see a particular constituent who had been to a migration agent. This was someone who was on a pension and was an alcoholic when he met his future wife. She encouraged him and got him alcohol free, but she was going to be sent back to her place of residence. I will not mention his name or, for that matter, her name, but this pensioner had spent some thousands of dollars going to a migration agent and, in the end, had got nowhere with it. I am really pleased that I did see that individual, and we are working on his case. It is a very genuine case, I think, which merits some compassion and humanity when people are considering the merits of the sponsorship of the legally married wife to stay in Australia. But, of course, not all migration agents act in this way. There are some reputable migration agents and they provide a valuable service to the people who can utilise that service. I am aware of only one migration agent in my electorate, the late Charlie Barley, who did the course, was registered and then offered his services to the Blacktown Migrant Resource Centre for no charge whatsoever. I totally applaud such migration agents.

This bill, I think, walks further away from that previous coalition philosophy of complete voluntary self-regulation and seeks to tighten up the operation of migration agents. Of course, there already are sanctions for

those migration agents who knowingly submit proposals that are without merit. It is sad that there is a profession that has to have this particular sanction against it. I think it speaks volumes against some members of that so-called profession. But this legislation is now going one step further. It looks at the history of the submissions—applications—made by migration agents to detect whether or not they are submitting unfounded applications without merit and it gives the minister or DIMIA the opportunity to ask the agent to show cause.

I support such a proposal, as does the opposition. But there are some difficulties. Normally, you would have an arms-length approach to any disciplinary matter. It is important to point out that, of course, MARA does not have the ability or power under the legislation to take such action. One could argue that DIMIA perhaps has a conflict of interest in that it is the receiving organisation for these applications. It has to decide whether or not these applications lack merit. One would have thought or believed that it would be more appropriate for clear principles of natural justice as well as a perception of independence to be addressed during these investigative and disciplinary processes. Because the regulations have not been drawn up, of course, one cannot clearly see that. But I certainly say to the departmental advisers in the House and the Minister for Citizenship and Multicultural Affairs, who is at the table, that I think this is an issue that we really need to take up.

I was listening to my colleague the honourable member for Blaxland when he was talking about ministerial interventions. My philosophy in the office has always been—when we are dealing with anything, really, but certainly in dealing with migration applications—that we should lay out to the best of our ability our belief about the merits of an application. If the application is unfounded,

we are more than happy to frankly tell the constituent our belief about what may or may not happen. However, in any matter, we always leave it up to the individual constituent to make the final decision. I think that is a right and proper process. On some rare occasions—and I think recently on two occasions—I sought to see the former Minister for Immigration and Multicultural and Indigenous Affairs about a couple of cases. One, I am very happy to say, appears to be being resolved satisfactorily. It is a very tragic case, in my belief, involving a woman who lost her husband and children in a car accident. She sought to have her family members with her to get over the tragedy.

The other case, I must say, was a disappointment to me. I always feel that, if there is an error by the department, the department should accept some responsibility for it. This case was one I had been pursuing with the department for a couple of years. I regret to say that my office should have picked up, although we did not—and the department did not pick it up—that the applicant was without a visa. I was horrified at the compliance action that was taken against these people without any notification to my office. I regret to say that, notwithstanding our good offices, this has not been a happy episode. I must admit failure on this case. But I do feel very keenly that the department equally had allowed the visa to expire without notifying us and then took that compliance action. I have had a meeting with them and I am satisfied that this situation will be avoided in the future. But, unhappily, the people concerned are not going to be able to come back to Australia.

I mention these ministerial interventions because, historically, I was always very much against my good friend Senator Ray introducing ministerial interventions when he was Minister for Immigration, Local Government and Ethnic Affairs. But we do

have ministerial interventions. I will always argue for ministerial interventions—I am not arguing against them. But I do think that ministerial interventions would be strengthened and more confidence in the system would be had by all if we had a bit of transparency in the process. By that I mean that, where the minister does intervene, the minister should table in the parliament the reasons for that intervention. Apart from seeing the minister, I have also written to the minister about quite a number of cases. Most have been unsuccessful. I am very pleased about the ones that have been successful, and I would be more than happy to see those interventions by the minister tabled in the parliament. I think that would give people much greater confidence in that approach.

I also want to place on record my appreciation of migration officials in New South Wales. We do have a very large migrant case load in my electorate, although it is not one of those electorates with the most NSB in Western Sydney. In fact, that is more likely to be the case with south-western Sydney. Recently we have organised, together in partnership, to do something that I have always wanted to do: to take a proactive approach in my electorate to migration. In that regard this coming Sunday, at the Rooty Hill RSL, I, the department, the Blacktown Migrant Resource Centre and the Philippine Community Council of New South Wales are having a seminar. We have invited people to come along to it, not with the idea of discussing how you fill in form X, Y or Z but to really have a very free and frank discussion about migration: how you go about it, how you get a good individual record and what will assist in sponsoring people for visitors visas and what have you. We are hoping it will be a very robust discussion so that we will be able to say that where individuals act in bad faith that goes not only against them

as individuals in a family but also against the community.

I have a lot of Filipinos in my electorate. They are marvellous people. I am very proud of them. They are desperate to get family members into this country, often for the reason that they are buying a home and raising a family, both parents have to work and it is great to get family members, whether they are their parents or other relatives, to look after and be responsible for the children while they are out earning an income. I do not want to get into parent sponsorship and the fact that they cannot afford \$60,000 to get their parents out, but this is often what is motivating them in their applications. They make great Australian citizens and of course they want more of their people to be able to experience what a great country and what a great land of opportunity Australia is. The seminar on Sunday will be the first of its kind and I am looking forward to it with great anticipation. I hope that it will be very successful and I am sure that, having done the one seminar, we will get a better idea of what works and what does not work and maybe contemplate doing the same thing for other communities.

In conclusion, the opposition is supporting this measure. There is a second reading amendment that has been moved by the honourable member for Reid, which I will not read into *Hansard*. We have certainly raised in that second reading amendment some serious issues. It is important that these issues be addressed. If I may finish on one point, one which I made to Minister Ruddock when he was the immigration minister, it is that we seem to treat lawyers who act as migration agents as a special category. What I would like to know from the minister, and I would be most grateful if he might advise me on this in his summing-up, is this: if a solicitor in New South Wales, my state, acts as a migration agent and under these new regula-

tions is found to be making a significant number of unworthy applications—applications without merit—and is asked to show cause and then is not allowed to practise as a migration agent, how does that lack of ethical conduct as a migration agent affect that solicitor's standing in the profession? Is that solicitor still considered to be of good character and fame and able to practise or should not that action impact on his ability to practise law? Clearly, given what this parliament is saying, if you are a solicitor and you are knowingly ripping off your clients as a migration agent and you are exploiting every letter of the migration law in this country to make applications that do not succeed and you are doing it in a majority of cases, why should you be allowed to practise as a solicitor? If with this legislation we can disbar solicitors from being migration agents but allow them to practise the law, there is a great deal of hypocrisy. I would be most grateful if the minister would respond to that very point.

Last but not least, there are people who are de facto migration agents. They have not done the course, they are not solicitors, they are not registered and they are practising and taking money. I would be very grateful if the minister would give us some indication of how many such people the department has found, what action it has taken and how many have been prosecuted. There is no point in us setting up tougher legislation for migration agents if people are able to practise outside MARA and make their money by ripping off their clients with no comeback. I repeat that I support this legislation. We have raised some serious issues and I sincerely hope that they will be addressed. These measures are long overdue.

**Mr RIPOLL** (Oxley) (9.52 a.m.)—I am pleased to be speaking in the House on the Migration Legislation Amendment (Migration Agents Integrity Measures) Bill 2003

and the Migration Agents Registration Application Charge Amendment Bill 2003. These two bills are significant and are part of the ongoing need for reform and change within this very important sector in the community. I want to outline some of the problems that exist within the industry. I also want to have a look at where the government is at and what the government is trying to do with these changes.

There are some important reforms in here, and the Labor Party supports tougher penalties and tougher measures, as you would do, for people who perpetrate a crime, mislead others or misrepresent other people. There is certainly no question about that, but there are some serious questions as to what this bill does in other areas in terms of the continuation of the things that are wrong within the current system. But before I get into that and talk about the regulation of migration agents, how they work and how that applies to people who are already in this country, trying to get into this country or trying to get visas, I just want to draw the House's attention to the government's shift on the frontbench in relation particularly to migration. It is no surprise to anybody out there that the Prime Minister, at this stage, decided to do a bit of a reshuffle and to have a look at his frontbench and the performance of those sitting on those leather seats.

It is no surprise to anyone that former minister for immigration Philip Ruddock has been moved out of the hot seat and the hot spot. It was getting a little bit too hot in the kitchen, and they could not leave him in there any longer or he would have self-combusted. Something was going to break; something was going to give. But what I cannot understand is how they could replace Minister Ruddock with Minister Vanstone. Of all the people you could put into an important portfolio such as immigration, to put

in somebody like Minister Vanstone is beyond comprehension.

I spoke yesterday on a families bill and looked at the tougher measures of this government and their impact on ordinary working people and on families who are struggling. I am glad to see that Minister Vanstone was moved out of that portfolio, but to have her moved into this one is just a complete shame. There was an interesting comment made by the Prime Minister in relation to Senator Patterson moving into the families portfolio.

**Mr Hardgrave**—Mr Deputy Speaker, I rise on a point of order. This has absolutely nothing to do with the legislation before the chamber and I would ask the member for Oxley to get relevant for once in his contribution.

**The DEPUTY SPEAKER (Mr Jenkins)**—The honourable member for Oxley knows his obligation to be relevant to the legislation and the second reading amendment.

**Mr RIPOLL**—Relevance is a key point. Maybe the member for Moreton could think about relevance when we talk about migration and the way he deals with certain communities in his own electorate, specifically in relation to migration agents that may be doing the wrong thing, and the relationship that has to the minister now in charge and responsible for doing something about it—which she is not. The whole point of talking about the minister's capacities and abilities is to try and draw the attention of people listening to this or reading this later in *Hansard* to the importance of having the right people in those portfolios. When we talk about relevance, the minister is the first one who should go and have a look at which issues are most important.

We now have Minister Vanstone as the minister for this very important portfolio.

And what does this minister do? One of the first things she does in this new bill is to open the door. Rather than closing the door—rather than making it a more accountable system for migration agents—she opens the door. This bill, significantly, creates an open policy whereby representations to the minister directly for intervention, as long as they are not being done for a fee, are completely legitimate. That is what this bill does: it opens the door to any private citizen—real estate agents, car salesmen and anybody else—who wants to get into the migration business. They can now participate legitimately under the auspices of this bill. As long as they do not do it for a fee—that is, a direct fee—that can be traced or can be accounted for then they can do it. That is completely in opposition to what this bill should be about and to what this government should be doing about migration, migration agents and the integrity of the system. That is at the core of what this bill should be about, yet it does the very opposite.

As I said earlier, there are certainly measures in this bill that I do support that relate to tougher penalties. We all support tougher penalties. If people commit a crime, there should be a tough penalty. But that is of little good when people in that industry know that if they commit a crime or do the wrong thing there is no-one chasing them; there is no-one out there to get them. We have put questions on notice and have been asking about that. I know there is a letter at the moment that has gone to the government to seek some information about the Director of Public Prosecutions. That letter is seeking information about what is being done about those unscrupulous migration agents who have done the wrong thing and how many of those people are being chased. I will be very interested to see the results our letter gets.

I will get back to some of the core bits of this and what this government does in terms

of this industry. To me, this is a really important area because it shapes, if you like—if you can sort of boil it all down—what a government is about. The way it treats its citizens, the way it treats its new citizens and the way it treats people who live here and who have parents overseas is important. This government, in the area of migration advice, has let the migration industry in this country self-regulate. There are enough warning signs out there that this is not an industry that you can allow to self-regulate; it simply does not work. There is enough evidence to demonstrate that that is the case.

When you have the situation where it does not work in reality but works fine for the minister and works fine for the government, that is when you have a problem. That is where there is a conflict of interest. So when I was talking about the heat in the kitchen—when I was talking about the minister being moved on and the minister having to get out of the kitchen—that is what I was referring to: the conflict of interest of a minister so deeply embroiled within the system itself that he cannot untangle himself from what takes place out there in the community. He cannot untangle himself from the web of nonconforming practices. Some of those practices are quite criminal. There is no doubt that there has been a whole range of activities that are criminal within that industry, but they have been allowed to continue. They have been allowed to continue as long as nobody raised it publicly. As long as it was kept under the carpet, it was okay.

These changes only come after a lot of lobbying and a lot of pressure from the Labor Party to get something done. This is to get something done. It does not go far enough, but at least the government acknowledge that they are on a wayward path, that they have done the wrong thing and that they need to haul these people back in. At least the government now acknowledge that

through this bill. And because it was impossible for the previous minister, Minister Ruddock, to handle these integrity measures, they have had to put in a new minister. It is like sending Dracula to the blood bank to administer the whole process there. You just do not do it, because it is not going to work. What you have to do is change ministers, and that is what they have done. But, as I said, I am quite disappointed they have sent in Minister Vanstone, who has an incredible reputation for thinking it is okay, or—more than that—endorsing and condoning people, such as age pensioners, selling their homes if they have got a debt to the Commonwealth. She is that style of minister. It will be interesting to see how the new minister will deal with people who have genuine issues, such as people who want to reunite with their parents and have their parents come to Australia.

If we are talking about parent reunion, let us talk about what the government represents. What does this government represent? We can go out to the ethnic communities and talk to them about what is important to them. They are contributing citizens, people who make a huge contribution to this country. In my electorate, the Vietnamese community and the Pacific islander community—Samoans and Tongans—in particular are doing a great job in contributing to the area where I live and among the people that I represent. But when they need assistance from the government or when they need understanding in terms of getting their parents here—because at the end of the day, when your parents become aged, you want to be close to them because they need your support; you want to be able to do something for your parents—what does this government do? It puts in place one of the harshest regimes we have ever seen in this country to prevent family reunion. It is not about families; it is about families being torn apart. That is what it is about. If you want to bring

your parents to this country, you go on a waiting list. How long do you think you will have to wait? If you want to bring your aged parents to Australia under the government's regulations, under its policies, how long do you have to wait before your parents will be allowed to come into this country? The government allows about 500 per year, so with the current waiting list—by a quick calculation—it will be 20 years.

This is the sort of government in which the former minister, Minister Ruddock, was proud to accept \$100,000 donations from—and proud to be seen in the company of, and proud to wine and dine with—people who are criminals in other countries, like the Philippines; people who are being sought under the laws of those countries. He is happy to wine and dine with them as long as huge donations are made. What do people expect? When you make a \$100,000 donation to a party—but, more importantly, to a minister in a party, and, more importantly still, to a minister who is responsible for migration—what do you expect in return? There is nothing wrong with donations to political parties. Donations are an acceptable way of participating in democracy, but what do you expect in return? People go to a lunch or a dinner and pay \$100 a head and they just want to share in the atmosphere; they want to be able to say a couple of words to a member of parliament and be part of the whole process. But for \$10,000 or \$100,000—that sort of money—what would you expect in return? I do know not what you would expect, Mr Deputy Speaker, but I think I would expect more than just sharing in the atmosphere. I would want just a little bit more than that.

**Mr Hardgrave**—You're confessing a corruption here. You're confessing your own corruption.

**Mr RIPOLL**—The member for Moreton interjects about corruption. It is a fine point

that he raises about corruption. He should know about corruption, because there are all sorts of rumours and allegations—there are all sorts of things—going on within the ranks of the Liberal Party about these sorts of activities, which we are pursuing. We are trying to find out the detail; we are trying to get to the core of these things. As I said earlier, when we look at what it is that has moved on the former minister for immigration, we can see that when the heat gets a little bit too hot in the kitchen you have got to change. You have got to change the players on the field; they can no longer play in the game, because it is just too complicated, too messy.

**Mr Hardgrave**—Do they still call you 'Bernie Rip-off'?

**Mr RIPOLL**—Too many questions are being asked and they get agitated. You can see them now. Look at them right now across from me, sitting on the government front benches. They are agitated. Why are they agitated? Why are they frustrated? Because they know that what is being said is not really comfortable. It is just not comfortable to hear the truth. The truth is that there is a whole range of questions out there. It is sometimes hard to get answers, but the questions are there.

In fact, there has been a seeking of information. I want to talk to the people listening about what happens if registered government agencies, if people involved in this system who have organisations behind them, make applications for intervention to the minister. Amnesty International, for example, are a key organisation that participate in trying to get the minister to intervene on specific migration cases where they believe there is a genuine need for the minister to intervene. They have had correspondence on 162 interventions and they have put in requests to the minister for intervention in 68 cases. I am talking about the former minister, Minister

Ruddock. Of those, the minister has intervened in 11. That is not too bad, you might say. In 11 out of 68 cases, the minister decided that, yes, these were genuine cases. So Amnesty International—that international organisation so well regarded—has a hit rate of about one in six with the minister. Let us look at somebody else. Marion Le is a very well known Canberra migration agent, very well respected and very well known to the former minister, Minister Ruddock. She put in 20 cases for intervention and, out of those, six were intervened in and agreed to by the minister. Again, that is not a bad record. But let us look at other people in the community. How many do you think the Fijian Australian Community Council have got in? They have put 44 cases to the minister. Not one has the minister intervened in. He did not believe that even one of those cases from the Fijian Australian Community Council was worthy.

Let us look at individuals. Libby Hogarth put in 22 cases. Four were accepted by the minister and the minister intervened in four. This is a busy minister. He has intervened in a case on every single day he has been the minister. That is a lot of work for a minister. Think about the workload, the pressures and the things that a minister must do in the migration portfolio. To have intervened in a case on every single day of his tenure is an incredible work ethic. I am amazed. We should give him a pat on the back. But why is he so interested in intervening? There are processes, appeal mechanisms and review tribunals. They are there—they exist. How come cases cannot be dealt with at that level of the bureaucracy? How come they need to go to the minister? My view is that the minister has built himself a reputation as the minister who intervenes. He loves to intervene.

We can look at a whole range of others. There are the Sisters of Mercy, advocacy networks and the Sisters of Charity—there is

a whole range. But none of those organisations has been able to equal the scorecard of one individual—not even the Migration Review Tribunal, the government approved body. Not even that body has the record of one individual in this country. You might ask yourself: ‘Who must that individual be? What must he do?’ He is a travel agent and his name is Karim Kisrwni. That will be no surprise to ministers listening, because the name has been bandied around this place a fair bit in recent times.

How many Karim Kisrwni cases got up for intervention? Seventeen—more than anybody else. This guy is a travel agent, not a registered migration agent and not part of the process. He got 17 cases up. How does a travel agent manage to be so successful with the minister? If you listen to the travel agent, he will tell you, because he quite openly says that he has a direct line to the minister. It is like a Bat Phone: when he needs something done, he picks up the phone and a special phone on the minister’s desk glows red and he knows it can only be one person. It is his very close friend and mate Karim Kisrwni, who is a travel agent, on the other end of the line. Why is he ringing? He is ringing because he needs a favour. What sort of favour does he need? It is pretty obvious: he has paid for a lot of favours and he wants to call in one of them—17, I would say, according to the record here. But there are many more—a litany. This is not evidence; it is fact. It does not prove anything. All I am saying is that it is unusual.

The Sisters of Mercy do not have such a good record. The government’s own body does not have such a good record. Amnesty International cannot get its act together. What are these organisations doing? They have huge resources and very skilled people such as lawyers working for them. But if you are a travel agent in this country, as long as you happen to be one of the best mates of the

minister, it is a different situation. To me that just does not gel. There is something not right about that—something not acceptable, something that just could not be handled by this government any longer. When the fish is sitting on the wharf, half dead, starting to squirm and it is getting a bit smelly, sooner or later you have to kick it off the wharf—you have to get rid of it. That is what has happened to former Minister Ruddock.

Let us look at the country of origin statistics. Let us forget about how many cases are approved or rejected. There are a whole range of countries—dozens and dozens. Intervention is a fairly powerful tool that the minister has. Most countries have only one intervention. The Vietnamese, for example, have only had three interventions by the minister. It is a large community in Australia that has a very powerful and intelligent arm of its own—a lobby group that would be able to work on specific cases that it believed had merit that could be looked at—and it only gets three. There is one particular group, the Lebanese community, which has 49. I am not drawing any inferences. I am glad that it has 49. I am happy that it has 49. I am happier that the Fijians have 41—but none from the Fijian Australian Community Council. Iran has 18 and Sri Lanka has 15. Good on all those because they deserve to have the minister intervene. But really what is terrible is the litany of information and facts about what this government sanctioned, what this government did and what it got in return.

**Mr Hardgrave**—This will play well in your electorate.

**Mr RIPOLL**—And it will play very well in the electorate of the member for Moreton, because he is running scared. He represents a community that should know better, and he should know a lot better. (*Time expired*)

**Mr HARDGRAVE** (Moreton—Minister for Citizenship and Multicultural Affairs and

Minister Assisting the Prime Minister) (10.12 a.m.)—I thank honourable members for their contributions to this debate—a wide and varying range of contributions. I am the minister responsible for the migration advice industry. I need to make that very clear, because people such as the member for Oxley, in their wide and varying contributions, seem to have forgotten exactly who has legislative control of the bills before us. The Migration Legislation Amendment (Migration Agents Integrity Measures) Bill 2003 and the Migration Agents Registration Application Charge Amendment Bill 2003 implement key recommendations of the 2001-02 review of the statutory self-regulation of the migration advice industry.

The Migration Legislation Amendment (Migration Agents Integrity Measures) Bill 2003 introduces measures to strengthen the consumer protection provisions contained in the current self-regulation scheme. It expands the powers of the Migration Agents Registration Authority, which is known as the MARA, to properly monitor professional standards within the migration advice industry. In particular, this bill provides the MARA with new powers to sanction registered migration agents who lodge an unacceptably high number of vexatious applications—applications which waste the time of the clients, waste the money of the clients and waste the time and resources of my department. Agents and former agents who engage in vexatious activity by lodging an unacceptably high number of unfounded or incomplete applications will have their registration cancelled or suspended, or they will be barred from returning to the industry for a period of time.

These powers will enable the MARA to more effectively deal with a very small group of unscrupulous agents who continue to exploit vulnerable clients and undermine the integrity of the migration system. Vul-

nerable clients often include those more recently arrived in Australia: people with poor or little or no English language skills or people who perhaps have come from cultural environments where they expect to hire a middleman or middleperson to engage in any activity involving government—people who do not need to engage a migration agent in order to access the services of my department but, because of cultural and environmental experiences in their old countries, tend to go looking for one.

Often we find that there are migration agents who set themselves up around specific language and cultural groups because that in itself provides a good business plan for them. They can deal with and specialise in parts of our very culturally and linguistically diverse society. And there is nothing wrong with that, provided they are registered and provided they act in a scrupulous and professional way. That is what this legislation is about enforcing. We want to make sure that those members opposite who, from time to time, raise questions about the integrity of migration agents—and there are some on this side as well—do not deal simply with rhetoric but bring forward some real, hard evidence. I will come back to that.

We know that there are members who express concern about the activities of migration agents. Importantly, this bill also strengthens the powers of MARA and my department to investigate complaints against registered agents and allegations of unregistered practice in the migration advice sector. For example, this bill will allow relevant information about migration agents to be exchanged between my department, the MARA, the Migration Review Tribunal and the Refugee Review Tribunal to facilitate investigations which can produce the evidence needed to bring about a prosecution. It also clarifies and strengthens requirements

for migration agents to provide and produce documents and information to the MARA.

To further protect consumers, the bill provides that the civil proceedings cannot be taken against consumers who make complaints about unscrupulous agents. This protection from defamation is perhaps one of the real revelations of this bill—a point not even acknowledged by contributions from those opposite who were more intent on going down paths barely relevant, and in many cases totally irrelevant, to the bills before this chamber. Mr Deputy Speaker, I know you would find it surprising that members in this place would contribute irrelevant comments in a debate but, on this occasion, they have reached great heights. This protection is particularly important in the context of the migration advice industry given that clients who use migration agents are often unfamiliar with the processes of this country and with the processes of reporting those who do the wrong thing and, as I said earlier, are often from non-English-speaking backgrounds.

The Migration Agents Registration Application Charge Amendment Bill 2003 introduces a new charge for migration agents who were registered on the basis that they could provide immigration assistance on a non-commercial basis—at a discount rate. We were finding that, after they had received the discount rate, some were able to maintain that lower rate for a period of 12 months and then move into commercial activity. We felt this was fundamentally wrong. This bill is about bringing about a pro rata approach so that, if, in the 12-month period after their non-commercial registration, they start to offer migration assistance on a commercial basis, they should in fact be charged a pro rata amount of the full commercial basis fee. This certainly will ensure that migration agents do not avoid paying the high com-

mercial application fee during their registration year.

This is important because the industry regulator is almost solely funded from registration fees levied on commercial agents who have the capacity to pay. If commercial agents avoid paying the appropriate fee, this may impact on the ability of agents working solely for the not-for-profit community organisations to actually access the nominal registration fees. We do not want to see that. We want to see those non-commercial agents operating in neighbourhood centres, migrant resource centres and other organisations that are established to provide real assistance on a non-commercial basis. In fact, some are operating in the offices of members of parliament—a point not disclosed by some who have participated in this debate. At the end of the day that does not matter. Provided they are not dealing in a commercial way, we want to see them able to deal at a lower rate in a lawful way and give migration advice. We believe the fees set for non-commercial agents should remain at a nominal level as these agents do provide important work as volunteers in so many different ways.

I want to turn to a number of the points that have been made in this very far-ranging debate. A couple of interesting insights have been brought forward. The member for Corio today has said—I think the member for Oxley has endorsed his comments and others may have made similar remarks—that the Australian Labor Party do not want to see the intervention powers of the minister for immigration continue. What that means for the thousands of individuals who have been able to successfully point to changes in their circumstances, and to things that were different from what appeared on paper when originally officers of my department made decisions about their claim for a particular migration outcome, is that they will not have the opportunity to be treated as individuals and

to put a different case—a variation, if you like. They have gone through the process. They have been found wanting by my departmental officers. They have gone to the Migration Review Tribunal or the Refugee Review Tribunal, here they have also been found wanting. Then, after that process, they are able to write to the minister and ask for the minister to look at something. The process of course is backed up by a unit within the department which looks very closely at whether or not new information has been made available. It looks very closely at whether or not an exceptional set of circumstances was not brought forward through the earlier processes.

Today the Australian Labor Party have sent the message to thousands of people around Australia: 'Don't worry. If we are elected there'll be no chance that people are going to be treated as individuals. People will no longer have the right to put a case about where they stand within the migration system. That personal touch and the opportunity for a minister to look closely at the file, to take advice from the department and to make a decision will no longer be there.' That is what would happen if the Australian Labor Party had their way. That is what they have said. They should hang their heads in absolute shame because the sorts of things that have been said in this debate so far have been all about rhetoric and headline gathering. There has been no evidence. Not on one occasion has anybody from the opposite side come forward with any evidence to show there is some sort of causal link between someone's photo or someone's attendance at a function and the issuing of visas. The Labor Party are happy to use parliamentary privilege to bring forward and defame the names of citizens in this country and people within communities who want to put forward submissions. They are happy to do that and at the same time try and smear the name, yet

again, of the Attorney-General of this country, the former minister for immigration. There have been three days of Senate hearings into these matters. There has been nothing—no evidence—produced to show any sort of link. Even the member for Oxley in an aside to his contribution this morning said that, at the end of the day, all of these things to do with people making application for intervention do not prove a thing. That is what the member for Oxley just said.

This bill is not about ministerial intervention powers. It makes it very clear that if you are from a community organisation and you are making representations on behalf of somebody you cannot charge for that. It makes that absolutely, perfectly and completely clear. Perhaps those opposite are prescribing some sort of Stalinist Australia should they happen to gain office at the next election. Perhaps those opposite are suggesting that they want to prevent individuals in this country from making submissions to, and seeking assistance from, ministers. If they are trying to say that private individuals can no longer make approaches, I think that is a very sorry development in public policy discussion in this country.

Through their contributions in this debate we have heard that the Australian Labor Party now stand for a number of things. It is a revelation to many that they stand for anything. They stand for a number of things, such as that individuals do not matter and that private citizens can no longer make representations to government. That is the sort of thing that has come through in this debate. Those opposite say a lot, rattle on a lot and seek a headline but what they are really doing under the code of parliamentary privilege is attempting to defame sections of the community, as the member for Oxley just did in his disgraceful contribution. His implication that Lebanese Australians are somehow or other advantaged and that there is something

sinister is an absolute disgrace. If they are serious about these claims, and if they can, Labor should bring forward real evidence and put it in the hands of law enforcement bodies and have it investigated. There is not one requirement for any visa that suggests that a photo with the minister gains you a visa. If people want to try to make those points and put that proof forward we will be happy to receive it, because we take these matters seriously. As a government it is our watch and we take the responsibility before us very seriously.

The shadow minister for citizenship and multicultural affairs, the member for Reid, is here. I say thank you to him also for his contribution to this discussion. The government is pleased that, despite the criticisms of the model when it was first introduced, the opposition have now done a complete backflip to claim that they now support ‘the continuation of a statutory form of regulation of migration agents’, to quote the amendment moved by the member for Reid. The member for Reid described me as being like Sir Galahad—

**Mr Laurie Ferguson**—No, ‘attempting’ to be.

**Mr HARDGRAVE**—Either way, I will shine the armour. He said I was riding in to save the consumer from unscrupulous agents. I do not mind being consumer focused. I do not mind being a minister who says to vulnerable people who are from non-English-speaking backgrounds, and who are not experienced in this country, that I am trying to put you first, ahead of those who want to make a dollar out of you. I do not mind doing that at all. I was glad to hear that the member for Reid also conceded that vexatious claims are indeed a problem that needs to be addressed and that he indicated his broad support for the bill.

Previously, the member for Reid has criticised me for being unable to persuade my colleagues to give sufficient priority to legislation to improve the protection of a very vulnerable group of consumers. Yet now that I have introduced the requested legislation he complains that it goes over the top in trying to drive unscrupulous operators out of the industry. I do not mind the pressure. Despite the member for Reid's rhetoric about his concern for a very vulnerable group of consumers—my words—his contribution to the debate took just a few minutes to discuss the measures aimed at protecting them. Instead, his speech and the amendment he moved consisted mainly of a wholesale smear campaign against a very distinguished colleague and the father of the House, the member for Berowra.

The member for Reid's amendment does not appear to add to the substance of the bill but merely recites a string of unsubstantiated allegations. Despite the best efforts of the Labor Party spin machine, the exhaustive Senate committee hearings have failed to demonstrate anything other than an impeccable record of conduct by the previous minister for immigration. When the member for Reid talks about the success rates of those who bring matters to the attention of the minister he understandably does not highlight his own high success rate of some 25 per cent of interventions that he himself has written to the minister about—some 80 cases, 19 intervened in, and 100 letters. I concede to the member for Reid that, as he would know, his own electorate is one of high migration settlement. The member for Chifley likewise wrote to the minister about 50 cases, 12 of which were intervened in. The member for Lowe wrote regarding 33 cases and five were intervened in.

It is interesting to note that the Australian Labor Party have decided that they want to turn their back on the model which provides

a cost-benefit assessment for Australia, where ministers are able to look at each person's case individually, look at the claims that they may put forward and try to deal with them in a reasonable way. The Australian Labor Party are turning their back on the Sisters of Mercy, who have had the highest outcome in any reasonable sense: 37 requests, 20 cases and 11 intervened upon. They are turning their back on that sort of organisation because they want to play petty party politics instead of developing real public policy.

Despite their criticisms of the current regulatory model, which was introduced by this government, I am pleased to note that the opposition have undertaken a 180-degree change of position to now support the continuation of this arrangement. Many members have made sweeping criticisms of the Migration Agents Registration Authority, or MARA. They have implied that if only the government had maintained the old scheme, the Migration Agents Registration Scheme, or MARS, all would be well. It is interesting to note that an all-party committee, the Joint Standing Committee on Migration, reported in 1995 when it examined MARS:

During the inquiry many criticisms of MARS were focused on—its lack of success to date in removing unscrupulous and incompetent agents from the industry. Witnesses suggested that the disciplinary procedures of the scheme are overly reliant on complaints from consumers, are not well known, are too slow and are ineffective.

Let us not kid ourselves that the problems in the migration advice industry started with the introduction of statutory self-regulation. The major problem—and it is being perpetuated by the opposition—is that prosecutions in this industry are always difficult unless consumers want to bring forward some real evidence. The fact that we are making a significant change in this bill to offer protection from defamation for clients who want to

complain about agents will, I believe, make an enormous difference.

I hope that all members who have contributed to this debate and who have got up and used parliament to make a broad set of sweeping comments are now prepared to bring forward some real evidence to deal with these people, because, at the end of the day, what we are determined to do as a government and what I am determined to do as the minister responsible is to make sure that migration agents who are acting in an unscrupulous way, who are making vexatious claims, ripping off their clients and wasting the time of the bureaucracy—wasting the time of everybody—are out of the industry completely. I cannot do it unless people are prepared to bring forward complaints. So we are protecting consumers and encouraging consumers to participate.

We need those opposite to join with the government and get on to the business of producing real evidence. Don't go for the cheap headlines; don't go for the lousy politics of running around the gallery and trying to make assertions under parliamentary privilege, putting them into *Hansard* to try to get away with smearing good people like the former minister for immigration, the Attorney-General. Put some real, hard work into it. But the Australian Labor Party are frightened of hard work. There is no doubt about that; it is well known. Finally, I note the comment by the member for Reid, who said:

I do not believe the situation is quite as dire as the *Australian* makes out ...

I agree with him when he said:

... it is not helpful to the integrity of our immigration processes that people launch preposterous cases and seek to buy time ...

The member for Reid is right on that particular point. I agree with him that there are people launching preposterous, vexatious cases, wasting the time of everybody and bringing

down the reputation of an industry as well as bringing down—as the member for Oxley, in his foul contribution today, tried to bring down—the reputations of parts of our very culturally and linguistically diverse community. The Labor Party cannot play this sort of divisive politics and get away with it without trying to develop some policy. They are incapable of putting the hard yards in. The work of advocacy in getting real policy alternatives up is something that seems to be impossible for the Labor Party to generate.

At the end of the day, the government welcomes the fact that the opposition will support these bills because they provide effective measures to protect consumers and ensure migration agents who operate ethically, professionally and competently when assisting people to come to Australia are supported. At the same time they also contain measures to ensure that the proper resourcing of MARA is not undermined by those agents who seek to register as not-for-profit and then ultimately become commercially based. I commend these bills to the House. (*Time expired*)

Question put:

That the words proposed to be omitted (**Mr Laurie Ferguson's** amendment) stand part of the question.

The House divided. [10.36 a.m.]

(The Deputy Speaker—Mr Wilkie)

Ayes.....	76
Noes.....	58
Majority.....	18

#### AYES

Abbott, A.J.	Anderson, J.D.
Andrews, K.J.	Anthony, L.J.
Bailey, F.E.	Baird, B.G.
Baldwin, R.C.	Barresi, P.A.
Bartlett, K.J.	Billson, B.F.
Bishop, B.K.	Bishop, J.I.
Brough, M.T.	Cadman, A.G.
Cameron, R.A.	Causley, I.R.

Charles, R.E.  
Cobb, J.K.  
Downer, A.J.G.  
Dutton, P.C.  
Entsch, W.G.  
Forrest, J.A. \*  
Gambaro, T.  
Haase, B.W.  
Hartsuyker, L. \*  
Hockey, J.B.  
Hunt, G.A.  
Jull, D.F.  
Kelly, D.M.  
Ley, S.P.  
Lloyd, J.E.  
May, M.A.  
McGauran, P.J.  
Nairn, G. R.  
Panopoulos, S.  
Prosser, G.D.  
Randall, D.J.  
Schultz, A.  
Secker, P.D.  
Smith, A.D.H.  
Southcott, A.J.  
Ticehurst, K.V.  
Truss, W.E.  
Vale, D.S.  
Washer, M.J.  
Windsor, A.H.C.

NOES

Adams, D.G.H.  
Beazley, K.C.  
Brereton, L.J.  
Byrne, A.M.  
Cox, D.A.  
Danby, M. \*  
Ellis, A.L.  
Evans, M.J.  
Ferguson, M.J.  
George, J.  
Grierson, S.J.  
Hall, J.G.  
Hoare, K.J.  
Jackson, S.M.  
Kerr, D.J.C.  
Latham, M.W.  
Macklin, J.L.  
McFarlane, J.S.  
McMullan, R.F.  
Mossfield, F.W.

Ciobo, S.M.  
Costello, P.H.  
Draper, P.  
Elson, K.S.  
Farmer, P.F.  
Gallus, C.A.  
Gash, J. \*  
Hardgrave, G.D.  
Hawker, D.P.M.  
Hull, K.E.  
Johnson, M.A.  
Katter, R.C.  
Kelly, J.M.  
Lindsay, P.J.  
Macfarlane, I.E.  
McArthur, S. \*  
Moylan, J. E.  
Nelson, B.J.  
Pearce, C.J.  
Pyne, C.  
Ruddock, P.M.  
Scott, B.C.  
Slipper, P.N.  
Somlyay, A.M.  
Stone, S.N.  
Tollner, D.W.  
Vaile, M.A.J.  
Wakelin, B.H.  
Williams, D.R.  
Worth, P.M.

Albanese, A.N.  
Bevis, A.R.  
Burke, A.E.  
Corcoran, A.K.  
Crosio, J.A.  
Edwards, G.J.  
Emerson, C.A.  
Ferguson, L.D.T.  
Fitzgibbon, J.A.  
Gibbons, S.W.  
Griffin, A.P.  
Hatton, M.J.  
Irwin, J. \*  
Jenkins, H.A.  
King, C.F.  
Livermore, K.F.  
McClelland, R.B.  
McLeay, L.B.  
Melham, D.  
Murphy, J. P.

O'Connor, B.P.  
Organ, M.  
Price, L.R.S.  
Ripoll, B.F.  
Rudd, K.M.  
Sciacca, C.A.  
Sidebottom, P.S.  
Swan, W.M.  
Thomson, K.J.

O'Connor, G.M.  
Plibersek, T.  
Quick, H.V. \*  
Roxon, N.L.  
Sawford, R.W.  
Sercombe, R.C.G. \*  
Smith, S.F.  
Tanner, L.  
Zahra, C.J.

\* denotes teller

Question agreed to.

Original question agreed to.

Bill read a second time.

Message from the Governor-General recommending appropriation announced.

**Third Reading**

**Mr HARDGRAVE** (Moreton—Minister for Citizenship and Multicultural Affairs and Minister Assisting the Prime Minister) (10.41 a.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**MIGRATION AGENTS  
REGISTRATION APPLICATION  
CHARGE AMENDMENT BILL 2003**

**Second Reading**

Debate resumed from 17 September, on motion by **Mr Hardgrave**:

That this bill be now read a second time.

Question agreed to.

Bill read a second time.

**Third Reading**

**Mr HARDGRAVE** (Moreton—Minister for Citizenship and Multicultural Affairs and Minister Assisting the Prime Minister) (10.42 a.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**ADDRESS BY THE PRESIDENT OF  
THE UNITED STATES OF AMERICA**

**Mr ABBOTT** (Warringah—Leader of the House) (10.42 a.m.)—I move:

That:

- (1) the House invites the Honourable George W. Bush, President of the United States of America, to attend and address the House, on Thursday, 23 October 2003, at a time to be notified by the Speaker;
- (2) the House invites the Senate to meet with the House in this Chamber for this purpose;
- (3) at the meeting of the two Houses for this purpose:
  - (a) the Speaker shall preside at the meeting;
  - (b) the only proceedings shall be welcoming remarks by the Prime Minister and the Leader of the Opposition and an address by the President of the United States of America, after which the Speaker shall forthwith adjourn the House and declare the meeting concluded; and
  - (c) the procedures of the House shall apply to the meeting so far as they are applicable;
- (4) the foregoing provisions of this resolution, so far as they are inconsistent with the standing and sessional orders, have effect notwithstanding anything contained in the standing and sessional orders; and
- (5) a message be sent to the Senate acquainting it of this resolution and requesting that it concur and take action accordingly.

The visit to Australia by the President of the United States is a very important occasion and it should be treated appropriately by the Australian parliament and the Australian people. The government has decided to deal with the visit of President Bush in precisely the same way that the Keating government dealt with the visit of President Bush Sr on 2 January 1992.

As well as the formal parliamentary proceedings, there will obviously be an opportunity for all members of this parliament to

mix with President Bush and very possibly to meet him. Even more importantly, there will be an opportunity for senior ministers with responsibilities for national security and trade to engage in dialogue, discussion and negotiation with the President and other senior members of the United States government who will be travelling with him. Of course, there will be similar opportunities for the Leader of the Opposition and senior shadow ministers.

This parliament spends a lot of time dealing with what might be described as politics as usual, but it is important to put politics as usual aside for this day. The United States is the most powerful nation in the world. It has the world's strongest economy. Australia is closely involved with the United States in various international issues. We wish to further integrate our economy with that of the United States to the greater benefit of all Australians. We need to take this day seriously and we need to treat it with appropriate solemnity. That is why the precedent set by the Keating government back in 1992 is appropriate for the Howard government in 2003. This is an important day for the parliament and for Australia. We ought to treat it appropriately. I commend this motion to the House.

**Mr LATHAM** (Werriwa) (10.44 a.m.)—I move:

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

- (1) on Thursday 16 October 2003 the House stand adjourned until 9 a.m. on Thursday 23 October;
- (2) the House invites the Honourable George W. Bush, President of the United States of America, to attend and address the House, on Thursday 23 October 2003, at a time to be notified by the Speaker, provided that any business before the House at that time shall be interrupted and the Speaker shall fix a

- time for the resumption of business later in the day;
- (3) the House invites the Senate to meet with the House in this Chamber for this purpose;
  - (4) at the meeting of the two Houses for this purpose:
    - (a) the Speaker shall preside at the meeting;
    - (b) the only proceedings during this period shall be welcoming remarks by the Prime Minister and Leader of the Opposition and an address by the President of the United States of America;
    - (c) the procedures of the House shall apply to the meeting so far as they are applicable;
  - (5) the routine of business for Thursday 23 October 2003 shall be as follows:
    1. Notices and orders of the day. 2. Questions without notice. 3. Presentation of papers. 4. Ministerial statements, by leave. 5. Matter of public importance. 6. Notices and orders of the day;

provided that the proceedings shall be interrupted at a time to be notified by the Speaker for President Bush to address the House; and that the question for the House to adjourn be put at 7.30 p.m., and the House be adjourned at 8 p.m. until 9 a.m., Friday 24 October;
  - (6) after the address by President Bush has concluded, the routine of business, as specified in this resolution shall be resumed.

The amendment seeks to have a full working day of the parliament on 23 October. I believe this is entirely appropriate. We have a unique circumstance where on consecutive days we are going to be addressed by the President of the United States of America and then the President of the People's Republic of China. The parliament should be honoured to receive these two presidential addresses, but we should also be mindful to give the Australian taxpayer full value for the cost that is going to be incurred in recalling the parliament, having MPs stay overnight

and having the parliament sitting for two consecutive days.

The Leader of the House has said that he thinks we should put ordinary politics aside while the two presidents are here. I am afraid I take a different point of view. I see nothing ordinary about the working of this parliament. I see nothing ordinary about parliamentary debates that try to enhance the education of our children, the health care of our families and the economic prosperity and security of our nation. There is nothing ordinary about politics in this place. They are all important national purposes which should be respected and treated as such. In fact, they are democratic purposes.

I would have thought it was inappropriate to set aside the democracy of the Australian parliament when we have President Bush, the leader of the world's greatest democracy, here on 23 October. I would have thought it would pay tribute to him to incorporate him into our full functioning democracy here in Australia. By all means show him the full respect that his high office deserves by giving him the honour of addressing the Australian parliament that morning, but also give him the understanding that Australian democracy is strong by allowing Australian democracy to continue throughout the rest of the day with a question time at 2 p.m. and legislative debates and consideration. We need to have a full working parliament in these unique circumstances.

When President Bush Sr was here it was a one-off occasion. There was not an address by the President of China the very next day. There was not the circumstance of MPs being recalled to parliament one day, staying overnight, then being in the parliament the very next day. So this is an unprecedented circumstance and one which deserves the full working operation and deliberations of the House of Representatives. On 23 and 24 Oc-

tober, MPs will receive a full day's pay, and I believe they should do a full day's work. This parliament should work for the full day on 23 October and then the full day on 24 October. That is the purpose of the amendment that I have before the House.

The cost to the taxpayer is not insubstantial: it is up to \$2 million. Every member in this place could think of good and productive ways in which they could spend \$2 million in their own constituency. If we are going to spend \$2 million here in the House of Representatives, we should ensure the Australian taxpayer gets full value for the money that has been allocated. Bringing 230 MPs and their staff to Canberra with all the entitlements and the extra arrangements in this building is not a cheap exercise. That use of the money of the Australian people deserves a full day of Australian democracy in the House of Representatives.

I would have thought there was a leadership question as well. Leadership by example is an important role for this democratic House. At a time when we are asking Australian workers to put in, to work hard and to do a full day's work, it sets a very bad example for this House to clock on on the morning of 23 October for half an hour and then clock off. How many workers are there in Australia that have the opportunity to work half an hour one day and half an hour the next day and receive a \$170 travel allowance for staying overnight? That is a standard that would not be tolerated in any workplace in this nation. It sets a very bad example to the Australian people in an economy where we want people to work hard and put in the effort that this parliament under this Leader of the House and this government is not willing to do the same.

And this is the man who has the hide to call young unemployed Australians job snobs! He has demonstrated today that he is

the ultimate parliamentary job snob, because he will not work a full day. He will not put in a full day of parliamentary work and democracy. It is a case of clocking on for half an hour one day and half an hour the next and collecting his \$170 travel allowance overnight. Imagine what the young unemployed think about that! It shows the hypocrisy and the double standards of someone who has the hide to call them job snobs but works half an hour one day, collects his travel allowance and then works half an hour the next day. He is a parliamentary job snob who will not put in a full day's work for the money that he takes out of the pocket of the Australian taxpayer. Serving in this House is an honour and a privilege, and we should serve a full day when we are here on 23 and 24 October.

No wonder, given the bad example of the Howard government, labour productivity in this country is falling. The last national accounts figures show that labour productivity has fallen into negative territory. It is no wonder, given the bad example the government is setting to Australian workers. It is not an example that we should set. There is no workplace in the country where you clock on for half an hour one day and half an hour the next, and on the way through overnight you collect \$170—do not pass go. It is not a good standard to set. It is not a good example to show to the Australian work force. No wonder this parliament under this government is so poorly regarded by the Australian people.

The Australian people see the double standards, the indulgence and the featherbedding of the Howard government and they do not like it. They know there is a problem. We should have a better standard in this place. So too on the question of unfair dismissal. This is a minister who says that businesses have the right to sack people on the spot, but he will not work a full day on the spot in the parliament. It is a double standard

that should not be tolerated. This is a government that has cancelled question time four times this year. It will not be accountable. Why shouldn't we have a question time where the executive government is held to account on 23 and 24 October?

I say to the minister in all sincerity that supporting the opposition amendment will help his own image and standing. We know he has been moved into the health portfolio not because health needs him but because he needs health to soften up his image. We know he is a deeply unpopular figure in Australian politics. The government research would show that. The opposition research shows that the Leader of the House, Mr Abbott, is a deeply unpopular figure. And of course members know it from their own work in their own constituencies. The minister is undertaking an image makeover. He wanted to get into the health portfolio to humanise himself. He needs health more than the health portfolio needs him, and that is why the reshuffle has been undertaken. The minister should support this amendment as part of his image makeover. If he wants to humanise himself to show that he is not an arrogant person and to show that he is more than just a dour, humourless Leader of the House, he should support this amendment which is all about democracy, all about accountability and all about giving the hard-working Australian taxpayer full value for the \$2 million that could be allocated in the recall of the House of Representatives and the Senate.

I urge the Leader of the House and the government to see the commonsense of this amendment. It sets out a parliamentary working day that incorporates our great honour in receiving an address from the President of the United States, George W. Bush, then it points out that the parliament can continue its important work throughout the remainder of the day. There would be notices and or-

ders of the day, questions without notice, presentation of papers, ministerial statements by leave and a matter of public importance. I would have thought that if someone from the world's greatest democracy were here visiting the House of Representatives, they would want to see democracy in action. If you were a democrat, if you believed in the importance of parliamentary democracy, then in visiting our nation, you would want to see a full democracy in action. President Bush himself would want to see a full democracy in action. I am sure he would not want to be a barrier to the Australian parliament working through its democratic forums on 23 October. It does not have to be that way.

I say to the minister that there is nothing ordinary about politics in this place. There is nothing ordinary about democracy. You should not belittle the work of this parliament. Most of all, you should not belittle the contribution made by Australian taxpayers to keep this place functioning. People work in some pretty tough jobs around this place and, under the policies of this government, for insufficient reward. We do not have reward for work in this country. There are some heavy disincentives for people who work.

*Mr Nairn interjecting—*

**Mr LATHAM**—The member for Eden-Monaro laughs. You go out to the main street in Queanbeyan and talk to the families on \$31,000 a year with effective marginal tax rates of 102 per cent. This government has put a marginal tax rate of 102 per cent on them. The member opposite giggles. He thinks it is funny when I talk about the lack of reward for effort.

**Mr Nairn**—You're a hypocrite.

**Mr LATHAM**—Yet this is a government where if those families in the main street of Queanbeyan work hard and earn an extra \$100, his government takes \$102 off them. For working hard they are \$2 worse off in

net terms. And the arrogant member opposite thinks it is funny.

*Mr Nairn interjecting—*

**Mr LATHAM**—That is just a sign of the contempt that government members hold for Australian workers. It is a sign of the contempt that members hold—

**The DEPUTY SPEAKER (Mr Wilkie)**—Order! The member for Eden-Monaro will withdraw that remark that has been repeated numerous times.

**Mr Nairn**—That the workers have had a real increase in wages under the Howard government?

**The DEPUTY SPEAKER**—The member for Eden-Monaro will withdraw that remark unreservedly.

**Mr Nairn**—Are you asking me to withdraw the remark that the workers have had a real increase in wages under the Howard government?

**The DEPUTY SPEAKER**—The member for Eden-Monaro will withdraw the remark referring to the member for Werriwa as a hypocrite, and he will withdraw unreservedly.

**Mr Nairn**—If it is unparliamentary, I withdraw it.

**Mr LATHAM**—The member opposite is showing his contempt for Australian taxpayers. Why should people who work hard and put in the effort contribute up to \$2 million for this parliament to sit for just an hour in the course of two days? The members opposite will collect their \$170 travel allowance for their overnight stay and they will only put in an hour's work—an hour's sitting time—over a two-day period. What sort of example is that to the Australian workers? This is a government that is lecturing people about working hard, putting in, but they will not do it themselves. That is the double stan-

dard. That is the hypocrisy of this government. They have been caught out.

This is an unprecedented circumstance. Never before has this parliament sat on consecutive days to hear the addresses of honoured and distinguished visitors from overseas. Never before. On that basis we should take advantage of the overnight stay of MPs to have two full parliamentary sitting days and, most importantly, a question time on both days so the government can be held to account. If they want to lecture Australian workers they should put in a bit of work themselves.

**Mr McMULLAN (Fraser) (10.56 a.m.)**—I second the amendment. I will not speak for long. The first thing we ought to consider is: does anybody really believe that the United States Congress adjourned for the day on the day that John Howard addressed it?

**Mr Gavan O'Connor**—They had to fill it up with staffers.

**Mr McMULLAN**—It is true that not many members were there at the time of the speech but, of course, they did not adjourn for the day. Why not? Notwithstanding the comments that are made about how many people arrived and whatever, it was an honour for our Prime Minister to address the Congress and it is an honour for the President to address our parliament and for us to have him do so. But it is not balanced for us to say that we will slot in for half an hour in the middle of the congressional sitting day, but that we will take the day off to honour the fact that the President of the United States is here. It is like the way we all used to get a day off school when the Queen came. We could tug our forelocks as the car goes past. It is no lack of respect to the President.

I remember the visits by President Bush and President Clinton; they were very significant events in our national activity and processes for those particular years. But it is

totally without comparison when we say, 'Here we have two days, one after the other, in which we are going to meet to have addresses by presidents of major friends of Australia, but in between we are going to have a paid holiday.' That is what is profoundly wrong with this proposition and everybody in this House knows it. It is simply that it is inconvenient for the executive government to have the parliament sit two extra days and it always seeks to avoid that. It is time that we stopped.

There may be an argument, if only one of these gentlemen were coming and we were only sitting for one day, to follow the precedents—although I am very doubtful about that—that were set to some extent by the previous government. Although in the case of President Clinton's visit the sitting was conducted under the Howard government. But we have never had an occasion on which the parliament has come in for two successive days, sat in the formality but done no other business. It is not true, as I am advised, that we are doing exactly the same as we did when President Bush visited. It actually follows more closely what took place when President Clinton visited, which is a Howard government precedent. But that is not the central point.

The central point is that the parliament will be sitting for two days for these visits. We have never had a circumstance like this before. It is a good thing; it is not a bad thing. It is one of those benefits that flows from the evolution of APEC that we have international leaders in our region and, from time to time, we get the opportunity for them to visit Australia. We should welcome that and we should welcome the opportunity for them to do business here. When President Clinton visited, the parliament did not incur extra expense, because we were already sitting. He visited on a sitting day in the middle of an ordinary sitting week. So there was no

similar expenditure; there was no extra day of sitting, there was no extra travel and there was no extra TA. It was simply a process which occurred in the middle of a sitting week in November 1996.

The last thing I want to say is, at the end of this session, we are going to have the government complaining about the difficulty in getting all their legislation through the parliament. They are going to say: 'People are obstructing us. We are not getting enough cooperation to get our program through the parliament.' Labor is simply saying, 'Do some government business after we have paid due respect and honour to our significant visitors.' I support the resolutions—I presume there will be a subsequent motion about the Chinese President, and I will not speak again on that—that give those gentlemen the opportunity to address our parliament; it is proper and respectful. But we should also do our own citizens and constituents the honour of working for them and on their behalf when we are paid to come here.

**Mr ORGAN** (Cunningham) (11.01 a.m.)—I welcome the opportunity to speak briefly on the member for Werriwa's amendment relating to the impending visit to Australia by the President of the United States. The Greens accept the importance of our relationship with the United States. However, we oppose the blatant waste of taxpayers' money via the recall of parliament on 23 October, for less than an hour, to listen to an address by the President. The amendment addresses this concern. If the recall is merely an opportunity to listen to President Bush, without any real chance of interaction or debate by members of this place, then this represents a wasted opportunity.

The US President has recently been criticised over the fact that the only opportunity for questioning him is via the tightly controlled press conferences we are so used to

seeing on TV. There is no regular question time for President Bush on the floor of the people's house, as there is in Australia, so how about a question time at the time of the visit? Is the President prepared to submit to one hour of questions from representatives of the Australian people in an open democratic forum—the floor of this place? I am sure that many here would like to ask open questions. For example, I would like to ask the President, in this House, when he is going to release Australian citizens David Hicks and Mamdouh Habib from imprisonment without trial at Guantanamo Bay. This is especially relevant when we hear about today's allegations of torture of those two Australians.

If the parliament is to be recalled it must, as outlined in the member for Werriwa's amendment, sit for a period of time that reflects the normal workings of this place. The Australian community asks for nothing more than this. There is no denying that there is plenty of business for this House and the other place to deal with. We are all aware that this government has a record of introducing legislation at the last minute, offering the representatives of the people precious little time to consider the implications of the various bills and rushing them through the parliament in the final days of the sitting year. This opportunity to sit for two days should be used to allow parliamentary business to be dealt with, and I therefore welcome the member for Werriwa's amendment in this regard. I know that I will be here—I have the time, and it is my job—and I would appreciate the chance to participate in the normal parliamentary process on those two days. I therefore cannot understand why the government would reject such a reasonable call and why the substance of the present amendment was not part of the government's original motion. I am sure that members would welcome the opportunity to deal with

business during the days on which we are entertaining the leader of the United States.

There are real issues about President Bush and his visit to the parliament. We have heard the minister say that we need to put politics aside for the day, that we need to take this opportunity seriously, that this is an occasion for solemnity and that we need to honour the President of the United States. I question some of those statements. Solemnity? We are talking about the head of the United States, and he is due the same respect as the leader of any other country. But to call a sitting of parliament for one day, just to facilitate a half-hour one-sided presentation by the President, is, I think, totally inappropriate. President Bush is the leader of a regime that the Greens have considerable concerns with at the moment. He is the leader of a regime which believes in detention without trial and which supports nuclear weapons aspirants such as Pakistan. There are many concerns about the visit of the President of the Chinese republic as well.

We have heard that we parliamentarians need to be answerable to the community in sitting for the whole day. If we are going to be paid, we should be working, just as we expect other Australians to do a fair day's work for a fair day's pay. There are a number of issues of concern and that is why I am here to support the member for Werriwa's amendment in regard to dealing with the business of the House. I have some severe concerns about calling a sitting of the House just to hear from the President of the United States. As I said, I welcome the visit of President Bush but I would also welcome the opportunity to personally put to the President some of the issues I have raised in this speech. I prefer one-on-one open and frank discussions rather than megaphone diplomacy. As members of this House, we should have the opportunity to put some questions to the President on this occasion. But what

are we going to get instead? We are going to get security guards, minders, spin doctors and distorters of the truth, under the veil of democracy. It is going to be staged, unreal and very distant from ordinary Australians. Like all of us here, the President is just an ordinary man. He should be treated as such—no more and no less—and with the respect due the President of the United States.

What opportunity does this visit hold for me as the sole Greens member in the House of Representatives? Will I be able to engage in any substantial dialogue with the President? The Greens welcome the opportunity for open dialogue with the President of the United States. However, the Australian parliament should not be made a podium of convenience for the President. The Prime Minister is turning our parliament into an obsequious circus. In the street language of my electorate this is called brownnosing, although other more colourful and undoubtedly unparliamentary terms are also used.

The fact is there is no provision in the Australian Constitution for parliament to be recalled for the convenience of foreigners. If the parliament is to be recalled, the member for Werriwa's motion represents an appropriate use of the parliament, as opposed to the political use implicit in the original motion it seeks to amend. The government should instead have the President speak in the Great Hall or at a press club dinner. The recall of the Australian parliament should be reserved for critical national matters and emergencies. As we have heard, you will not find the United States Congress specially recalled to give an Australian prime minister a podium.

I would prefer that the member for Werriwa's amendment was a bit more expansive. For example, I would like it to include an opportunity for an official welcome to the country to be given on behalf of the Ngun-

nawal people, the traditional owners of this land, and also for the members of this place to ask questions of the President. I therefore foreshadow that I will be moving an amendment to the original motion. I will introduce the amendment after we have dealt with the member for Werriwa's motion. My amendment would provide the opportunity for members of this House to ask our visitors questions from the floor for a period of no less than 60 minutes. I feel this is only appropriate.

**Mr ABBOTT** (Warringah—Leader of the House) (11.08 a.m.)—In rising to close this debate, let me just say that the amendment moved by the member for Werriwa is nothing but a cheap stunt—a very cheap stunt. The fact that the shadow minister for foreign affairs is not here suggests that the opposition is deeply split on this. I can imagine that the shadow minister for foreign affairs, who does support the US alliance, would be highly embarrassed by this kind of stunt from the Manager of Opposition Business. It is a very cheap stunt by the opposition.

What the government is doing is precisely what the Keating government did on 2 January 1992. If it was good enough for the Keating government, it is good enough for this government. If it was good enough for members opposite when they were in government, it should be good enough for them now, even though they are in opposition. If members opposite really do support the US alliance, they have chosen a very odd way to show it.

Question put:

That the amendment (**Mr Latham's**) be agreed to.

The House divided. [11.14 a.m.]

(The Deputy Speaker—Mr Wilkie)

Ayes.....	63
Noes.....	<u>73</u>
Majority.....	10

## AYES

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

## NOES

Abbott, A.J.	Anderson, J.D.
Andrews, K.J.	Anthony, L.J.
Bailey, F.E.	Baird, B.G.
Baldwin, R.C.	Barresi, P.A.
Bartlett, K.J.	Billson, B.F.
Bishop, B.K.	Bishop, J.I.
Brough, M.T.	Cadman, A.G.
Cameron, R.A.	Causley, I.R.
Charles, R.E.	Ciobo, S.M.
Cobb, J.K.	Costello, P.H.
Downer, A.J.G.	Draper, P.
Dutton, P.C.	Elson, K.S.

Entsch, W.G.	Farmer, P.F.
Forrest, J.A. *	Gallus, C.A.
Gambaro, T.	Gash, J. *
Haase, B.W.	Hardgrave, G.D.
Hartsuyker, L. *	Hawker, D.P.M.
Hockey, J.B.	Hull, K.E.
Hunt, G.A.	Johnson, M.A.
Jull, D.F.	Kelly, D.M.
Kelly, J.M.	Ley, S.P.
Lindsay, P.J.	Lloyd, J.E.
Macfarlane, I.E.	May, M.A.
McArthur, S. *	McGauran, P.J.
Moylan, J. E.	Nairn, G. R.
Nelson, B.J.	Panopoulos, S.
Pearce, C.J.	Prosser, G.D.
Pyne, C.	Randall, D.J.
Ruddock, P.M.	Schultz, A.
Scott, B.C.	Secker, P.D.
Slipper, P.N.	Smith, A.D.H.
Somlyay, A.M.	Southcott, A.J.
Tichehurst, K.V.	Tollner, D.W.
Truss, W.E.	Tuckey, C.W.
Vaile, M.A.J.	Vale, D.S.
Wakelin, B.H.	Washer, M.J.
Worth, P.M.	

\* denotes teller

Question negated.

Original question agreed to.

**Mr Organ**—Mr Deputy Speaker, I seek the indulgence of the House to have my amendment as circulated included in *Hansard*.

Leave granted.

*The amendment read as follows—*

Omit paragraph (3)(b) substitute:

- (3)(b) the only proceedings shall be welcoming remarks by the Prime Minister and the Leader of the Opposition and an address by the President of the United States of America, after which the Speaker shall invite questions from the floor for a period of no more than 60 minutes, following which the Speaker shall forthwith adjourn the House and declare the meeting concluded; and.

**ADDRESS BY THE PRESIDENT OF THE PEOPLE'S REPUBLIC OF CHINA**

**Mr ABBOTT** (Warringah—Leader of the House) (11.19 a.m.)—I move the motion relating to the address by the President of the People's Republic of China in the terms in which it appears on the *Notice Paper*:

That:

- (1) the House invites His Excellency Hu Jintao, President of the People's Republic of China, to attend and address the House, on Friday, 24 October 2003, at a time to be notified by the Speaker;
- (2) the House invites the Senate to meet with the House in this Chamber for this purpose;
- (3) at the meeting of the two Houses for this purpose:
  - (a) the Speaker shall preside at the meeting;
  - (b) the only proceedings shall be welcoming remarks by the Prime Minister and the Leader of the Opposition and an address by the President of the People's Republic of China (which may be translated for the meeting by a person or persons accompanying the President) after which the Speaker shall forthwith adjourn the House and declare the meeting concluded; and
  - (c) the procedures of the House shall apply to the meeting so far as they are applicable;
- (4) the foregoing provisions of this resolution, so far as they are inconsistent with the standing and sessional orders, have effect notwithstanding anything contained in the standing and sessional orders; and
- (5) a message be sent to the Senate acquainting it of this resolution and requesting that it concur and take action accordingly.

The parliament has just determined an appropriate way to handle the visit of the leader of the world's most powerful country. Let me repeat that what the parliament has determined is in all relevant respects identical to the treatment that was accorded to President Bush Sr by the former Keating government.

As we have decided to treat the leader of the world's most powerful country in this way, it is appropriate that we treat the leader of the world's most populous country in exactly the same way. This is an important visit. Australia have a strong and developing relationship with China. We have a particularly strong trade relationship with China, thanks most recently to the efforts of the Prime Minister in helping to secure a \$25 billion gas deal. Under all the circumstances it is appropriate that we treat President Hu in the same way that we treat President Bush, and I commend this motion to the House.

**Mr LATHAM** (Werriwa—Manager of Opposition Business) (11.20 a.m.)—I move:

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

- (1) the House invites His Excellency Hu Jintao, President of the People's Republic of China, to attend and address the House, on Friday 24 October 2003, at a time to be notified by the Speaker, provided that any business before the House at that time shall be interrupted and the Speaker shall fix a time for the resumption of business later in the day;
- (2) the House invites the Senate to meet with the House in this Chamber for this purpose;
- (3) at the meeting of the two Houses for this purpose:
  - (a) the Speaker shall preside at the meeting;
  - (b) the only proceedings during this period shall be welcoming remarks by the Prime Minister and Leader of the Opposition and an address by the President of the People's Republic of China; and
  - (c) the procedures of the House shall apply to the meeting so far as they are applicable;
- (4) the routine of business for Friday 24 October 2003 shall be as follows:
  1. Notices and orders of the day 2. Questions without notice 3. Presentation of papers.

4. Ministerial statements, by leave 5. Matter of public importance. 6. Notices and orders of the day;

provided that the proceedings shall be interrupted at a time to be notified by the Speaker for President Hu to address the House; and that the question that the House adjourn be put at 5.30 p.m., and the House be adjourned at 6 p.m.;

- (5) after the address by President Hu has concluded, the routine of business, as specified in this resolution shall be resumed.

I must say I disagree with the logic of the Leader of the House. What he is basically saying to the House is that because he has got the numbers on the first matter he is going to ram the second through. Well, that does not follow. He was wrong on the first matter—and I say shame on the government for organising the recall of the parliament for just half an hour on 23 October. We are receiving a full day's pay and we should do a full day's work on that occasion. What is more, the circumstance is totally different to the circumstance with President Bush Sr. That was a one-off, one-day recall of the parliament; this is a two-day recall. Of course the members opposite will be overnighing and taking their \$170 travel allowance. Surely, by taking that sort of money they should put in a full day's work. Why is it that the government calls on Australians to work hard in the workplaces of the nation but it won't work hard itself in the workplace of the parliament? It is a double standard. It is a bad example. It sends a bad message to the Australian work force and it should not be tolerated. All those taxpayers who work hard are going to fund the expenses of up to \$2 million for the two-day recall of the parliament and the overnighing. They should expect the parliament to work hard on both days, to have question time and to consider important legislation.

The great irony is the government is always saying that the opposition is obstructionist. Later today the Prime Minister is delivering a paper on Senate reform. The man who endorsed the power of the Senate to delay supply and turf out the elected government in 1975 is now a born-again Senate reformer. Where was he when we needed him in the ding-dong battle between the House and the Senate?

He will be up here today with his little Senate reform paper saying that the opposition is terribly obstructionist and doing the wrong thing and here we are with these motions wanting the parliament to sit more—the House and the Senate—so as to have more scope for the government to put its legislation before the House. But the government says no. It just goes to show that you cannot help some people. Here we are helping by suggesting a broader parliamentary sitting with an offer of two extra days for the government to have its legislation considered in the House and the Senate, and it says, 'No, we don't want that.' But later on in the day the Prime Minister is going to have his little paper on Senate reform saying we are terribly obstructionist. The government cannot get its lines right. The truth is that the opposition are here to help. We are here to help in terms of facilitating the workings of the Australian parliament.

I have to say I am here to help the Leader of the House. Goodness knows, he needs a bit of assistance. He has the Prime Minister putting him into health to try and humanise his image. And, boy, doesn't it need some humanising! He does need some assistance. The teacher's pet has been moved into the health portfolio not because health needs him but because he needs health. He needs the health portfolio to try and improve his image. He is a deeply unpopular figure around the country. We know that from opposition research; the government would know it

from its own research. That is why he has been reshuffled into health.

Members around the chamber would know that the Leader of the House, Mr Abbott, is a deeply unpopular figure. He is unpopular in part not only because he is dour and humourless, not only because he was dishonest in the Hanson slush fund affair, not only because he is a mad ideologue and not only because he is a fanatic who always redoubles his efforts when all is lost but because of his bad management of this House. And isn't he sensitive?

**Mr Abbott**—Mr Deputy Speaker, earlier today you required the member for Eden-Monaro to withdraw the word 'hypocrite'. I have just been accused of dishonesty and I request that you ask the member for Werriwa to withdraw that.

**The DEPUTY SPEAKER (Mr Wilkie)**—The member for Werriwa needs to move a substantive motion if he is going to refer to the minister as being dishonest. I would ask him to withdraw that.

**Mr LATHAM**—To assist you, Mr Deputy Speaker, I withdraw. But the record does show that this is someone who tried to tell the Australian people that a \$10,000 donation to the Hanson slush fund was not money. People can make their own judgment about his integrity on that matter. Ten thousand dollars is not money!

The minister opposite does have an image problem. That is why he has been moved into the health portfolio. But I submit to the House that a big part of his problem is his bad management of this House. Part of the problem is the arrogance of a government that has cancelled question time four times this year. We are trying to get half of those back with question times on 23 October and 24 October. He is a minister who always uses the numbers here to gag debate and duck-shove through the legislation without proper

debate. He is a minister who does not pay proper regard to the workings of this House. He has not been urging, for example, the Speaker to become independent in recent times. He has not taken up the opposition's offer of improved standing orders to facilitate a better public reputation for the House of Representatives. The minister really does need to do more than just move into health to improve his image and to soften it up and humanise it; he needs to provide better accountability and transparency here in the House.

How can he do that? He can say: 'I'm setting a good example to the Australian taxpayers. It is costing up to \$2 million to bring back the parliament on 23 October, overnighting and then sitting again on 24 October. We're going to give the taxpayer value for money, because \$2 million is a significant amount. We're going to give them value by having the parliament sit for two working days with question time and legislative debate.' The other thing the minister should say is: 'At long last I'm going to set a good example for the Australian workers, the people out there working away doing the right thing.' They do not get a circumstance where they clock on for half an hour one day, clock on for half an hour the next day and in between pick up \$170 in travel allowance overnight. No-one has that standard. Australian workers, struggling away in the workplace right now, would be appalled to think that this is the way in which a former minister for workplace relations looks at productivity and the leadership factor in his work. It really is the wrong example for the Australian work force. It should not be tolerated.

We in the opposition are here to help. We are not obstructionist. We are trying to facilitate more time for the government to have its matters debated and more time for the government to answer questions in question time. Importantly, we want to make these

two very special days. The 23rd and the 24th could have been two very special days. We will have the President of the United States, an important ally for the defence of Australia, here; we will have the President of China, the president of a growing and emerging superpower in our region, here on the 24th. They are two honoured and distinguished guests.

What a great celebration of Australian democracy it would have been not only to have heard their addresses but also to have had a functioning democratic parliament at the same time. It would have been a true celebration of everything we stand for in this nation—open debate, democracy and fair play—and a good example to our taxpayers and to the workers around the country. It is a lasting shame that this arrogant minister opposite will not see the sense of the amendment.

**The DEPUTY SPEAKER**—Is the amendment seconded?

**Mr McMULLAN** (Fraser) (11.28 a.m.)—I second the amendment. Most of the things which I wish to say about this motion I said in my previous speech and will not say again, but I will make three points. One is that I want to record, notwithstanding our differences on matters of policy, my profound respect and appreciation for the importance of the Australian relationship with China. I have had the honour of representing Australia in negotiations with China on a number of occasions and I regard it as a very important trading partner and, as the member for Werriwa said, an emerging superpower in our region. It is appropriate that we should for the first time be offering this opportunity to the President of China. I have no problem with the substance of the motion.

My second point is that this proposition is the killer blow to the argument that we are in some way observing precedent by having

two half-hour sittings. There is no such precedent. There have never been two half-hour sittings of the parliament in a row. I am sure, after the public responds on this occasion, there never will be again. It is a killer blow to that precedent. It is a hollow sham of an argument and it should not be allowed to persist for a moment.

The third point I want to make is that we would seek from the Leader of the House a guarantee that, given that he does not need these extra hours of sitting which we are offering, there will be no late night sittings at the end of the session to ram through the government's business.

**Mr ORGAN** (Cunningham) (11.29 a.m.)—I welcome the opportunity to speak to the member for Werriwa's amendment to the government's motion relating to the visit to Australia by the President of the People's Republic of China, Hu Jintao, following our earlier discussion about the visit of the President of the United States, George W. Bush. As I said previously, the Greens accept the importance of our relationships with the United States and with China. They are very important for our ongoing security and for the economic development of Australia. We have got to look towards developing markets in China more and more as time goes by. However, we have raised here the issue of the blatant waste of taxpayers' money in recalling parliament for half an hour on both days just to deal with the visits by these men. I think there is another concern for the wider community. Sure, we are talking about respect and solemnity with regard to visits by the heads of these two nations, but there are a lot of outstanding issues with regard to human rights and other abuses in the People's Republic of China, and we have also got concerns about the direction in which the President of the United States is taking his people at the moment.

As I said previously, I would welcome the opportunity for the expansion of this motion so that it would give members of this House the opportunity to put questions to the President of the United States and the President of the People's Republic of China in an open and democratic forum on the floor of this House. I wonder who is setting the precedent and who is making the rules here. We are a sovereign country. It is up to Australians to put our own flavour on all these sorts of things. There are really no rules in this regard here. There are no rules in the Constitution with regard to what we should be doing here. If the President of the People's Republic of China were standing before me now I would like to ask him, for example, when he is going to allow the Dalai Lama to return to Tibet and when the people of Tibet will be allowed to openly practise their religious, cultural and political beliefs without restriction from the central government of China. That is just one question that I think needs to be put. I am concerned that I and other members of this parliament will not have the opportunity to put questions to our visitors. As hosts, I think we should have that opportunity.

Increasingly within this world we are seeing more secrecy on the part of governments, whether it is our own government or governments such as the Chinese government and the government of the United States. They are very secretive and are clamping down on human rights and civil liberties. Recently we have heard about the Chinese clampdown on Internet access. That is one form of clamping down on people's rights in that country. The President of the United States and the President of China are both coming here and being welcomed into this House, but really there will be no opportunity for us, as representatives of the Australian people, to ask questions of those leaders and to raise some of the issues which are of

concern to ordinary Australians and which ordinary Australians do not have the opportunity to raise outside of the normal diplomatic channels.

So I think there is a real opportunity for Australians and for the Australian parliament to deal with these two leaders in a uniquely Australian manner. That is why I support the substance of the member for Werriwa's amendment that a full two days be given over to the parliament's operation during the period in which we are entertaining the President of China and the President of the United States. I cannot understand why the government is talking about following the so-called precedents of earlier times, when President Bush and President Clinton were before this House. It is just illogical that members should be forced to fly in from areas such as Western Australia, for example, just for half an hour or an hour and then be expected to sit around and wait for the following day to listen to the President of China as well.

I think it is very important that we hear what the President of the United States and the President of China have to say. I am totally supportive of that and I look forward to hearing what those two leaders have to say on various issues and the way in which they perceive the role of Australia in the world community. I look forward to that but, if we are going to have an open relationship with these countries, we need to be open and frank. Issues of human rights abuses on the part of both China and the United States are very much of concern for the people of Australia. The Amnesty International 2003 report on China noted that during 2002:

Serious human rights violations continued and in some respects the situation deteriorated. Tens of thousands of people continued to be arbitrarily detained or imprisoned for peacefully exercising their rights to freedom of expression, association or belief. Some were sentenced to prison terms;

many others were administratively detained without charge or trial.

And we know that, in Guantanamo Bay, America is going down the path of putting people there with no charge and no trial, and just leaving them there for unlimited terms.

Recently China has had a 'strike hard' campaign against crime, which was launched in 2001 and which Amnesty International made reference to when it said:

According to interim figures available, the crack-down led to at least 1,921 death sentences, many imposed after unfair trials, and 1,060 executions. Torture and ill-treatment remained widespread and appeared to increase as a result of the campaign. The anti-crime crack-down also extended to people accused of being "ethnic separatists", "terrorists" and "religious extremists" in the Xinjiang Uighur Autonomous Region (XUAR)—

where there are predominantly Muslim people—

and members of the *Falun Gong* spiritual movement.

We are also aware of abuses within Tibet. The report went on:

Labour protests increased and were frequently met with excessive use of force and arbitrary detentions. In Xinjiang, restrictions increased on the cultural and religious rights of the mainly Muslim Uighur minority. In Tibet, freedom of expression and religion continued to be severely restricted, although seven prisoners of conscience were released before the end of their sentences.

That is a good sign that perhaps some change might be coming.

We have to be positive about all this. We have to engage in open dialogue with the President of China to seek some redress to some of these many and longstanding human rights concerns that people of the world community have—not only with Tibet but also with the people of China and various other minority groups within the region. As Australians we are very concerned at some of the treatment to which the people of China

and Tibet are subjected by their government. We would not accept it within our country. The censorship of the Internet is one example. There are restrictions on religious and political freedom. Members might be aware that in Tibet, for example, if you hold a picture of the Dalai Lama you could be arrested, put in jail and tortured. We would be outraged if holding a picture of the Pope, the Archbishop of Canterbury or Jesus Christ would lead to our being imprisoned. It is totally unacceptable. As Australians we are very supportive of human rights and religious and political freedom. That is where we are coming from.

We can see many problems in China and in the United States. As an independent country with a proud history of democracy and democratic freedoms, it is incumbent upon us to put those issues to the President of China and to the President of the United States. There is nothing to fear from the truth, and there is nothing to fear from being honest about these issues. There is nothing wrong with being a bleeding heart or a fighter for the rights of individuals throughout the world. There is nothing wrong with compassion, peace, justice and looking to address issues of inequality.

In the most recent edition of *Eureka Street*, Tony Kevin, Australia's recent Ambassador to Poland and Cambodia, raised concerns about the direction that Australian foreign policy is taking in seeking the dollar and seeking investment but not addressing human rights issues while we are talking to our new partners, whether they be in Asia, Europe or the Americas. Tony Kevin said:

If we are not decent at home and abroad, we will not survive. We must help defend the rules-based international order based on the UN that we helped to create after World War II. To become an American vassal or mercenary, indifferent to the sufferings of others in this interdependent world,

dishonours our nation's history and values and will not secure our children's future.

... ..

A value-free and expediency-based foreign policy cannot be right. However complex the issue, Australia's starting point must be respect for all human life. Good ends cannot justify evil means, and might does not make right.

Sure, we all very much look towards expanding our economic relationship with China and the Asian region. But we have to be aware that improving economic relations by the so-called democratisation of China does not necessarily mean that a lot of those human rights abuses and other concerns we have with China are going to go away. Evidence to date implies that they are not going away and that China is not really softening its position on political and religious freedom. Tibet is a good example of that. It also directly concerns both President Bush and President Hu, as the amendment before us shows.

We recently saw President Bush give a lot of positive support to the efforts by the Dalai Lama and the Tibetan government in exile to open dialogue with the Chinese government and liberate the people of Tibet. It is a shame that this country's 'one China' policy is so limited in not really addressing some political and religious abuses. Talking about Tibet is similar to talking about our own Aboriginal people and the way in which, since the invasion of 1788, we have not appropriately dealt with our people. Similarly, when we talk about Tibet, we talk about a country the size of the United States with some 8.6 million people who identify as Tibetan rather than Chinese. We talk about a country that was invaded by the communists in 1951, when 4,000 to 6,000 monasteries were destroyed, some 1.2 million people were killed and thousands were imprisoned. Such killings and imprisonments continue to this day. We are talking about a country—Tibet—

which, in 2003, is still subject to a harsh political and social regime and where a policy of cultural genocide is being implemented as we speak.

Just as in Australia, where we have problems dealing with our own Aboriginal people, in countries such as China and Tibet indigenous people need to be more humanely dealt with. Similarly, we see that the indigenous peoples of West Papua are being overrun and made foreigners in their own country by the Indonesian government. None of us is innocent in this. I am not specifically pointing to China and America in this instance, but we have real concerns with China. A visitor to Tibet in 1999 noted:

The place was ruled not by terror, as it had once been, but by constant mental supervision—the absence of freedom.

Something that we all hold dear is freedom. It is something that we have to fight for and defend as much as we can.

*Honourable members interjecting—*

**Mr ORGAN**—A member interjects that there was not much freedom in Tibet prior to the Chinese invasion. I take exception to that. There is not much there at the moment, and that is a fact. That is what we are dealing with now. We are dealing with 2003, not 1951. In this day and age we as a sovereign nation defend democracy and freedom. We know where we are coming from. We have fought hard over 200 or so years to develop Australia as a country that is proud of its values. We need to be unashamed in promoting those values throughout the world. I welcome the opportunity to see the President of the People's Republic of China and the President of the United States visit this place, although it is inappropriate that we should recall parliament for that purpose alone.

**Mr ABBOTT** (Warringah—Leader of the House) (11.44 a.m.)—In winding up this debate, I find it very difficult to understand

why the opposition is persisting with this amendment given the decision that was taken by the House just a few moments ago. Given the treatment that the House has decided to accord to President Bush, to accord any different treatment to President Hu Jintao would be to devalue the People's Republic of China and to devalue Australia's relationship with China. I find it very hard to understand why members opposite would want to show anything other than total respect to a leading member of the Communist Party of China, which is after all one of their fraternal socialist parties.

**Mr Organ**—Mr Deputy Speaker, I rise on a point of order. I ask that the Leader of the House withdraw the insinuation that members on this side have shown a lack of respect for the President of the People's Republic of China by the various statements.

**Mr Latham**—On the point of order, Mr Deputy Speaker: the member for Cunningham finds it offensive, and I can understand how he feels. Nobody here is showing any disrespect to the People's Republic of China.

**Mr Abbott**—I withdraw anything that anyone was offended by.

Question put:

That the amendment (**Mr Latham's**) be agreed to.

The House divided. [11.46 a.m.]

(The Deputy Speaker—Mr Wilkie)

Ayes.....	61
Noes.....	<u>73</u>
Majority.....	12

AYES

Adams, D.G.H.	Albanese, A.N.
Andren, P.J.	Beazley, K.C.
Bevis, A.R.	Brereton, L.J.
Burke, A.E.	Byrne, A.M.
Corcoran, A.K.	Cox, D.A.
Crosio, J.A.	Danby, M. *
Edwards, G.J.	Ellis, A.L.

Emerson, C.A.
Ferguson, L.D.T.
Fitzgibbon, J.A.
Gibbons, S.W.
Griffin, A.P.
Hatton, M.J.
Irwin, J. *
Jenkins, H.A.
Kerr, D.J.C.
Latham, M.W.
Macklin, J.L.
McFarlane, J.S.
McMullan, R.F.
Mossfield, F.W.
O'Connor, B.P.
Organ, M.
Price, L.R.S.
Ripoll, B.F.
Rudd, K.M.
Sciacca, C.A.
Sidebottom, P.S.
Swan, W.M.
Thomson, K.J.
Zahra, C.J.

Evans, M.J.
Ferguson, M.J.
George, J.
Grierson, S.J.
Hall, J.G.
Hoare, K.J.
Jackson, S.M.
Katter, R.C.
King, C.F.
Livermore, K.F.
McClelland, R.B.
McLeay, L.B.
Melham, D.
Murphy, J. P.
O'Connor, G.M.
Plibersek, T.
Quick, H.V. *
Roxon, N.L.
Sawford, R.W.
Sercombe, R.C.G. *
Smith, S.F.
Tanner, L.
Windsor, A.H.C.

NOES

Abbott, A.J.	Anderson, J.D.
Andrews, K.J.	Anthony, L.J.
Bailey, F.E.	Baird, B.G.
Baldwin, R.C.	Barresi, P.A.
Bartlett, K.J.	Billson, B.F.
Bishop, B.K.	Bishop, J.I.
Brough, M.T.	Cadman, A.G.
Cameron, R.A.	Causley, I.R.
Charles, R.E.	Ciobo, S.M.
Cobb, J.K.	Downer, A.J.G.
Draper, P.	Dutton, P.C.
Elson, K.S.	Entsch, W.G.
Farmer, P.F.	Forrest, J.A. *
Gallus, C.A.	Gambaro, T.
Gash, J. *	Haase, B.W.
Hardgrave, G.D.	Hartsuyker, L. *
Hawker, D.P.M.	Hockey, J.B.
Hull, K.E.	Hunt, G.A.
Johnson, M.A.	Jull, D.F.
Kelly, D.M.	Kelly, J.M.
Ley, S.P.	Lindsay, P.J.
Lloyd, J.E.	Macfarlane, I.E.
May, M.A.	McArthur, S. *
McGauran, P.J.	Moylan, J. E.
Nairn, G. R.	Nelson, B.J.
Panopoulos, S.	Pearce, C.J.

Prosser, G.D.	Pyne, C.
Randall, D.J.	Ruddock, P.M.
Schultz, A.	Scott, B.C.
Secker, P.D.	Slipper, P.N.
Smith, A.D.H.	Somlyay, A.M.
Southcott, A.J.	Stone, S.N.
Ticehurst, K.V.	Tollner, D.W.
Truss, W.E.	Tuckey, C.W.
Vaile, M.A.J.	Vale, D.S.
Wakelin, B.H.	Washer, M.J.
Worth, P.M.	

\* denotes teller

Question negatived.

Original question agreed to.

### MARITIME TRANSPORT SECURITY BILL 2003

#### Second Reading

Debate resumed from 18 September, on motion by **Mr Anderson**:

That this bill be now read a second time.

**Mr MARTIN FERGUSON** (Batman) (11.54 a.m.)—The Maritime Transport Security Bill 2003 is an exceptionally important bill. It goes to the security of Australians and, importantly, it is central to a key debate about the stability of our critical infrastructure, which in turn is related to international trade. The maritime industry is the linchpin for our trading opportunities as an island nation. It is also central to our requirements in terms of creating a larger economic cake and, in doing so, ensuring that we maximise job opportunities in Australia.

Labor has been the party that has continually reminded the House about the importance of a safe, viable and efficient fleet and maritime industry. The debate today is not just about security but also about our need as a nation for a highly skilled work force of seafarers and waterside workers. It is a debate about our requirement for a modern Australian fleet—one that is able to serve our needs both in times of war and in times of peace. This debate is also about the flow-on and supportive industries, such as engineer-

ing, maritime training and freight forwarding, which are part and parcel of a nation having a viable shipping fleet. If we as a nation do not have a modern, safe, viable, efficient and secure industry, we lose opportunity in life.

I contend that for too long the Howard government have claimed that Australia is a shipping nation, not a nation of shippers. For too long they have had their heads in the sand about the importance to Australia of shipping as an industry in its own right. Recent skirmishes in East Timor and the Solomon Islands have left Australia exposed, with a requirement to use ships owned overseas and manned by foreign crews. I do not think that is acceptable to Australia as a nation, from a trading or a defence point of view. Our problems on that front are related to the fact that the Howard government's maritime and shipping policy is driven not by Australia's best interests but by an ideologically narrow approach to life. There has been a total focus by the Howard government on Australia having cheaper shipping costs, achieved by busting unions and sacrificing Australian jobs and the Australian industry.

The government has shown its contempt for Australian shipping by refusing to level the playing field. This is what the debate about maritime security is also about: a level playing field in shipping policy in Australia. The Australian Shipowners Association has regularly highlighted 10 pieces of legislation that discriminate against the Australian industry in favour of foreign shipping companies. The single and continuous voyage permit system has been manipulated to undermine the legitimate cabotage provisions that are by no means unique in the world. The Australian parliament has endorsed legislation in the past to protect our domestic trade for the same reason that the United States fiercely protects its domestic coastal trade

for security, environmental and other reasons. Labor has continued to identify the security and environmental risks associated with foreign flagged vessels and foreign crews being given unfettered access to the Australian coast and ports at the expense of the Australian shipping industry, shipping workers and their families.

Instead, the approach taken by the Howard government since March 1996 has been to open the door to foreign shipping companies and foreign seafarers. It was only last year that the then minister for immigration finally, after a long campaign by the opposition, took some notice of Labor's calls and placed minimal restrictions on continuous voyage permits. It is a start, but the situation is not good enough for Australia. It is not good enough for Australia's best interests.

The bill before the House is about maritime security, but that is only one element of a far more complex picture. The reality is that the stability and sustainability of this industry is also fundamental to our maritime transport security and our nation's desire to protect itself against the threat of terrorism. The Australian Labor Party and the maritime unions are not lone voices on these matters. I refer to the fact that the Australian Shipowners Association recently released an independent review of Australian shipping. It is also exceptionally important to note that, in commissioning that report, the shipowners called on the expertise of two former transport ministers to conduct the inquiry and prepare the report: John Sharp, the National Party transport minister, and Peter Morris, the long-term Labor Party transport minister and a highly respected person internationally in terms of shipping policy.

These former ministers consulted widely. They went out of their way to speak to an extensive cross-section of Australian industry, government, the community and industry

players. The report shows that the priority issue identified by the review was the need for policy clarity. It states:

If all sectors of the industry are unanimous on any single issue, it is the need for Government to enunciate a clear, certain and consistent policy towards the industry, and for regulatory activities to be carried out in a consistent way.

The review, the report of which is a public document, heard concrete evidence from the industry players that uncertainty was stifling investment decisions. Specific new and existing projects are at risk as we speak because government is not doing its job to provide regulatory certainty. In relation to the permit system I have referred to, which is a recipe for destroying the Australian shipping industry, the report found:

The process most criticised was the administration of Part VI of the Navigation Act 1912 and in particular the issue of single voyage and continuous voyage permits. While no one suggested to the Review that there is never any justification for the carriage of cargo by foreign ships, there is a widespread view that the permit system is being misused to enable foreign ships to become regular operators on the coast.

The report then went on to say:

Development of regular coastal services is being inhibited by what is seen as capricious administration of the permit system that favours foreign operators at the expense of Australian enterprises.

That is a report of some standing, prepared by two respected former ministers for transport, one from either side of the House. I believe that the current Minister for Transport and Regional Services would be minded to listen to the findings of his former colleague and his predecessor. That takes me to the bill before the House this afternoon. It is correct that this bill should be debated after the Morris-Sharp review came to some specific damning conclusions in this regard. I go for example to conclusion VIII, which says:

The Review notes the apparent inconsistency between the Government's policy for coastal shipping, i.e. to obtain the cheapest priced shipping services by accessing foreign ships, and its policy of strengthening border protection.

The report then states:

The Review notes measures to be undertaken by the US Government to limit access to its coastline to those vessels and crew from nations regarded as having a high degree of security. The Review received evidence that Australia risks losing access to US markets due to the use of foreign flagged vessels and crews that do not have the high degree of security required under their strengthened border protection regime.

They are pretty telling comments from the report of the Morris-Sharp inquiry. I think it is important that the House considers these comments today in considering the maritime security bill. They are very chilling findings. They are very chilling conclusions coming from extensive discussions with Australia's maritime players—workers, shippers, governments and unions. It was an exhaustive, comprehensive inquiry which was about strengthening the Australian shipping industry and promoting and protecting Australian jobs and, in doing so, protecting the Australian community against the threat of terrorism, a live threat made worse by our involvement in the Iraq war. Also pertinent to this bill is the conclusion and warning in relation to the cost of maritime security. The report says:

Evidence was provided confirming that increased security would result in increased costs that will be borne by the shipping task.

Yes, it would be borne by the shipping task, not by Australian governments. The report then states:

Australia faces the challenge of remaining competitive, as some competitor's governments will meet all or a portion of the increased security costs. Therefore any new measures would need to be pursued within competitive bounds.

I refer, on the basis of that report, to a comment by the spokesperson for the Minister for Transport and Regional Services to the *Australian* on 20 August of this year, which shows the risk that this view is not being heard in government circles. The spokesman said that there was no chance the federal government would provide any contribution—any money—for the actual costs of added security to the shipping industry. He said:

Security in doing business, whether it's aviation, ports, maritime, down to football games—we don't pay for security.

I believe this comment shows the flippant disregard of the Deputy Prime Minister, Mr Anderson, for current threats to security from terrorism. The opposition contends that it is not reasonable—if anything, it is unacceptable—for the Minister for Transport and Regional Services and the Deputy Prime Minister of Australia to say that the threat of terrorism is a normal, accepted part of doing business. I do not accept that. I especially do not accept it because the shipping industry is at greater risk of a terrorist threat today because of Australian government policy with respect to our involvement in Iraq.

If the government want to make those political decisions which make the terrorist threat to Australia bigger, I contend that the government should also bear some of the costs of protecting Australia against the threat of terrorism. The government cannot say, 'We're going to make political decisions about, for example, our desire to merely do whatever the US says with respect to involvement in Iraq,' create an environment in which we are at risk of a greater terrorist threat and then say to Australian industry—which must remain competitive in an international sense—that industry itself will bear the added cost of security as a result of political decisions that were made with respect to international issues.

Let us not forget that the terrorist threat to Australian business rose significantly when the Howard government ignored the views of the Australian people and waded into the Iraqi conflict with the United States. A political decision was made by this government. Therefore, it is the responsibility of this government to bear some of the added costs of the consequences of our involvement as a nation in the Iraqi situation. Those costs are reflected in the increased costs of security—for example, to the aviation industry and also to the shipping industry. The facts show that the Commonwealth government is not bearing any part of those additional costs to industry at all. They will be borne by industry. In doing so, the Australian government will make Australian industry less competitive in an international sense. That in turn raises serious questions in terms of job security and our ability to sell exports in the international market.

These issues should not be taken lightly. They are very serious issues. They are issues being rammed home to me on a regular basis by representatives of the airline industry in Australia, by representatives of the shipping industry and also by companies that rely on the aviation and shipping industries to compete in the international market. I contend that Australian business and other tiers of government will pull their weight, but it is not acceptable for the Australian government to again walk away without bearing any responsibility.

The Executive Director of the Association of Australian Ports and Marine Authorities, Mr John Hirst, recently reminded us in the press that in the United States the federal government has allocated \$US1 billion to port authorities to upgrade security. Therefore, the US government has effectively weighed in of the order of \$A1.53 billion to batten down the security hatches but the Australian government is weighing in nothing at

all. What a comparison. The costs to Australian industry as a result of the changes embodied in this bill are not insignificant. The explanatory memorandum, I would suggest to the House, has a conservative estimate. We are informed that the set-up costs to security related ports, including port facilities within these ports, could add up to \$300 million, with ongoing costs of up to \$90 million per annum. With the US and other countries subsidising these costs, the level of disadvantage to Australian industry is high, given that this government is not providing any assistance at all.

To be correct, for administrative purposes only, the government has allocated a sum of \$15.6 million over two years for supposed maritime security. But what is it going to be spent on? Not meeting the costs of extra security at a shipping or port level but merely going to departmental costs to put in place the rules or the regulatory regime. Industry will bear the costs of the regulatory regime. The government will establish the regulatory regime and do nothing about the costs of implementing the regulatory regime.

This was often the type of function the department funded previously as part of its normal business and administrative requirements, but we all know that, given the parlous state of the Department of Transport and Regional Services' financial position, what was normal in the past is no longer possible under the current minister's lack of leadership and accountability. I also remind the House that the department of transport, in an administrative and financial sense, almost went to the wall earlier this year because of overspending and mismanagement as a result of commitments made by the Minister for Transport and Regional Services at the last election, which were uncoded and unfunded. This is important because it is about time that the Charter of Budget Honesty also ap-

plied to the Howard government in terms of election commitments.

The Department of Transport and Regional Services was described as being almost broke just after the recent budget in reports given by the secretary to senior departmental officers and in briefing notes that were made available to me. I in turn made them available to the Australian community. Mismanagement, and a lack of leadership and accountability by the Minister for Transport and Regional Services, put the department in that unacceptable situation. But I do commend the department and its staff in trying to do the best possible job in very difficult circumstances. Therefore, I note that in many areas of transport policy the department is now depleted.

I have been informed, and perhaps the minister can answer this question in his response to this debate, that the department does not have one officer with seagoing maritime skills, which are pretty fundamental when you are thinking about maritime security in Australia. Compliance with the ISPS Code in the passage of this bill will require the department to approve hundreds of maritime safety security plans. You must have the expertise in-house to be able to handle those questions. I shudder to think how that will be handled if the skills in the department are not rebuilt as a matter of urgency. The explanatory memorandum to the bill has described the bill as being designed:

... to enhance maritime transport security by:

- establishing a maritime transport security regulatory framework, and providing for adequate flexibility within this framework to reflect a changing threat environment;
- implementing the mandatory requirements in Chapter XI-2 and the International Ship and Port Facility (ISPS) Code of the Safety of Life at Sea (SOLAS) Convention, 1974, to ensure that Australia is aligned with the in-

ternational maritime transport security regime;

- ensuring that identified Australian ports, port facilities within them, and other maritime industry participants operate with approved maritime security plans;
- ensuring that certain types of Australian ships operate with approved ship security plans;
- issuing International Ship Security Certificates (ISSCs) to Australian ships which have been security verified so that these ships will be able to enter ports in other SOLAS Contracting Countries; and
- undertaking control mechanisms to impose control directions on foreign ships that are not compliant with the relevant maritime security requirements in this Bill.

As we all appreciate, it is a large and complex bill that has been subject to the barest level of consultation with the maritime industry. In truth, and in accordance with Howard government form, the maritime unions were ignored until the last moment. I do not believe that that is right, because it is maritime workers who are at the coalface and who are open to the threat of terrorism. Workers should be entitled to be consulted on these issues at first hand. They also play a key role in international forums on safety and security issues. The ISPS Code, which the bill is designed to implement, acknowledges the key role of those labour organisations, their members and workers.

No other country has taken such a blinkered approach to consultation on key legislation for this industry. No other government would be so arrogant and ideologically driven to ignore the valuable contribution that people who work in the industry can offer. The Maritime Union of Australia and the Australian Institute of Marine and Power Engineers wrote a detailed submission setting out their views on the exposure draft of this legislation. When my staff checked last

week, those organisations had not heard back from the department. There is not even any evidence that their submission was read by the department or the minister's office.

These criticisms aside, the opposition do accept the importance of this bill. We will support it today on a highly qualified basis. We also acknowledge that there are time constraints with respect to the consideration of this bill, as the legislation must be in place to enable all security plans to be finalised and each operator issued with an ISS certificate by 1 July 2004. If that deadline is not met then our industry operators and their workers will be disadvantaged both internationally and domestically. However, the opposition will not permit this to obstruct the parliament's legitimate responsibility on behalf of the Australian public to ensure the bill will work and is appropriate.

It is also worth noting that the maritime industry and the members of the House of Representatives have only had a short amount of time to consider what is a very detailed and complex piece of potential legislation. It is important that all parts of the industry have the opportunity to comment and be treated seriously in that process. In supporting this bill I therefore foreshadow that the opposition is not 100 per cent comfortable with the bill in its current form. We will therefore be seeking in the other place to refer this bill to a committee. We reserve our right to move amendments in the other place if our concerns and those of the industry are not properly resolved.

I would also like to identify a recurring problem with the minister's development of critical legislation. Too often, a bill is circulated for consultation with industry and introduced to parliament. Too often, much of the detail in the bill is to appear in regulations that accompany the bill but are not available when the bill is debated. The minis-

ter then expects the parliament, industry and the opposition to simply trust him with the regulations that will be drafted when the department gets around to it. I believe the regulations which underpin the bill and go to its operations at first hand should be available as part of this debate. The minister has again asked the opposition to take a leap of faith and trust him that the regulations will be okay. I suggest today that the minister has to do the right thing by bringing the draft regulations before the Senate committee then circulating them to all industry players who seek to comment on the bill.

The opposition is not about obstructing the passage of the bill. We understand its importance, but we also want transparency with respect to consideration of the bill. It is also important that in the handling of the bill we overcome an apparent conflict between the new powers to be exercised by the departmental secretary to issue orders and the current powers of the harbourmaster delegated through state legislation. The industry argues that clear requirements on the secretary to consult with the harbourmaster, for example, should be included in the actual bill, not in the regulations. I think this is legitimate and should be properly considered. In the same way, the ultimate authority and responsibility for the safety and security of a vessel has always rested with the ship's master. The powers of the secretary must also be clear in this regard. It is important, because people need to know their responsibilities with respect to the operation of this bill.

In the context of my earlier comments about the government favouring foreign shipping operators, it is also important that the Senate committee thoroughly investigate claims that the bill applies more lenient prosecution and enforcement arrangements to these operators. That is unacceptable to the opposition. It is also important that the bill adhere to the intent of the ISPS Code to

ensure that Australian shipping is in concert with and in step with our trading partners. That is a fundamental requirement for Australia to be able to compete in an international environment.

In conclusion I confirm that the opposition will support the bill, although our support is conditional. In the opposition's second reading amendment the government is condemned today for its antishipping industry policies. As I highlighted in my earlier comments, the Sharp-Morris review drove these concerns home. They are shared across industry and, as the Sharp-Morris report highlights, they are shared across the political divide. The government must also be condemned for its tardy approach to developing and consulting on this bill. A draft of the crucial supportive regulations is not available, and they are central to the implementation of the bill and the requirement by the port authorities and the industry to have the proper security processes in place by 1 July next year.

I have circulated a second reading amendment going to our concerns. We will seek to refer the bill to a Senate committee to make sure that it receives proper attention and that some of the questions that we have posed today are actually answered by the government if they are not answered in the minister's response to the debate. I ask that the regulations be brought forward as a matter of urgency. As a result of the Senate process, the opposition will then consider any necessary amendments. I therefore 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) sacrificing Australia's national interest and risking security with their anti-Australian shipping policies that favour foreign vessels

and crew in the name of cheap shipping costs; and

- (2) being tardy with the development of this important maritime security framework by not properly consulting the whole industry".

I commend the amendment to the House.

**The DEPUTY SPEAKER (Mr Lindsay)**—Is the amendment seconded?

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

**Mr CIOBO (Moncrieff)** (12.24 p.m.)—I am pleased to speak to the Maritime Transport Security Bill 2003. At the outset of this debate I would like to put it into a broader contextual framework. I have listened intently to the comments made by the member for Batman. I agree with elements of his speech and some broad connotations, but in large part I disagree with the central thrust of his argument. It seemed to me that the member for Batman premised his arguments on the basis of saying that because the Howard government was willing to take a stand, because the Howard government was willing to make a decision, because the Howard government in broad terms speaks as one and has a forward momentum and policy direction with respect to not only domestic security events but international security events, that has somehow burdened and placed unfair constraints on those Australian businesses that would like to engage in international trade and commerce.

The member for Batman implied that, as a consequence of this government's activities, we had put at risk the viability and commercial interests of Australians seeking to engage in international trade and commerce. Nothing could be further from the truth. The fact is that, as a consequence of this government's actions—which stand in very stark contrast to the opposition's inaction and inability to make a decision and, more importantly, to their complete lack of unity on any

specific policy footing—we have provided what is one of the best seasons ever for Australian companies wanting to engage in international trade and commerce. The highlight of this to me—and this is not tied directly to our activity in Iraq—is the fact that we are now further along the path of developing a free trade agreement with the largest market in the world: the United States of America.

Let it be very clear to all of those that read or witness this debate that we as a government stand in stark contrast with the opposition in terms of the relationship and the friendship that we have with the United States and some 30 other countries that contributed to our involvement in the Middle East. Let it also be very clear that, at a time when we were progressing and building on the solid friendship that this nation has with our strongest ally in history—that is, the United States—the opposition were only keen to engage in personal ridicule, and they have done it again this morning with respect to the President of the United States. If anybody in this chamber jeopardises the future commercial interests and activities of Australian businesses, let it be very clear who it is. It is not the Howard government. The real risk comes from the opposition. The real risk comes from an opposition that seems to be hell-bent on sabotaging any true and strong relationship that we have with the United States.

In addition to this, I listened intently as the member for Batman made all sorts of spurious comments about this government's commitment to waterfront reform from some years ago. The fact is that because again of the strong and decisive actions of this Howard government we now have world's best practice on our waterfronts. The container movement rates that are occurring in Australian ports are so far ahead of what they were prior to Peter Reith's courageous stand with

respect to waterfront reform. It was the opposition that once again stood in the way of trying to make any reforms on our waterfront. It was the opposition who said it was as good as it gets, that it could not get any better than that. We took a different point of view. We and Australian businesses recognised that there was a lot of scope for Australian waterfront workers to be more productive and to work in closer collaboration with their employers, to the benefit of all Australians and Australian waterfront and shipping activity.

I turn now to the core of this debate. Unfortunately, we now live in uncertain times. The world that we grew up in—the world in which we live—has changed. Post September 11, Afghanistan, the Bali bombings and the war on Iraq, terrorist activities now, unfortunately, have a much greater impact on the way in which we live. The Maritime Transport Security Bill is a very important aspect of Australia's national interests abroad. It properly identifies the importance of shipping tasks to the Australian economy and, simultaneously, the importance the government has placed on bringing to account terrorists and terrorist networks.

We did not choose—nor do we want—to have a life and society based on fear and terror, but we will do all we can to fight it. The maritime industry's strategic importance to Australia and to world trade, as well as to the safety and security of Australians both on Australian soil and in international waters, is something this government gives the utmost priority to.

In choosing to speak today on the Maritime Transport Security Bill 2003, I spoke at length with the member for Cook about what this bill proposed and the advantages that would flow to Australian industry as a result of this bill being passed. I am pleased that the opposition, to their credit, are supporting

this bill, recognising that it is an important safeguard for the future of Australian industry. I knew that the member for Cook represented an area with a very large shipping interest, so I turned to him for some insight into the ways in which this bill would, in large measure, assist Australian companies in international business. I know that he would have liked to have spoken on this issue but unfortunately he is in a committee meeting and is therefore unable to do so. So I stand in this chamber not only because of interests in this area on the Gold Coast but also, very importantly, because of the member for Cook's interest in this area.

Australian shipping is one of the major contributors to our economy and it plays a major part in the collective wellbeing of our economy. At present, there are more than 88,000 ships in operation that are charged with the mandate of transporting millions of tonnes of raw materials, goods and services around the world. They form a major part of the economy and are fulfilling the obligations of international trade. The fact is that we punch above our weight. For a small nation, Australia represents over 12 per cent of world shipping tasks. In pure fiscal terms, this translates to over \$100 billion per annum of Australia's export trade being carried by sea.

The value of the products that these ships move and the speed at which they move highlight the sheer devastation that an attack could cause and, regrettably, highlight that they are key terrorist targets. The International Maritime Organisation is the peak body of international shipping and, as such, is charged with delivering the mandate for the necessary safety outcomes. Its role is not to operate ships but rather to set the benchmarks with which ships and shipping companies must comply. Its role has taken on increased significance since September 11 and, more recently, since the French oil

tanker *Limburg* was rammed by a boat packed with explosives off the coast of Yemen. The security of ships and their position as terrorist targets are unfortunately not new phenomena. This bill further strengthens the stance taken by the International Maritime Organisation in the 1980s following the October 1985 hijacking of the *Achille Lauro* when a resolution was passed by the IMO to prevent acts of piracy and armed robbery against ships.

Late last year, the IMO held a diplomatic conference to review the security regime of international shipping tasks, with the aim of further strengthening the global resolve against world terrorism. Specific emphasis was placed on broadening the International Convention on the Safety of Life at Sea, SOLAS, and the International Ship and Port Facility Security Code, the ISPS code. With respect to the SOLAS convention and the fact that compliance is required by 1 July next year, as the member for Batman pointed out, the bill currently before the House is an indication of this government's commitment to this very important issue. Following the December diplomatic conference, the United Nations General Assembly adopted the resolution on oceans and the law of the sea. Specific emphasis was placed on SOLAS and a new chapter on regulation 11.2—control and compliance measures—with 1 July next year being the final day for implementation.

We are obviously under a tight deadline to have these amendments operational by that time. It will not be easy, and it will require the cooperation of all industry participants, as noncompliance will have industry wide ramifications. Let it also be clear that when the member for Batman claims that this government is imposing these new security measures as a consequence of this government's activities in Iraq, he is being entirely deceptive with those comments. These are international standards that we are applying

in order to ensure that Australia is consistent with international requirements. So for the member for Batman to conveniently claim that all these costs are being incurred by industry as a consequence of this government's decisions—in particular he highlighted the fact that we were involved in the war on Iraq and, I presume, he means in broad measure the war on terror—is entirely wrong; it is false. The reason these measures are being imposed is to ensure that Australian shipping complies with international conventions and requirements, and the government simply seeks to facilitate the broad thrust of the international changes that are taking place. It is this government's task to implement preventative security arrangements and that is what we seek to do.

Noncompliance will have serious economic and commercial effects. It is fair to say that the United States has been at the forefront of the global fight against terror. The United States is also one of Australia's key trading partners, and their government have indicated that they will be adopting a zero tolerance policy with regard to non-compliance. We cannot—and indeed must not—risk the damage that would be caused to industry by noncompliance with these measures.

As part of its remit to ensure a safe, efficient, sustainable, accessible and competitive transport infrastructure, in May this year the Commonwealth, state and territory transport ministers met as part of the Australian Transport Council forum, where they 'agreed to the principles for the development of a national transport security strategy.' Ministers agreed to the national maritime transport security framework as developed by the Commonwealth with the states, the Northern Territory and industry stakeholders. Further, with Australia being a signatory to the SOLAS convention, ministers committed themselves to ensuring that Australia meets

that 1 July 2004 deadline I spoke of earlier. The Department of Transport and Regional Services has been charged with the responsibility of maritime security regulator.

With respect to the International Ship and Port Facility Security Code that I mentioned earlier, the bill that we are debating provides the basis for the legislative framework for the ISPS code in Australia. The code itself is very detailed, but it is in essence a risk management policy. It contains details and requirements on security related issues for government, port authorities and shipping lines to operate within. It comes with guidelines for implementation of these requirements and the maintenance of some basic minimum functional requirements. This code will provide a consistent and hopefully standard framework from which to evaluate and further respond to maritime risk. The legislation will require that ports, port facilities and ship operators successfully demonstrate that they have the necessary skills and experience to complete the security assessment.

Obviously, different crimes will incur different penalties. However, there will be a nationally consistent policy. Penalties will need to be fair but firm in order to ensure that important trade through the maritime industry is undertaken in a manner that is professional and not likely to bring the industry into disrepute or harm's way. The federal government has announced that \$15.6 million will be made available to develop new legislation and to ensure that all operators affected by these changes will be compliant.

This bill will have far-reaching effects on Australia as well. At present, it is estimated that 70 ports, 300 port facilities and 70 flagged vessels will be affected. The ramifications will be extensive and the costs to industry operators will be high. However, any stated costs at present are subjective and

purely conjectural. In the general scheme of things, the costs may well be negligible. In a recent study, it was estimated that an attack on maritime transport in the United States might cost the industry as much as \$US58 billion. Up-front costs would surely be preferable. Indeed, this goes to the core of the arguments that this government is putting forward with respect to some of the costs that will, regrettably, need to be borne by industry. These costs, when compared with the costs that could potentially flow from a terrorist strike, are small—they are infinitesimal compared with the costs that could flow were an attack to occur.

This underscores the point that, as much as we possibly can, we must be vigilant in the protection of our shipping interests. We could be paralysed by an action with respect to Iraq or countries that harbour and indeed aid terrorism, but costs like those are absolutely swallowed up when compared with the substantial costs borne by countries, communities and companies and also the loss of life that results from terrorist strikes and attacks. So, quite frankly, something has to be done in terms of being a responsible global citizen. That is what this bill does. With world affairs as they are, unfortunately, security costs have to be added to normal business expenses as part of this changing global environment in which we live.

Foreign ships in Australian waters will need to be prepared most stringently in order to have a right of passage in Australian waters and at Australian ports. Compliance with this bill will in many cases mean the installation of new security equipment including, for example, 24-hour closed-circuit TVs, X-ray machines, more barrier controls, dedicated satellite communications systems and automatic identification systems. If we are expected to uphold the benchmarks as set by the IMO and this legislation, we must expect and demand no less from foreign ships com-

ing into Australia. With respect to maritime environmental safety, Australia has an international reputation for being tough but also fair. This will continue. Noncompliance or suspected noncompliance with our laws will result in potential expulsion from Australian waters of those non-complying vessels.

In conclusion, this bill represents the government's commitment to being a responsible global citizen. Unfortunately, we know all too well that terrorism and terrorist attacks know no real boundaries. They are devious in the extreme, ubiquitous in nature and indiscriminate in their targets. Shipping tasks are a natural target due to their importance in world trade and global economics. Everything that can be done must be done to prevent these acts of terrorism that threaten the security of passengers, crews and the safety of ships. This bill does exactly that and I commend it to the House.

**Ms HALL** (Shortland) (12.44 p.m.)—As I sat here listening to the previous speaker debating the Maritime Transport Security Bill 2003, I became quite perplexed over his lack of understanding of how the shipping industry in Australia is working today. To listen to him, you would believe that the government were determined to ensure the safety of our ports, and that they were bringing in a new safety regime that would actually make our ports more secure. Whilst I am not going to speak against this legislation—and I will deal with it in some detail—I think it is important to note right at the outset that this government's policy of allowing foreign owned ships to operate within Australia has really jeopardised our safety from both an environmental point of view and a shipping point of view. I represent within this parliament a coastal electorate that has had a long association with the maritime industry in both peacetime and wartime. Many residents of the Shortland electorate work within the maritime industry. I have spoken to them on

many occasions and they have actually expressed to me concern about this very issue.

The government's approach to any legislation dealing with the maritime industry always leaves a lot to be desired. Unfortunately, its handling of this important piece of legislation reflects its ideological hatred of and lack of commitment to our Australian shipping industry. This is to the detriment of Australia as we are an island nation that is noted for its maritime expertise. Internationally, Australians working in the maritime industry are highly respected for their knowledge and professionalism, yet this government has constantly undermined an Australian industry that provides jobs for Australian workers. The Howard government's approach to the Australian shipping industry is very different from the approach being adopted by overseas governments. For instance, those in the UK appreciate the importance to their nation of a strong shipping industry from the point of view of both on-shore and offshore activities. There has been considerable effort put into rebuilding the industry over there because of the benefit that it gives to a nation. Within the European Union there has been a commitment to the industry, including a commitment to developing the skills in that industry. Compare that with what is happening in Australia. The industry has been undermined by this government, by the skyrocketing number of continuous voyage permits and single-voyage permits that have been given to overseas flagged ships and by the ideological hatred that it has towards the union. This has actually driven its shipping policy, rather than it looking at what is best for us as a nation. Believe it or not, this is reflected in this legislation, as I will discuss in more detail in a moment.

Since September 11 many nations have taken a greater presence in international shipping for both security and environmental

reasons. Serious concerns about port security have surfaced, and internationally this concern has been addressed by nations ensuring that there is a continuing pool of their own nationals that have maritime skills and expertise. A nation having control over and encouraging growth within its shipping industry actually ensures that there is greater security, because there are enormous security implications when you hand the control of an industry such as shipping over to another nation. In Australia, unfortunately, the scales are heavily tilted against the Australian industry, as I have mentioned, with the government issuing continuous voyage permits and single-voyage permits and the different treatment that these overseas flagged ships have. The current tax and regulatory system favours foreign ships with foreign crews. This is not in Australia's interests from the point of view of our security, our industry, our country and our economy.

This legislation has implications for the Australian shipping industry. Historically, the maritime industry has not been subjected to the same level of security as have other industries, such as the civil aviation industry. For a long period of time workers within the maritime industry have been expressing to me their concerns about the fact that the security implications of the overseas flagged ships and their operations within Australian waters have been ignored by the government. Even though we have this legislation, I do not think that has been addressed properly. This legislation is endeavouring to introduce a marine security framework to address the threat of terrorism. Whilst it is doing that through establishing a maritime transport safety regulatory framework, providing for adequate flexibility within the framework to reflect a changing threat environment and implementing the mandatory requirements that are in line with the SOLAS convention, and while it also ensures that it identifies

Australian ports and the port facilities within them and that other marine industry participants operate with approved maritime safety plans—and there are a number of other items—I believe it does fail to really address a number of issues. I would like to concentrate on this for a moment. The legislation has been forced upon the government in response to the lead taken by the International Maritime Organisation, so do not for one moment think that it is an initiative of this government. This government does not introduce initiatives in the area of the maritime industry unless it is to wreak havoc upon it. That is very important to remember.

There is a commitment by transport ministers to meet the international deadline for compliance of 1 July 2004. In short, port operators and shipping lines are concerned about some of the problems with this piece of legislation: the prescription of the regulatory framework and the inconsistencies that exist within it. It is no surprise here that the government has failed to consult with the unions—and with the MUA in particular. This minister would walk away from any meeting with the MUA. By failing to consult, what has happened is that we do not have legislation that is the best legislation. The most important thing is for this piece of legislation to ensure the safety of Australian ports. This government's failure to talk to the unions has created a real weakness in this bill. It fails to reflect the general tenor of the ISPS code, which fostered a more cooperative approach to the detection of terrorist threats and the prevention of security incidents. That is a very important factor. We listened to the previous speaker, who rambled on about what a wonderful job the government is doing and who talked about Iraq. But he failed to talk about the most important thing when you are developing legislation: talking to the stakeholders to ensure that you have the right sort of legislation to

actually implement what you are trying to do.

There is also an apparent contravention of Australia's obligation under clause 10 of the ILO freedom of association convention. There should be no interference with the fundamental rights and freedoms of maritime port workers. Of course, this government would pay little attention to that. There is the potential for these provisions to limit the right of access of seafarers to welfare agencies. Once again, that is something I do not think this government is particularly concerned about. The bill fails to recognise that foreign ships pose much greater security risks than do Australian ships. It is very important to note that this government's performance in this area over a long period of time has been very lax. The number of foreign flagged ships, crewed by foreign crews, that enter Australia and the lack of control that the government has in place should raise concerns in everyone's minds.

I see that the member for Newcastle has joined us here in the chamber and will speak next. Earlier—it was this year or last year—we visited a ship in Newcastle harbour, *Angel 3*. It is interesting to note that that was a Maltese flagged ship which was crewed by Burmese people, and the captain of the ship was Greek. It has a very interesting history. The ability to be certain that the safety of either those crews or our ports could be assured was not there. I feel that this government has failed in many cases. You have Ukrainian seafarers on Maltese ships, and this government makes absolutely no connection to ensure that there is safety. This government has such a history of undermining and distorting our maritime industry simply because it is philosophically opposed to an Australian ship industry manned by Australian workers. Its ideological opposition to the MUA drives all its endeavours in this area.

This legislation has also failed to clearly coordinate proposals for maritime security with the activities of other relevant authorities once again. It fails to communicate with all key stakeholders. Unfortunately for Australia, this government's failure to give proper recognition to the union's role and its failure to work with the union once again undermines all aspects of this bill. If you do not include the workers and you do not develop legislation that is inclusive then you have problems. There is also some conflict between the departmental secretary's power to issue orders and the power of the harbourmasters. This has not been sorted out. The government says that this will be addressed when it comes to the regulations but, quite frankly, I do not think that is good enough. We should know what the regulations are prior to this bill being passed by the parliament.

This government's obsession with destroying the MUA is leading to lost opportunities for the Australian economy, Australian industries and Australian workers. There has recently been an independent review of the Australian shipping industry. This review of shipping was chaired by two former transport ministers, the Hon. John Sharp and my predecessor, the Hon. Peter Morris. He was responsible for the *Ships of shame* report and the report of the International Commission on Shipping inquiry into shipping safety, which was titled *Ships, slaves and competition*. They tabled a report last Friday at a conference in Brisbane. That report homes in on some of the important aspects of this particular piece of legislation.

I will turn to the section of the report that deals with national security and share with the House what the review noted. Under the heading 'National security', it noted that there was an inconsistency between the government's policy for coastal shipping—that is, to obtain the cheapest priced shipping

services by accessing foreign ships—and its policy to support border protection. As I said earlier, on the one hand, foreign ships flagged in one country and crewed by a different nationality are coming in and out of Australia's ports without proper scrutiny, while on the other hand the government talks about strengthening border protection. This highlights a real inconsistency and this government fails to address that in this legislation. It treats foreign flagged ships in a more favourable fashion than Australian flagged ships. To be quite honest, that is not good enough. If we have legislation that is about ensuring security in our ports, we need something just a little better than that.

The previous speaker, the member for Moncrieff, made an interesting point when he highlighted the importance of having a strong security regime in our ports similar to the US government. The review noted measures undertaken by the US government to limit the access to its coastline of vessels and crews from nations regarded as having a high degree of security risk. We have a free flow of foreign flagged ships. The US government has recognised that these foreign flagged ships create problems and have put a high degree security around them.

It is unfortunate for us that the Australian government have absolutely no commitment to our shipping industry. They are prepared to allow foreign controlled ships to take over our shipping industry. That is very sad, and there is no report that has been conducted anywhere that supports this. All the reports and all the evidence show that the way to ensure the country's interests are met, and that we have a strong economy, is through our own strong national shipping industry. The way to ensure security is through an Australian shipping industry. To be quite honest, this legislation demonstrates yet again that we have a government that will

not consult and that does not have the interests of Australia at heart.

**Ms GRIERSON** (Newcastle) (1.03 p.m.)—The Maritime Transport Security Bill 2003 reflects, more than anything, the changing times we now live in—times when the threat of terrorist activity can no longer be confined to other less stable or less developed countries; times when we know that the threat of terrorism is a real one that can strike any nation at any time. Today, as we approach the anniversary of the Bali tragedy, where many Australian lives were lost through an act of terrorism, we can reflect on what Australia has done to respond to this threat. This legislation, the Maritime Transport Security Bill 2003, is one of those responses.

So how good is it? The opposition will be supporting this legislation, but with specific amendments put forward to draw attention to the government's failure in protecting the Australian people by dismantling Australian shipping and favouring foreign vessels—vessels which frequently fail the safety, security and labour standards that most Australians would expect. The opposition's amendments also draw attention to the poor process the government has applied in developing and finally introducing this legislation to the parliament.

This bill deserves very close scrutiny because, as a security measure, it reminds us that, although we live in a globalised world of change and uncertainty, we can deal with that best by taking our national strengths and building on them to protect the quality and way of life we have become used to. One of our strengths was, historically, a tradition of a strong maritime industry—a tradition born of historic necessity; an island nation, as we are, separated from the world by vast oceans, dependent on maritime trade for our survival. Although aviation now complements our

international trade, shipping remains vital to our nation's prosperity.

At a time when other nations like the United States of America are re-securing their maritime industry and developing policies that favour their own national shipping lines and operations, this government continues to favour the cheapest price and the highest profit-supporting foreign vessels of dubious integrity instead of finding the appropriate balance between competition and national and industry security. That balance, if effected properly, would see a modern Australian fleet participating competitively in both global and domestic trade, supported by highly skilled Australian seafarers operating through efficient ports that are manned by skilled waterside workers and strengthened by associated industry—engineering, marine design and maritime training, with efficient freight and logistics operations, and adequate port and transport infrastructure. Applying these criteria to the current state of the maritime industry shows that this government has failed miserably.

Securing the Australian maritime industry is not a priority for this government, but let us see how sincere it is about providing security within the maritime industry. If this legislation is effective we anticipate that it will bring about security regulations that encourage and facilitate best practice in port security and in onboard security for vessels in Australian waters. It will also provide high standards of security protection that give confidence that security incidents will be minimised, thus ensuring the safety of Australians. So let us look at this legislation. The purpose of this legislation, as stated in the bill, is to:

... enhance maritime transport security by:  
establishing a maritime transport security regulatory framework, and providing for adequate flexibility within this framework to reflect a changing threat environment ...

Importantly, it also has to implement the mandatory requirements of the International Ship and Port Facility Code of the Safety of Life at Sea Convention 1974 to ensure that Australia is aligned with the international maritime transport security regime. That is vital. Without that, our vessels will not be able to operate in other ports around the world.

The bill also has the purpose of ensuring that identified Australian ports, port facilities within them, and industry participants within those ports operate with approved maritime security plans. It also aims to ensure that certain types of Australian ships operate with approved ship security plans. It will also bring about the issuing of international ship security certificates to Australian ships which have been security verified, so that these ships will be able to enter ports in other countries that also ascribe to these requirements.

Another purpose of this legislation is to undertake control mechanisms to impose control directions on foreign ships that are not compliant with the relevant maritime security requirements in this bill. You would think they would not be allowed to operate here without compliance, but apparently they will still be allowed to trade here.

This legislation will not apply to naval vessels or those vessels operated by Commonwealth maritime agencies such as Customs, Quarantine and AMSA. I have no problem with these exemptions, having seen first-hand the professionalism adopted by the Australian Defence Force and the Australian Navy and having observed the high standard of activities carried out by Commonwealth agencies that operate in Newcastle harbour—my home port.

Looking more closely at the many parts to this legislation, part 1 details a security level system that will come into effect, starting at

the default level 1—all ports will start at that default level—and progressing to level 3 security status according to imminent threats. These levels, though, to be ascribed to specific ports will be at the discretion of the DOTARS secretary—a great responsibility to be given to a head of a department. For that to be effective, it will depend upon excellent communications between port authorities, shipping operators and the department; yet the legislation does not detail any additional support for those communication and information systems.

Through the legislation, the Secretary of the Department of Transport and Regional Services may also give other specific directions if he or she considers unlawful interference with maritime transport could be imminent or probable. Having stood on the docks at Carrington in Newcastle with the MUA members during the Patricks dispute, I can only hope that this provision can never mean that the department secretary can invoke these provisions to prevail over industrial disputes. That is not the way we do things in Australia. Arbitration and conciliation comes from other legislation. This may not be the intention of this legislation, but few of us trust this union bashing government not to distort the legislative process to advance their own industrial relations agenda. That is one reason that we in the opposition want this bill to go through a Senate committee process and be scrutinised correctly.

A major part of this bill is the requirement for the industry—that is, every port and all port users—to develop security plans. These plans are to be approved by the secretary and reviewed over time. I note that this review process is not defined or detailed in the bill but, apparently, the same will apply to individual ships, with foreign vessels required to provide pre-arrival information as well as their international ship security certificates to

demonstrate their compliance with the provisions of this bill.

I have seen such a port security plan. In Newcastle we have a well-established and effective port users group as well as a seafarers welfare committee that meet regularly to advance the interests of the port of Newcastle and the users of our port. In fact, the Newcastle Port Corporation has developed its security plan and has had a proactive and continuous improvement culture that promotes an efficient and safe port. As a member of these organisations, the Newcastle Port Corporation knows the benefits of collaboration across the industry. It understands that the success of any security plan will depend on the goodwill and attitudes of people associated with the industry. Security depends on people noticing breaches, risks or possible incidents. It requires people to constantly scan the port environment and it requires an established risk management culture. Perhaps this culture is not well established yet within DOTARS—given recent aviation security breaches—however, I congratulate the Newcastle Port Corporation on its foresight and professionalism.

I also take this opportunity to congratulate the Newcastle Port Corporation on its efforts in finally persuading the New South Wales Premier, Bob Carr, that container traffic from the port of Botany must eventually expand to the port of Newcastle. This is a very welcome announcement and, although it will not see immediate benefits delivered to Newcastle, it gives certainty to freight operators that they will eventually have to plan for future expansion on the east coast through the port of Newcastle and of course, to some extent, through Port Kembla. It gives certainty that the environmental concerns regarding the continuing expansion of the port of Botany—which have been expressed by every local government council located around Port Botany and also located on the transport

routes from the port through Sydney—are now being acknowledged by the state government. It makes sense to locate out of Sydney.

I also mention, as my colleagues have, the independent review of Australian shipping which was prepared, as the member for Shortland said, by her predecessor Peter Morris and another former minister for transport, John Sharp. That review says that one of the most important things for the industry is certainty. That certainty has now been delivered in New South Wales.

The move to develop a multipurpose freight terminal on the cleared BHP site in Newcastle has been an endeavour strongly supported by the Newcastle City Council, the Hunter Economic Development Corporation, the Newcastle and Hunter Business Chamber and the Newcastle Trades Hall Council. This unity of purpose not only has been based on the desire for further maritime activity and job growth but also has been assessed as advantageous to the industry because of our skilled work force and our port efficiency as well as the availability of an outstanding site, having deepwater access and excellent transport links to Sydney, within New South Wales and interstate. I remind the House that Newcastle harbour is the largest and most efficient exporter of coal in the world.

I note that today in the *Newcastle Herald* the CEO of the Newcastle Port Corporation is reported as saying how important additional staffing and security equipment would be to the port of Newcastle when those developments occur. The screening of containers is now under way and the scanning process has been introduced elsewhere. Those ongoing improvements will be watched very closely before Newcastle's participation in a multipurpose terminal.

When I mention the high volume of trade for Newcastle, I think it is important to note

how extensive trade is through our port. In the last financial year, the Newcastle port had 2,806 shipping movements of 76.8 million tonnes of trade. It exceeded that of the port of Brisbane, which had about a third of that, with 23.2 million tonnes of trade and 2,297 vessels moving through it. Obviously, the port of Newcastle is a vital one to our economy and will certainly require careful consideration in the security plans.

I also thank and acknowledge the support of the member for Batman, the shadow minister for transport, for his support of the MPT project in Newcastle. But, in praising the forward planning of Newcastle Port Corporation, I also note that the development and implementation costs of all the security plans proposed in this legislation will be passed on to the industry itself. There is no financial support in this legislation for the industry or for port authorities to develop security plans. If the government were serious about maritime security or shoring up the Australian maritime industry, it would take some responsibility and perhaps cost share instead of passing the full burden on—but we are getting used to a mean-spirited government that quite frequently passes the buck.

When we look at the funding for this legislation, the only funding included is to assist the department to enact these measures—a budget allocation of \$15.6 million over two years. Given that the department was on the brink of insolvency, it seems it is getting a much needed handout to keep trading or, should I say, operating. However, it seems that set-up costs to the industry will be in the order of \$300 million, with estimated ongoing costs of up to \$90 million per annum and no handout at all from the Howard-Anderson government. So how do we remain competitive with these costs, one may ask? As long as foreign mates and monopolies do okay, this government does not seem too worried

about the sustainability of the Australian shipping and maritime industries.

The legislation also speaks of the importance of information gathering and processing. That means data management and information management systems will be crucial to the success of this legislation. They certainly do cost money, but sadly my experience on the Joint Public Accounts and Audit Committee suggests that, within our Commonwealth departments, there is a systemic problem with agencies not yet devoting enough resources to this massive task in an information dependent age.

I share the industry's expressed concerns about the level of prescription anticipated in this legislation. If that level is not realistic and bears no relevance to actual practice within the industry then success will be very difficult. So one would expect that consultation would have been extensive. But, sadly, that has not been the case. Apparently DOTARS have failed not only to consult with the industry but also to coordinate these proposals with the major associated Commonwealth agencies, such as the Australian Maritime Safety Authority, Customs and AQIS, which are on the job constantly. The Maritime Union of Australia and the Australian Institute of Marine Power Engineers have been completely sidelined in the Howard government's approach to consultation. Apparently the bureaucrats know best about our ports and maritime transport industry; those who actually work in the industry are totally ignored.

We in the opposition also have concerns about the double standards in this legislation, which include different provisions for local and foreign ships. One would think that the government would be tougher on foreign ships, but that does not appear to be the case, with some considerable trust being extended to foreign ships. As the previous speaker, the

member for Shortland, mentioned, she and I did visit a flag of convenience ship in Newcastle harbour, and trust was not something I felt I could extend to the captain or his first mate—whom I found sinister and quite intimidating. They seemed committed to concealing rather than revealing. Concealment does not support good maritime security.

Our other concerns are for the restrictions that this legislation could place on freedom of association. That is why the seafarers' welfare committees set up around our ports by the International Transport Federation are so very important—and I praise the ITF's efforts and endeavours to establish these in all our ports. Seafarers have needs to be met when visiting our ports, and already some on foreign ships face major restrictions from their ship operators. Frequently, they are confined to the ship throughout the whole visit. If security is to be handled correctly then movement around ports and security checking of everyone is vital. I remind the House of the failure to correctly security check visitors at Sydney airport recently which resulted in the theft of computer servers belonging to Customs.

Enforcement of the security provisions may also be a problem. I think it is a considerable one for Newcastle, given that in my city this government closed down the Australian Federal Police office and reduced its presence to one officer collocated with the Centrelink office. Apparently debt recovery from the Australian people is a major priority but not port security.

Experience with this government also shows that, whilst they will not fund the new security measures, they cannot be relied on to police them or to be proactive with resourcing regulatory bodies that have the enforcement oversight role. You might remember how APRA failed to foresee the insurance crisis or the medical indemnity cri-

sis. And remember, too, how the Australian Securities and Investment Commission did not foresee the collapse of One.Tel. Although many financial advisers did raise concerns with the government, they apparently did not listen. This government do have a hands-off policy when it suits. Maritime security is not an area where it should suit.

Although there are 13 parts to this legislation, the regulations to support them have not been developed or shared with the House. Too often, as we all know, the devil is in the detail, but we have not seen the detail yet. In the meantime, the industry has just got to get on with it—and so will DOTARS. Given that we need to comply with the International Maritime Organisation's requirements by the end of the year, there is no time for delay. However, this is also not the time for slipshod legislation. With the majority of our population residing in cities attached to ports, the security of our maritime transport industry is vital to Australia's prosperity and safety. Those ports host grain terminals and oil terminals—places where security would obviously have to be very high given the possibility of explosions.

A major incident in the port of Sydney, Melbourne, Brisbane or Newcastle could affect hundreds of thousands, if not millions, of people. If this government cannot get it right for securing our Australian maritime industry, it has to get it right in protecting maritime transport security. The Maritime Transport Security Bill 2003 must be scrutinised and hopefully improved. That should be done by submitting it to the Senate committee process so that it has the consultation and rigour applied to it that would certainly lead to success. Although I support the bill, my comments express my reservations about the process, the content and the resourcing required to bring about the maritime security we need. I also support the amendment moved by the member for Batman.

**Mr DANBY** (Melbourne Ports) (1.22 p.m.)—I rise to support the amendment moved by the honourable member for Batman to the Maritime Transport Security Bill 2003. I have a particular interest in this bill because I have the honour, like some of the previous speakers, of representing a great maritime centre of Australia. In my case, I represent the unique waterfront community of Port Melbourne and have as many of my electors and friends many past and present workers on the Melbourne waterfront and in the Australian merchant fleet. These are great industries which this Australian government is rapidly destroying.

The purpose of this bill is to enhance Australia's maritime transport security by establishing a maritime transport security regulatory framework and by providing for adequate flexibility within this framework to reflect a changing threat environment. The bill seeks to implement the mandatory requirements in the International Ship and Port Facility (ISPS) Code and chapter XI-2 of the International Convention for the Safety of Life at Sea 1974 to ensure that Australia is aligned with international maritime transport security regimes. It provides that identified Australian ports, port facilities within them and other maritime industry participants must operate within approved maritime security plans and that certain types of Australian ships must operate within approved ship security plans. It also provides for the issuing of international ship security certificates to Australian ships which have been security verified so that these ships will be able to enter ports in other SOLAS-contracting countries. It puts in place mechanisms to impose control directions on foreign ships that are not compliant with relevant maritime security requirements in this bill.

The honourable member for Batman has set out very clearly the opposition's position on this bill. We support both its intentions

and its general provisions, but we believe the bill could have been more effective and brought before this House much sooner if the government had properly consulted with the whole of the maritime industry beforehand. We accept that this bill addresses matters of urgency, and we have no desire to delay the bill unnecessarily. But we have seen before that hasty or ill-drafted security legislation sometimes does more harm than good. I am sure that honourable members opposite recall the mess that the government got itself into with the ASIO legislation. That bill would have been passed much more quickly if the government had listened to advice before rushing to legislate, and I believe the same is true of this maritime security legislation.

We believe that the parliament has the right and the duty to scrutinise carefully both this bill and the regulations made pursuant to the bill. Therefore, the opposition reserve the right to propose detailed amendments to the bill when it has been subject to the scrutiny of a Senate committee. A bill of this kind, which affects vital Australian industries and the security and livelihood of many Australian workers, should always be the subject of proper consultation with the community. That the government failed to properly consult is not surprising. It is, after all, the same government that only a few years ago was willing to see Australia's entire maritime work force lose their jobs and be replaced by a set of semiskilled heavies trained by a shonky labour hire firm in far-off Bahrain. This government has no interest in the views of those who actually work in the maritime industry.

As the honourable member for Batman said, the current Australian government has been willing to sacrifice both the jobs of Australian maritime workers and Australia's national security with its open door shipping policy—a policy that puts the profits of foreign shipping companies ahead of both the

employment of Australians and the security of Australian ports. Obviously the Minister for Transport and Regional Services has not read, as I have, the history of the courageous role that Australian merchant shipping played during the Second World War. I draw government members' attention to the very substantial role that merchant shipping provided in the security of Australia in the last international conflict, World War II, and to the incredible number of ships that were sunk along the Australian coast.

It seems very odd having foreign ships doing all of our coastal shipping, effectively, through the single-voyage permits that the government gives out willy-nilly. No security regime in Australian ports can succeed without the cooperation and participation of those who work in those ports and on the ships using those ports. Yet such is this government's hatred of the maritime unions—and we all recall why this government hates the maritime unions—that it has made no real effort to consult with the work force of the maritime industry, the very people who will have to carry out the provisions of this bill. It is precisely because we on this side of the House support most of the measures in this bill and want to see the security of Australian ports and ships improved that we think it is negligent of the government to have done so little to consult the work force and their representatives. It is, after all, Australian port workers and Australian seamen whose lives would be most at risk if there were to be a major terrorist attack on an Australian port, just as they did in Axis submarine attacks that I previously mentioned.

Let me now turn to the threat of terrorism in the maritime industry, both in Australia and in our region. This threat is not a new one, and the government has had plenty of warning that this was an issue it was going to have to address. It does not take much imagination to see that people who were ca-

pable of hijacking civilian airliners and using them as weapons for mass murder on September 11 would also be capable of hijacking an Australian cruise liner and holding it hostage or of hijacking a tanker full of liquefied natural gas and using it for a suicide attack on a port or a naval facility. In fact, it is logical to suppose that, as both airports and land based targets such as embassies and government buildings have improved their security, the attention of groups in our region such as Jemaah Islamiah will turn to softer targets, such as shipping. Not far to our north are some of the busiest ports and shipping lanes in the world. Up to 300,000 ships a year pass through the Strait of Malacca between Indonesia and Malaysia, including ships carrying two-thirds of the world's trade in liquefied natural gas. Hundreds of ships bound to and from Australian ports—some of them, despite this government's best endeavours, carrying Australian crews—pass through these waters.

Threats to shipping and port facilities are not idle speculation. We have seen the attack on the USS *Cole* in Yemen, which killed 17 sailors. That was an attack on a fully armed warship. How much easier it would be to attack a freighter in an Australian harbour or an LPG carrier off the Australian coast. Last October we saw the attack on the French supertanker *Limburg* off the Gulf of Aden. Maritime terrorism is not a figment of the imagination; it is a fact, and this bill is a welcome but overdue response to that threat.

The al-Qaeda operative responsible for the *Cole* attack, Abd al-Rahim al-Nahiri, was captured by last November. He has told those questioning him that al-Qaeda is planning more attacks on American and British warships; but attacking warships will now be much harder, following the *Cole* incident. Terrorists always prefer soft targets, as Australia learned to our sorrow last October after Bali. Merchant ships, oil tankers, cruise lin-

ers and undefended civilian ports offer much easier and more tempting targets than armed and alert naval vessels.

The terrorist groups in our region have been dealt severe blows by the liberation of Afghanistan from al-Qaeda and the Taliban and by the arrest, by the Indonesian police, of the network that was responsible for Bali, including leaders such as Abu Bakar Bashir and, particularly, Hambali. There are extraordinary revelations emerging from Hambali's interrogation in the current issue of *Time* magazine, particularly his continuing targeting of people in this part of the world. Both al-Qaeda and Jemaah Islamiah are, unfortunately, still alive. Some cells are known to be planning new attacks in our region. The Singapore *Straits Times* reported recently that a JI group known as Unit Khos, which was responsible for the bombing of the Marriott Hotel in Jakarta, is still operational and is planning new attacks. Reports also said that, although al-Qaeda has been largely decapitated by the capture of many of its key leaders, Hambali's interrogation is revealing that, since the removal of the Taliban regime in Afghanistan, a third generation of al-Qaeda operatives seems to have emerged. These groups operate as independent groups and are still in existence.

It is particularly alarming to learn that al-Qaeda is actually in the shipping business itself. Using some of the money channelled to it by so-called charities in Saudi Arabia and elsewhere, al-Qaeda intermediaries are believed to have bought more than 100 vessels, mostly fishing trawlers but including some freighters operating under flags of convenience. As things stand at the moment, there is very little to prevent an al-Qaeda operative filling one of these vessels with explosives, sailing it into a port and then exploding it—or perhaps threatening to explode it as part of an extortion bid. The House may not know this, but a relatively

similar incident happened in the Port of Melbourne in 1863, when a ship of the navy of the Confederate States of America, the CSS *Shenandoah*, sailed up the Yarra, trained its guns on the city of Melbourne and demanded to be given supplies and to be allowed to recruit new crew members, contrary to international law. Melbourne was completely defenceless in the face of this threat. I doubt whether it is much better defended in the 21st century.

As usual since this government has been in power, other countries are well ahead of Australia in taking steps to protect port facilities and shipping, as well as the lives of maritime workers and residents of maritime communities such as those I represent, against the threat of terrorist attacks. Since September 11, the Port of New York has greatly tightened its security, closing off access from the landward side and imposing strict registration requirements on vessels entering the port, which must now give 96 hours notice. In the Mediterranean—another vital shipping lane—NATO is undertaking surveillance of all merchant shipping. Recently Greek authorities seized a suspicious ship, heading for Sudan, which was found to be loaded with 750 tonnes of ammonium nitrate and 140,000 detonators. This is the same deadly mix that was used by the extreme right wing terrorists who were responsible for the Oklahoma City bombing. Ammonium nitrate was also the substance used by the Bali bombers. Can honourable members imagine the devastation that would result if a ship carrying such a cargo were detonated in an Australian port?

The Port of Singapore, one of the busiest in the world, has also taken the threat of terrorism very seriously—more seriously than we have. Malaysia has a comprehensive plan, and forces in place, to deal with the contingency of a ship-hijacking in its ports or coastal waters. Dr Mahathir's actions on

these kinds of issues are, as usual, different from his rhetoric. We should not kid ourselves that such things can happen only in distant parts of the world such as the Gulf of Aden—although there is plenty of Australian shipping passing through that area as well. Lloyd's of London, who have a huge financial stake in maritime security, have repeatedly warned that South-East Asia is the area most vulnerable to this kind of attack on shipping.

Recently, Lloyd's reported that a group of Indonesian Islamists, who had returned from fighting with the Taliban in Afghanistan and who called themselves Group 272, were planning to destroy an oil tanker in the Strait of Malacca. Such an attack would cause immense damage to Australia's trade—indeed to trade of all countries going through that vital shipping lane. But reports of this kind also open the possibility that a tanker hijacked by a group like this could be sailed into an Australian port.

I would like to be assured that Australia has a capacity similar to that of Singapore and New York to defend its ports and the people who work in and around them. I am sure that other members of this House who represent port communities, such as the members for Gellibrand, Sydney, Port Adelaide, Fremantle and Newcastle, would also like such an assurance. Unfortunately, I am not assured. As the member for Batman pointed out, the Morris-Sharp report, compiled by two former transport ministers, one of them from the minister's own National Party, pointed out the contradiction—some might say a Sharp contradiction—between this government's stated desire for greater maritime security and its policy of obtaining the cheapest-priced shipping services by allowing unrestricted access for foreign shipping.

This bill sets out a number of measures to improve the security of Australia's ports and ships. The opposition supports the general thrust of these measures, but the key question here is, as it is so often: who is going to meet the cost? The Deputy Prime Minister and Minister for Transport and Regional Services, who is here in the chamber, is on record as saying that the government does not pay for security. So presumably these costs will be passed on to industry. This House should not kid itself on this question, nor should it allow itself to be kidded by the government.

The security regime proposed in this bill for Australian ports will be expensive. As the honourable member for Batman pointed out, in the United States the federal government has allocated \$US1 billion—or \$A1.5 billion—to port authorities to upgrade security. The costs in Australia will certainly be proportional. The member for Batman estimated that the total set-up costs could be \$300 million, with ongoing costs of \$90 million per annum. Yet the government, in my view, has washed its hands of these costs. It has allocated but \$15.6 million over two years for maritime security. This will be spent in the department to 'put in place a regulatory regime'. The actual costs of implementing the measures in this bill will have to be borne by the states and by the industry. I suspect that the government's intention is to pass this bill and then say, 'It's all the fault of the Labor state governments that port security has not been improved.' This is not a matter which should be subject to this kind of political game playing or buck passing. It is true that the maintenance of port facilities is a state responsibility, but this is really a defence matter, a national security matter. The purpose of this bill is not so much to regulate the conduct of Australian ports and shipping operators as to defend Australia against attack.

The federal government must face up to its responsibilities in this matter. Does the government seriously think that the foreign shipping companies and shonky stevedoring operators it favours so strongly are going to make the necessary investments? I really doubt it. Maritime terrorism is a threat to both the security and the economy of Australia, as well as to the lives and homes of the people I represent. Despite the good intentions of this bill, I am not yet persuaded that this government takes seriously its constitutional responsibilities for the defence of Australia—not sufficiently seriously, at any rate, to reverse some of the policies relating to maritime industries, policies which are undermining the very objectives that this bill is supposed to achieve.

**Mr ANDERSON** (Gwydir—Minister for Transport and Regional Services) (1.39 p.m.)—I thank members of the House who have contributed to this debate on the Maritime Transport Security Bill 2003. I assure the previous speaker, the member for Melbourne Ports, that I and the government do take maritime security very seriously—as do, I am glad to say, the states and the territories. This is above politics. It is extremely important that by 1 July next year we are able to meet the obligations to which we have committed ourselves internationally. It is essential for Australia's trade as well as security interests that this bill be passed during the present sitting to enable industry to put the required security measures in place so that we can conform, as I mentioned, to international community standards by 1 July 2004 and confirm to them that we are a safe and secure trading partner.

This bill establishes a preventive security framework for the maritime industry. It will take into account the diversity of our ports, port facilities and ships and the different jurisdictional arrangements around Australia's coast. Its primary purposes are to establish a

regulatory system, which will safeguard against unlawful interference with maritime transport, and to meet Australia's international obligations under chapter XI-2 of the International Convention for the Safety of Life at Sea and the International Ship and Port Facility Security Code by 1 July 2004. Our maritime sector is integral to our economic wellbeing. The overwhelming majority of Australia's trade is carried by sea. We generate around 12 per cent of global shipping activity. Protecting the sector from the threat of terrorism is a major priority. I assure the previous speaker and all members of this House that I take it very seriously, as does the government.

This bill is designed to enhance the security of Australia's ports, port facilities and ships. I make the observation that perhaps no country in the world has a firmer approach against what might be described as 'ships of shame' entering our ports or plying our coasts. We do not simply allow open slather approaches to Australian shipping. The great bulk of our coastal shipping is still carried in Australian ships and exemptions are by way of permit only. The Labor Party, through its spokesman for transport, has indeed confirmed that it would continue to issue those permits in circumstances where no suitable Australian ship was available.

In relation to the issue of costs, we do see security as an integral part of the cost of doing business now. However, the international experience has been to suggest very strongly that upgrading security at ports tends to result in better outcomes in terms of damage, pilfering, theft, interference and so forth of cargoes and merchandise transiting ports in particular. Savings arising tend to go a long way towards offsetting the increased cost. Having said that, any limited cost that might be involved in setting up these security arrangements is to be seen as a very valuable investment in continuing the security of trade

internationally and to the benefit of the Australian economy.

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

Question agreed to.

Original question agreed to.

Bill read a second time.

### Third Reading

**Mr ANDERSON** (Gwydir—Minister for Transport and Regional Services) (1.43 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

### SPAM BILL 2003

Cognate bill:

#### SPAM (CONSEQUENTIAL AMENDMENTS) BILL 2003

### Second Reading

Debate resumed from 18 September, on motion by **Mr McGauran**:

That this bill be now read a second time.

**Mr TANNER** (Melbourne) (1.44 p.m.)—Labor support the legislation before the House today dealing with spam or unwanted bulk emails, but we do have some concerns with respect to the detail of the legislation and we will be seeking to make constructive amendments to the legislation through the use of the Senate committee process. I will outline our broad view on the issues in the bills during this contribution in the House today, but I will not be detailing the specific amendments as yet because we believe that

the legislation needs further examination through a detailed committee process.

The two pieces of legislation before us today are the Spam Bill 2003 and the Spam (Consequential Amendments) Bill 2003. Both are an attempt to address the growing issue of unsolicited commercial emails, or spam, which is at a great cost and is causing great offence to many Australians. Labor welcome these bills, as we are naturally concerned about the growth of spam. It is costly and offensive, and it is a problem from which not even politicians and their offices are immune. The legislation marks the end of a long wait for action from the Howard government. In February 2002, former minister for information technology Senator Alston claimed that he was concerned about spam, and he later promised a report from the National Office for the Information Economy, to be made public by mid-2002. All that appeared—in August of that year—was an interim report which recommended a continuation of the government’s light-touch approach as it then prevailed with respect to spam. One recommendation of this interim report actually said:

Regulatory agencies, in particular the Australian Competition and Consumer Commission (ACCC), Australian Securities and Investment Commission (ASIC) and the Office of the Federal Privacy Commissioner (OFPC), should be encouraged to fully apply existing laws to spam.

Clearly, the existing laws were not good enough. This issue required a tougher answer, and it was left to Labor to frame an appropriate response—one which advocated strong new laws to deal with the problem of spam. To this end, Labor released a discussion paper in December of last year advocating a much tougher approach to attacking unsolicited emails. It was only after Labor’s response to the problem that the Howard government moved away from its previously held position. The first National Office for

the Information Economy report, which was released in April of this year, came to almost exactly the same conclusions that Labor had already reached—namely, that new and tougher antispam legislation should be enacted by the government.

It is difficult to get accurate figures for the extent of spam, but most accounts indicate that the incidence of spam is significant and increasing. For example, Brightmail Inc., an antispam firm, estimates that spam has grown from making up approximately 17 per cent of all email in February of last year to almost 50 per cent of all email in August of this year. When you consider that, according to the Australian Bureau of Statistics, 4.4 million households and over 600,000 businesses had Internet connections as of March of this year and that the National Office for the Information Economy estimates that 75 per cent of Australians used the Internet during the first quarter of this year, it is very clear that there is an enormous problem that affects a very substantial proportion of Australians. As more and more Australians go online, more are encountering this unpleasant side to email which pushes onto users objectionable content, pyramid schemes and other confidence tricks, false or misleading advertising, and the simple inconvenience of wading through masses of unwanted electronic messages—and of course the need to determine which falls into that category and which does not.

The cost of spam has already been estimated as being very large. In January 2001 the European Union estimated the worldwide cost of spam to Internet subscribers to be in the vicinity of \$A16.8 billion a year. The National Office for the Information Economy quotes figures from October 2001 estimating the cost of spam to business in lost productivity at \$A915 per employee each year, arising from the fact that individual employees have to clear their mailboxes of

all this unwanted email and of course determine which is necessary for their work and which is not. The National Office for the Information Economy also quotes Erado's 2002 white paper on spam, viruses and other unwanted content, which estimates that the annual cost of spam per employee is around \$US1,000 or over \$A1,700. To add insult to injury, unlike normal physical junk mail that most of us have in our letterboxes, spam costs very little to send. The cost is borne by the receiver either directly through longer download times or indirectly as Internet service providers pass on the cost of spam to their customers in service fees. This means that a huge number of Australians are paying to receive in-trays full of unwanted email. Owing to the ongoing increase in spam, it is clear that it will continue to be a very costly, inconvenient and offensive problem for Australians.

Labor welcome—finally—the introduction of legislation to deal with the problem, and we point out again that this is now approximately 18 months after the then minister, Senator Alston, first promised to address the problem. As I pointed out a few minutes ago, over that time—according to one estimate—the percentage of total email constituted by spam has increased from about 17 per cent to about 50 per cent, so over that time the magnitude of the problem has grown enormously. There are two spam related bills before the House today. Labor do support the bills, but we believe that they are not perfect. We do have questions which need to be explored, and we will do that in the Senate process. We intend to pursue some amendments that we believe will be of a constructive and useful nature in improving the quality of the bill through the Senate process.

The Spam Bill 2003 sets up a scheme for regulating the sending of commercial electronic messages, or spam, sent from or into

Australia. The regime is to be enforced by the Australian Communications Authority and contains a number of civil, as opposed to criminal, penalties. The main elements of the bill include a prohibition on sending commercial electronic messages either singly or in bulk, unless consent has been given or there is an existing business relationship—it is in effect an opt-in regime; a requirement that commercial electronic messages contain accurate information about the individual or organisation that authorised the sending of the message and an effective unsubscribe facility; and a prohibition on the supply, acquisition or use of software which harvests email addresses or a list of those harvested email addresses. Certain emails are exempt from the regime: emails from government bodies, registered political parties, religious organisations or charities; emails relating to student or former student matters from educational institutions; messages that contain no more than factual information and comply with the identification obligations under the legislation.

There is a tiered enforcement regime available to the ACA, including a formal warning, acceptance of an enforceable undertaking, the issuing of an infringement notice, application to the Federal Court for an injunction or the commencement of proceedings in the Federal Court for breach of one of the civil penalty provisions. The Federal Court may order an offender under the regime to pay a monetary penalty or may order compensation to be paid to a victim who has suffered loss or damage due to the contravention. The court may give an order to recover financial benefits from an offender which can be attributed to a contravention of a civil penalty provision. The legislation is supported by the Internet Industry Association and the Australian Direct Marketing Association.

Labor is of the opinion that the legislation will not prevent all spam, as most spam arrives in Australia from overseas. However, with a few concerns, we do welcome the bulk of the provisions in the legislation. At the very least it will enable Australia to take a position of leadership on the issue internationally. Labor urges the government not to rest on its laurels over the issue and to take further action in the international sphere to stop this costly and offensive problem as well as to make a real effort to educate Australia's growing number of Internet users on how they can stop spam on their own computers.

The accompanying legislation, the Spam (Consequential Amendments) Bill 2003, is intended to amend the Telecommunications Act and the ACA Act to enable the effective investigation and enforcement of breaches. The main elements of the bill are a framework to enable industry to develop codes to deal with commercial email, based on part 6 of the Telecommunications Act; an investigation role and information-gathering powers for the ACA to investigate complaints relating to breaches of the Spam Bill 2003 and regulations made under that bill, based on parts 26 and 27 of the Telecommunications Act; monitoring warrants to monitor compliance with the Spam Bill 2003 and regulations; and search warrants relating to breaches of that bill and regulations, based on part 28 of the Telecommunications Act. This bill is significantly more unbalanced than the Spam Bill 2003 and contains numerous provisions relating to the ACA's power to enforce the act. These include a number of search and seizure provisions which, as they are worded, infringe unduly on individuals' privacy and civil rights.

Our first concern with the Spam Bill 2003 is the consistency of exemptions. Currently, the exemptions that I outlined before include government bodies, political parties, reli-

gious organisations and charities. We understand that these exemptions are intended to protect freedom of political speech, which is fair enough. However, emails from nonprofit groups who do engage in public debate, such as trade unions and political lobby groups, are not exempted. If commercial emails from some organisations are to be made exempt, it is unclear why it is acceptable for some nonprofit organisations to send commercial emails but not others. If it is acceptable for some, it should be acceptable for all. We will be arguing in the Senate for an amendment to create some consistency on this issue.

Labor's second concern is the exemption from the functional unsubscribe facility. We note that these bodies are not required to employ a functional unsubscribe facility. We cannot see any reason why even exempt emails should deny recipients the option of unsubscribing from the email list. The third concern that Labor has is the application of the regime to single rather than bulk messages. We do have concerns about the way that the bill applies to single emails rather than mass or bulk emails. Although we appreciate the need to cover off on single emails, we are concerned that under this regime a well-intentioned individual sending single commercial emails to a person who they reasonably believe might be interested in their product could in fact face significant civil penalties.

Our concerns with respect to the second bill, the Spam (Consequential Amendments) Bill 2003, are essentially focused on a number of matters relating to the search and seizure of property, including computer systems, without warrant. This clearly would be an unacceptable situation as the bill is currently drafted, and we will be examining these provisions in more detail in the Senate and, if necessary, proposing amendments to ensure that the privacy of individuals is adequately protected. We want the government

to demonstrate to us why it is necessary to go as far as they are proposing to go in terms of these enforcement powers in order to ensure that the provisions that have been placed in the bill can be adequately enforced without unduly infringing on the civil rights of individual Australians.

Labor has long called for tougher legislative action to be taken with respect to the rapidly growing problem of spam, and broadly we welcome this belated legislative action from the government to address the problem. The bills are not ideal. We do have some concerns about the specific provisions of the legislation, and we will be scrutinising that legislation very carefully in the committee process in the Senate. It is vital that all Australians receive adequate protection from the growing problem of spam—the unsolicited commercial emails that are blocking up the electronic in-tray, that are causing a huge loss of time and resources on the part of companies and individuals, and that often contain offensive or outright criminal content. I will conclude my remarks at that point and commend the bill to the House.

**Mr LLOYD** (Robertson) (1.58 p.m.)—I take this opportunity to rise and support the government's bills, the Spam Bill 2003 and the Spam (Consequential Amendments) Bill 2003, which are addressing what is a very difficult and time-consuming issue, the issue of receiving spam emails. Spam has become the curse of the Internet, and anyone who uses a computer—and luckily most people in this House do use a computer—would understand what a costly and time-consuming issue this is. It is a complex issue. It is not a simple issue to stop the sending of spam emails throughout the world. Governments all around the world have tackled and grappled with this legislative nightmare. This government is taking a stand on the issue of spam.

The legislation will ensure that these anti-spam measures will include national legislation to be enforced by the ACA which will ban the sending of commercial electronic messages without the prior consent of the recipients. For example, where there is an existing customer-business relationship or where the person has actively agreed to their address being used for communications, this will not be illegal. Civil sanctions for unlawful conduct will include financial penalties, an infringement notice scheme and the ability to seek enforceable undertakings and injunctions. Obviously, time is beating me at the moment. I seek leave to continue my remarks later.

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

#### QUESTIONS WITHOUT NOTICE

##### Insurance: Medical Indemnity

**Mr CREAN** (2.00 p.m.)—My question is to the Minister for Health and Ageing. Can the minister confirm reports today that government officials have admitted that calculations used by the Commonwealth to work out the medical indemnity levy were based on ‘flawed calculations’ and had failed to consider the effect of the significant overhaul of negligence laws in New South Wales? Will the minister now confirm that the calculations used by the government are wrong, with the result that the crisis has been sparked by doctors receiving their levy notices—notices featuring wrong numbers? Will the minister now release the government’s actuary report containing these calculations?

**Mr ABBOTT**—I can inform the Leader of the Opposition that the IBNR liabilities were calculated by UMP’s actuary and they

were provided to the Government Actuary, who reviewed those calculations. The Government Actuary has no reason to think that the calculations by UMP’s actuaries were not professionally done and accurate as to what was known then. The Leader of the Opposition has asked me to release these calculations. It would be wholly wrong of the government to release calculations regarding the intellectual property of someone else.

**Mr Crean**—Why?

**The SPEAKER**—The Leader of the Opposition was given the call to ask a question. He has no facility for interjections.

##### Medicare

**Mr FARMER** (2.02 p.m.)—My question is addressed to the Minister for Health and Ageing. Would the minister please update the House on misleading statements made on Medicare and what impact these statements could have on Australians seeking medical assistance?

**Mr ABBOTT**—I thank the member for Macarthur for his question and I will be very pleased to update him on some misleading statements that have been made about Medicare. Yesterday I informed the House that at least three opposition members had been caught out telling fibs about Medicare, participating in a dishonest scare campaign and playing politics with people’s health. How do we know that the petitions and brochures put out by the member for Lowe and the member for Scullin are lies? We know that they are based on lies because none other than the member for Lalor has said so.

**Mr Latham**—Mr Speaker, I rise on a point of order. In the conventions and the standing orders of the House it is inappropriate for the minister to say that the member for Lowe and the member for Scullin are telling lies, and he should withdraw.

**The SPEAKER**—I listened closely to the comments made by the Leader of the House. He did not in fact refer to either of the members as liars or accuse them of telling lies. I invite the member for Werriwa to check the *Hansard* record. I will listen closely to what the minister is saying. I do not find it desirable, but it is not outside the standing orders.

**Mr ABBOTT**—Let me remind members opposite, including the member for Lalor, of what was contained in the *Canberra Times* of 19 September. A spokesman for Ms Gillard conceded the claims were not true—that is to say, the claims made in those documents distributed by the members for Lowe and for Scullin were not true. For the benefit of members opposite, let me repeat: this government's position on bulk-billing is exactly the same as the position of Dr Neal Blewett. We think bulk-billing should be available, but we do not think doctors can be forced to bulk-bill. I regret to inform the House that I have discovered more Labor liars. There are more Labor liars. The lie at the heart of Labor's scare campaign has been propagated—

**Mr Martin Ferguson**—Mr Speaker, I rise on a point of order. I regard the suggestion by the Leader of the House and minister about more Labor liars as offensive and I ask that it be withdrawn. I also remind the House that it is about time he operated in a courteous way, both to you, Mr Speaker, and to the rest of the House.

**The SPEAKER**—The member for Batman has gone beyond the point of order. I have already indicated that the term used by the minister was close to the mark. I do not believe that we can legitimately continue to refer to them as 'Labor liars'. I ask him to withdraw that remark.

**Mr ABBOTT**—They may not be Labor liars, and I withdraw that, but we have seen a lot of Labor liars. The lie at the heart of—

*Dr Emerson interjecting—*

**The SPEAKER**—The member for Rankin!

*Dr Emerson interjecting—*

**The SPEAKER**—I warn the member for Rankin! I had already drawn his attention to the fact that what he was saying was inappropriate.

**Mr Martin Ferguson**—Mr Speaker, I rise on a point of order. Just a minute ago you asked that the minister withdraw the reference to 'Labor liars'. He did that and then went on for a short period and repeated it. I ask that he withdraw it and that he operate with some respect for the chair. He is a repeat offender.

**The SPEAKER**—The member for Batman will resume his seat.

**Mrs Bronwyn Bishop**—Mr Speaker, on the point of order: the way in which the minister used the language is in accordance with the standing orders, contrary to what the member opposite had to say, in that he was using the generic and not the particular. The standing orders deem language to be disorderly only if it is used against an individual, not collectively.

*Ms Roxon interjecting—*

**Mr Gavan O'Connor**—What about Liberal liars? What about your Prime Minister—never, ever?

**The SPEAKER**—When the member for Gellibrand and the member for Corio have quite finished assisting the chair, let me indicate that I have already stated to the House that I found the language used by the minister inappropriate. He withdrew the reference he used that offended the member for Batman. I was listening closely to his comments. I invite him to continue his answer and to refrain from the use of that term.

**Mr ABBOTT**—The lack of honesty at the heart of Labor's scare campaign—

*Mr Edwards interjecting—*

**The SPEAKER**—As should have been self-evident to the member for Cowan, any interjections were grossly out of order.

**Mr ABBOTT**—The lack of honesty at the heart of Labor's scare campaign has been propagated by no less a person than the Leader of the Opposition. In a press release on 29 April this year, the Leader of the Opposition said:

Families earning more than \$32,300 a year will be denied access to bulk-billing under John Howard's plan ...

That is just not true.

**Ms Gillard**—It is absolutely right.

**The SPEAKER**—The member for Lalor!

**Mr ABBOTT**—That is a blatant untruth and the member for Lalor knows it is not true, because she has admitted as much to the *Canberra Times*.

*Ms Gillard interjecting—*

**The SPEAKER**—I warn the member for Lalor!

**Mr ABBOTT**—It was not just one lie; the Leader of the Opposition repeated the untruth on 27 July, 9 July and 10 July.

*Honourable members interjecting—*

**The SPEAKER**—Order! It must be perfectly evident to all members of the House, particularly those on my right, that if they want the attention of the chair they should rise in their places.

**Mr Randall**—Mr Speaker—

**The SPEAKER**—The member for Canning will resume his seat. I am on my feet. The minister has the call.

**Mr ABBOTT**—The want of honesty at the heart of Labor's scare campaign has been repeated by the Leader of the Opposition not once, not twice, not three times but four times. Yesterday, I called on the member for Lalor to withdraw the dodgy dodges and the bodgie petitions that her colleagues were

spreading around Australia. She cannot do that without undermining her leader, so the latest casualty of his weak leadership is nothing but the concept of truth in politics. Truth in politics is now sacrificed to preserve the position of the Leader of the Opposition. Let me again quote the Leader of the Opposition, who, in the middle of propagating these blatant untruths about Medicare and telling outrageous fibs about Medicare, said:

The reality is that you don't need a Newspoll to tell you that people want truth and honesty in politics and that they don't like what's happening to their health system.

In one breath he proclaims the value of truth and then in the next breath he propagates the lie. If he had any respect, if he had any pride and if he had any consciousness of the concept of truth he would apologise to all those millions of Australian families whom he has so shamelessly conned.

#### **Health and Ageing: Accommodation Bonds**

**Ms ELLIS** (2.13 p.m.)—My question is addressed to the Minister for Ageing. I refer to her statement yesterday in relation to nursing home accommodation bonds, when she said:

This government will ensure that the people in question are not without their accommodation bonds.

Minister, how will the government ensure in practice that people can always recover their accommodation bonds, even when nursing homes have become insolvent?

**Ms JULIE BISHOP**—I thank the honourable member for her question. In answer to her question, let me point out that under the Aged Care Act 1997, an approved provider can only charge an accommodation bond in specific circumstances as set out under the act. The approved provider is required to repay the accommodation bond balance if the resident should die or leave the

home, and the repayments must be within the time frame specified in the act. In circumstances where a home is sold or the aged care places are allocated, they are transferred to another provider. The responsibility to repay accommodation bond balances transfers by law to the new provider along with the places. Under the Aged Care Act, any transfer of allocated aged care places requires the approval of the department, and the department does not approve the transfer of any allocated aged care place unless liability for the accommodation bond is also assumed. So there is in place a clear and enforceable legislative prudential framework to ensure that the residents of aged care homes and their interests are protected.

Let me just put this question into context. Yesterday, the member for Canberra took one line out of a public report on the operations of the Aged Care Act—one line that said that 24 services were issued with noncompliance notices. I assume that that was to infer that this meant that accommodation bonds were at risk. This was trying to strike fear into the lives of some of the most vulnerable in the community. What didn't she tell you, Mr Speaker? She did not tell you that every single one of those 24 services is now compliant—every single one. Did she tell the House that? No, she did not. And in any instance where an accommodation bond was to be repaid, I am advised that all bonds have been repaid. I am also advised that since the Howard government came to power there has never been a default on a bond. This is just scaremongering. One of the peak industry bodies said in a press release today:

Aged Care Queensland the peak industry body representing aged care providers in Queensland said today it deplored the re-emergence of scaremongering and politicisation of the aged care sector.

Shame, member for Canberra, shame.

#### **Middle East: Israeli-Palestinian Conflict**

**Mr PEARCE** (2.16 p.m.)—My question is addressed to the Minister for Foreign Affairs. Would the minister inform the House of the government's response to the latest terrorist attack in Israel.

**Mr DOWNER**—I thank the honourable member for Aston for his question and for the interest he shows in these tragic events in the Middle East. Australia condemns in the strongest possible terms the sickening and evil suicide-homicide bombing in Haifa that took place on 4 October. I am sure all members of the House join the government in the condemnation of that hideous act. The attack is among the bloodiest and most vicious yet. It killed 19, including five members spanning three generations from one family. Our thoughts are with the surviving family of the victims. The attack was carried out against a restaurant which, ironically, was jointly owned by Jews and Arabs. That just reminds us of the indiscriminate evil of the terrorists. Four Israeli Arabs were slain in this attack.

The terrorist Islamic Jihad organisation has claimed responsibility for the attack. Whatever an organisation such as this may claim, it is clear that they do not in the end have the interests of the Palestinian people at heart. Their action offers no hope at all to the just cause of Palestinian statehood. Australia has consistently supported Israel's right to defend itself against the threat of terror. Countries like Syria must act to cut off support for terrorism, and they must act decisively and they must act quickly. At the same time, we urge all parties to exercise restraint and we are concerned at the potential for violence in the region which could escalate. It is in no-one's interest for the violence to increase and spread. The route to peace has been set out in the internationally endorsed road map to Middle East peace—not only Israeli-Palestinian peace, but peace between

Israel and all of its neighbours. For the road map to succeed, the Palestinian Authority must take firm action against terrorists. I welcome the new Palestinian Prime Minister's condemnation of this latest attack. I do urge him and other Palestinian leaders to take strong action to rein in the terrorists. We hope that regional governments will not allow extremists to destroy the hope of Middle East peace which is embodied in the road map.

**Education: Higher Education**

**Ms MACKLIN** (2.20 p.m.)—My question is to the Minister for Education, Science and Training. Is the minister aware that the Deputy Vice-Chancellor of the University of Western Australia told the Senate inquiry that around 8,000 HECS places would be cut from universities because the Howard government will not properly fund enough university places? Is the minister also aware that Murdoch University just announced that, for the first time, it would accept full fee paying Australian undergraduate students? Minister, isn't this just another example of the government cutting back on publicly funded university places so that more Australians are forced to pay \$100,000 for their university degrees?

**Dr NELSON**—I thank the member for Jagajaga for what is a very important question. Firstly, the government over the past year has recognised that the status quo for Australian higher education will be abrogating our responsibilities to the future. The government has announced that it will invest another \$1½ billion of additional public money in Australian universities in the first four years, and \$10.6 billion of extra public money in the first decade. One of the many things that the government is doing is increasing the number of HECS places, where the taxpayer pays for three-quarters of the cost of university education, by 31,500 in the

first four years. Of those, 25,000 are currently overenrolled places which the government is intending to fully fund at a cost of \$347 million. One of the many initiatives that the government is undertaking is to recognise that Australian citizens deserve at least the same treatment as those who are welcomed from overseas when they go into Australian universities. The Labor Party's position, as I understand it, was set out by the member for Jagajaga on 1 February 2002 when she said in a media release:

Dr Nelson must stop uni queue jumpers ...

... ..

People who don't make the grade shouldn't get special treatment ...

I will just ask the Labor Party: am I correct in saying that that is the Labor Party's position? The Labor Party's position is that people should get access to university only on the basis of merit. There are a number of issues. Firstly, in Australian universities this year 40,000 students received a HECS place, a publicly funded place, on the basis of something other than merit. They got bonus points to get into those universities—that is, 40,000 students—because they had been educated in certain schools and in difficult economic circumstances. Some of those students had not even done year 12. They had not even got a tertiary entrance score, but they got a HECS place. They got in on the basis of something other than merit. This government supports giving those students who have had a tough background some extra help in getting into university.

**Ms Plibersek**—It's tough working out how to spend all that money.

**The SPEAKER**—The member for Sydney!

**Dr NELSON**—In fact, 180 students got a place at Murdoch University this year on the basis of something other than academic merit. What the Labor Party also seems to

ignore is that there are students who have never done year 12 but who go to TAFE, then get a credit transfer and a HECS place at university. It is ignoring also the students who go to a private education provider and then get access to university on something other than the basis of pure academic merit. The Labor Party is also ignoring the fact that, for example, the entry score for medicine has reduced from 99 to 90 in many universities, recognising that the cut-off has nothing to do with academic merit but has everything to do with supply and demand.

This government is expanding the number of HECS places that are available for Australian students. At the same time, the government is saying that, once those HECS places have been filled, the universities can then offer enough places to every academically eligible Australian citizen who wishes to pay full fees to do their course. Murdoch University is saying to students from Joondalup, Rockingham or Armadale: 'If you are academically qualified, we will allow you to pay full fees to come to this university,' in the same way that 2,500 foreign students have come to Murdoch University this year from Beijing, Jakarta, Montreal and a whole range of countries—apparently welcomed by the Labor Party. To students who miss out on one of the expanded number of HECS places, the Labor Party is saying that if you want to get into veterinary science at Murdoch University and you got 97.3, which means you miss out—and I say to the parents here: imagine if your child got 97.3 and wanted to do veterinary science and missed out—the only way that you will be a vet in this country will be to go overseas and sell your Australian passport to another country. Then you will be welcome back as a foreigner.

This government is recognising Australian students who are academically qualified. This government is going to require the uni-

versities for the very first time to publish the minimum academic score before the end of the academic year. This government is saying that as an Australian citizen you should be offered the same opportunities that are offered to foreign students. For the first time, the government will support those students by offering them a loan which they will pay back only when they are working and earning more than \$30,000 a year.

*Ms Plibersek interjecting—*

**The SPEAKER**—I warn the member for Sydney!

**Dr NELSON**—These changes are needed to make Australian universities internationally competitive and of a very high standard. It does not matter how many places you offer to Australian students; it is no good offering them one that is mediocre.

#### **Budget: Outcomes**

**Mr CHARLES** (2.26 p.m.)—My question without notice is to the Treasurer. Treasurer, how does Australia's budget position compare with that of other industrialised economies? In particular, how does it compare with that of the United States of America?

**Mr COSTELLO**—I thank the honourable member for La Trobe for his question, for his interest in Australia's fiscal policy and for his contribution to Australia's fiscal policy over the years. He has been an outstanding member for La Trobe, and I want to acknowledge that. Our final budget outcome, which was released last week, showed that for the year ending 30 June 2003 Australia had a surplus of one per cent of GDP. That compares very favourably to countries overseas. I am asked by the member for La Trobe how it compares in particular to the United States. The United States had a budget deficit of 4.3 per cent of GDP. To put that into Australian terms, that would be a budget deficit of \$32 billion, rather than the budget surplus

which we returned. How does it compare to France? According to the IMF world economic outlook, France had a budget deficit of 3.8 per cent. The United Kingdom was much loved by the Australian Labor Party at one point, when they were going through their New Labour phase—

**Mr Howard**—The third wave.

**Mr COSTELLO**—their third wave phase, which they seem to have got off ever since the Iraq war, I notice. They are no longer interested in the third wave. The third wave dumped them. The United Kingdom has a budget deficit of 2.6 per cent of GDP, compared to an Australian budget surplus of one per cent.

**Mr Rudd**—How are the tax coffers going?

**Mr COSTELLO**—I love the putative challenges, egging me on to attack the member for Werriwa. But don't smile too much. Look, the member for Lilley pretends he is not smiling.

**The SPEAKER**—The Treasurer will address his remarks through the chair.

**Mr COSTELLO**—Don't egg me on too much. I love that speech about men in tights jumping across the political landscape.

**The SPEAKER**—Treasurer, I am not egging you on; I am calling you to address your remarks through the chair.

**Mr COSTELLO**—I am sorry. Every time I hear a rooster crow it gets me going! The average over the advanced economies compared to Australia was a 3.3 per cent budget deficit. Australia has a one per cent budget surplus—and the average over the advanced economies is a 3.3 per cent budget deficit. People say, 'That could not happen here. We could not have a 3.3 per cent of GDP budget deficit.' Well, we did. Over the last five years of the Labor Party, the average budget deficit was 3.1 per cent. If we were still making the

same kind of returns in fiscal policy as the Australian Labor Party, our budget would have been \$25 billion in deficit. That was the record of the last five years. I do not think the enormity of Labor's failure has ever sunk in to their current frontbench, where there is no understanding; there is no policy.

We have this absurd situation now where the member for Werriwa says he is going to make the Labor Party the party of fiscal rigour. Labor is going to become the party of the surplus rather than the deficit. You only have to sit in question time for about three questions to realise the Labor Party's sole attack on the government is that we are not spending enough money. Whether it be from the member for Jagajaga's question or whether it from the member for Lalor's question, the sole attack on the government is that money is not being spent in sufficient quantities here, there and everywhere. And the member for Werriwa says he is going to make the Labor Party the party of fiscal rigour!

*Honourable members interjecting—*

**Mr COSTELLO**—Or of fiscal rigging, as the member reminds me. The test is this: if the Labor Party wants to become the party for fiscal rigour, there is \$1.5 billion of expenditure savings now lined up in the Senate, not from this year's budget but from last year's budget—that is, not from May of this year but from May of last year. If the member for Werriwa wants to demonstrate that Labor is changing its spots, Labor should change its vote in the Australian Senate. Let those measures go through. Let us reform the Pharmaceutical Benefits Scheme, let us reform welfare, let us reform the labour market and, most of all, let us see the reform of the Australian Labor Party. That is what we need to get a program through the Senate which will set Australia up for the kind of opportunities that it deserves in the future. Let us see

the reform of the Australian Labor Party. Let the member for Werriwa deliver rather than jump across the stage in tights with these claims which stand for nothing.

#### **DISTINGUISHED VISITORS**

**The SPEAKER** (2.32 p.m.)—I inform the House that we have present in the gallery this afternoon members of a parliamentary delegation from the United Kingdom led by the Rt. Hon. Gavin Strang. On behalf of the House, I extend a very warm welcome to our visitors.

**Honourable members**—Hear, hear!

#### **QUESTIONS WITHOUT NOTICE**

##### **Education: Higher Education**

**Mr MARTYN EVANS** (2.32 p.m.)—My question is to the Minister for Education, Science and Training. Is the minister aware that the submission from the University of Adelaide to the Senate inquiry states:

If the number of opportunities currently available for HECS-liable students is not maintained, South Australians will be severely disadvantaged.

It goes on to warn:

Should South Australian universities be forced to reduce the level of overload without being compensated ... cut-off scores for programs will inevitably rise.

Minister, isn't it true that South Australia will lose desperately needed HECS places because of the Howard government's university changes?

**Dr NELSON**—I thank the member for Bonython for his question. The problems that face Australian universities are quite complex, as are the solutions. The Labor Party would have you believe that all you have to do is open the taxpayers' chequebook and pour out as much money as it thinks might be required to fix a problem it considers to be quite simple but which is quite complex. One of the things, for example, that the member for Bonython and other South Aus-

tralian members might appreciate is that there were 7,000 people who got a place in a South Australian university this year who will not be in that place by the end of the year and who will never go back to university, in part because many people who profess to lead in Australian life are telling them that the only thing they should do is to go to university instead of doing an apprenticeship or training.

One of the very important things in the government's package of reforms for higher education is that more than \$40 million in extra core money will be available for South Australian universities in the first three years alone. Of the universities in South Australia, Flinders is overenrolled by 10 per cent—which means that those students are currently attracting a quarter of the public funding attracted by students enrolled up to the quota—and the University of South Australia, in the member for Bonython's electorate, is 2½ per cent overenrolled. The government realise that this is having a very bad impact on quality. It is affecting the ratio of students to lecturers. It is also creating an environment where a lot of students are dropping out. As I said in an earlier answer, the government are going to fully fund 25,000 marginally funded overenrolled places. In addition to that, we will be negotiating with the South Australian government in relation to where we distribute currently overenrolled places within the state of South Australia.

The government is determined to expand the number of HECS places available to ensure that students receive a quality education to make them able, if they wish to, to get jobs in other parts of the world and at the same time make sure that there are opportunities available for the students who choose to go to the private higher education providers in South Australia by, for the very first time, providing them with a loan from the taxpayer that they only pay back when they

have graduated. All these things are absolutely necessary to make universities competitive and of a high quality. What the Labor Party has done, as it does all the time, is to say, 'We'll take the taxpayers' chequebook to fix the problem,' and it has refused to address the issues of the governance and management of universities, of work practices in the universities and of the way we commercialise and support research that comes out of them. The Labor Party should get on board in the interest of Australia's future.

#### **Foreign Affairs: Zimbabwe**

**Mr JULL** (2.36 p.m.)—My question is addressed to the Minister for Foreign Affairs. What is the government's response to reports that Zimbabwe is allegedly seeking to oust Commonwealth Secretary-General McKinnon in an attempt to gain readmission to the councils of the Commonwealth?

**Mr DOWNER**—I thank the honourable member for Fadden for his question. There was a report in the *London Times* a couple of days ago suggesting that Zimbabwe may be seeking to enlist the support of a number of other countries to have Don McKinnon, the Secretary-General of the Commonwealth, replaced. The theory apparently is that, if Zimbabwe were to do that, it may in turn ease its readmission to the Commonwealth. If this report is true—and I cannot confirm the veracity of the report—then the Australian government will maintain its support for Don McKinnon as the Secretary-General of the Commonwealth, as we intend to do in any case.

There is only one way for Zimbabwe to regain admission to the councils of the Commonwealth—that is, to meet in full the benchmarks set by the Commonwealth, including the restoration of good governance and political freedoms. So far there are no signs of this happening. Some tricky move to try to get the Secretary-General of the Com-

monwealth removed and thereby avoiding meeting the Commonwealth benchmarks and getting back into the Commonwealth would be completely unacceptable to the Australian government and, I know, to many other governments as well.

The situation in Zimbabwe remains very grim. The Mugabe government recently closed down the only remaining daily independent newspaper in the country, and local elections, which were held in August, were marred, as were the national elections, by violence and intimidation. Economic mismanagement has led to skyrocketing inflation. Inflation in Zimbabwe at the moment is running at 425 per cent. There is an acute cash shortage in Zimbabwe as well. Even more serious than a 425 per cent inflation rate and a shortage of cash is the fact that 5½ million Zimbabweans—that is, about half the population of the country—require food aid. Today I announced a further \$7½ million food aid contribution by Australia to the World Food Program's appeal for southern Africa, including Zimbabwe, but of course we are going to make absolutely sure that the provision of that food aid to Zimbabwe through the World Food Program is properly administered. I know the World Food Program itself is very conscious of allegations that the Zimbabwean government has tried to manipulate food aid for political purposes. If it were to do that then no Australian food aid would be involved in such manipulation.

This government is committed to working with others to keep the pressure on the Zimbabwean government. At the last meeting of the Commonwealth Ministerial Action Group in New York, which I attended, I circulated a paper highlighting Zimbabwe's failure to meet the Commonwealth benchmarks for its readmission to the Commonwealth. Honourable members will remember that, at the end of last year, Australia implemented smart sanctions against Zimbabwe. I

hear from the opposition in Zimbabwe—the Movement for Democratic Change—that the sanctions regime is beginning, to use their words, ‘to bite’. Let me make it perfectly clear: without an improvement within Zimbabwe, Australia will continue to oppose strongly any efforts to try to get Zimbabwe readmitted to the councils of the Commonwealth.

#### **Telstra: Sale**

**Mr TANNER** (2.40 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts. Is the minister aware that last night at a hearing of the Senate Telstra sale inquiry the Australian Communications Authority admitted that its network reliability framework figures for the level of faults in Telstra’s network are effectively misleading and may need to be revisited? Can the minister confirm that these figures present an annual figure for fault-free services based on an average of monthly fault-free service figures, rather than a genuine annual figure, thereby massively overstating the percentage of phones that have been fault free for an entire year? How can the government claim that Telstra’s regional services are up to scratch and that Telstra should be sold when the figures it presents to support that claim have been exposed as being completely phoney?

**Mr WILLIAMS**—I thank the member for Melbourne for the question, which is not unexpected. The claim that the performance figures that were published by the Australian Communications Authority are inaccurate or deceptive is, in itself, misleading. The numbers given are correct. The Labor Party has been seeking to selectively use information that is publicly available in the ACA *Telecommunications performance monitoring bulletin* for the June quarter. Selectively using information seems to be a habit the Labor Party engages in.

The Australian Communications Authority bulletin does indicate the period for which the network reliability framework figures are calculated. As the NRF has only been operational since January, it is impossible to calculate an annual figure. In the June bulletin, the figures reported were clearly stated as being from data collected from January to July and August 2003. Further information on how the ACA calculates performance results under the network reliability framework is also available on the ACA’s web site portal.

I understand that at the Senate committee hearing last night the ACA undertook to review the presentation of this information to avoid confusion—confusion that has been evidenced by the selective use of the information by the member for Melbourne. My office has confirmed this with the ACA today. The key point is that the numbers in the information provided in the bulletin are correct and they demonstrate a continued high level of network performance.

**Mr Tanner**—Mr Speaker, in order to show whether there is any selective use of information, I seek leave to table page 29 of the ACA *Telecommunications performance monitoring bulletin* for the June 2003 quarter.

Leave not granted.

#### **Trade: South-East Asia**

**Mr BRUCE SCOTT** (2.44 p.m.)—My question is addressed to the Minister for Trade. Would the minister update the House on Australia’s continued economic engagement with South-East Asia? What do plans for a South-East Asia free trade zone mean for Australia?

**Mr VAILE**—I thank the member for Maranoa—from that very large electorate of his—for his question and acknowledge his interest in trade with the 10 ASEAN economies. We welcome the declaration that has come out of the Bali summit. It signals a

strong political commitment to ongoing openness and trade liberalisation within the region. Of course there is already an ASEAN free trade area, called AFTA. This is a further commitment to achieving the Bogor goals that we are all committed to with regard to the APEC agreement that has been ongoing. We will attend the APEC ministerial meeting—and the Prime Minister will attend the APEC leaders meeting—towards the end of next week.

It is important to note the size of the economic relationship between Australia and the ASEAN economies. Two years ago, when we started negotiating a closer economic partnership agreement with the ASEANs, it was at about \$32 billion. It is about \$34½ billion now, on its way to the target of \$65 billion in 2010. What we are seeing here is a further public commitment from the ASEAN economies to keep moving in that direction.

**Mr Crean**—You're in denial.

**Mr Tanner**—You're in a state of permanent denial.

**Mr VAILE**—It is important to note—and I note the interjections from the Labor Party, which in 13 years in government achieved nothing with the South-East Asian economies—that last year this government signed a closer economic partnership agreement with the 10 ASEAN countries. This year we entered into force the Singapore-Australia free trade agreement. By the end of this year—hopefully in the next couple of weeks—we will conclude the negotiations for a free trade agreement with Thailand. It is an explicit example of this government's engagement with the South-East Asian economies in developing our relationship in the region. It goes without saying that it puts the lie to what a lot of the members of the Labor Party and some of their spokespeople have been saying in terms of our broader engagement across the world weakening our

relationships with East Asia and particularly South-East Asia. It is not happening. This is proof positive of that.

We are ahead of the game in our relationship with the South-East Asian economies. None other than the Malaysian trade minister herself, Rafidah Aziz, following the signing of the closer economic partnership agreement last year, said that this agreement would put Australia and New Zealand ahead of China and Japan in negotiating market opening measures with ASEAN. So we have been getting on and developing stronger and deeper relationships with the 10 ASEAN countries both bilaterally and regionally through the ASEAN grouping. We have been able to get in and see the leaders of these countries and we have been able to negotiate these deals, while the Leader of the Opposition is left sitting outside the door trying to see the President of Indonesia.

#### **Telstra: Services**

**Mr TANNER** (2.48 p.m.)—My question is again to the Minister for Communications, Information Technology and the Arts. Can the minister confirm statements by his own department to the Senate Telstra sale inquiry last night that there are no guarantees of future Telstra regional service standards in the Telstra sale bill at all and that any such requirements will be left to the whim of future ministers? How can the government claim that it is future proofing services in the bush to sell Telstra when its legislation imposes no such requirements on Telstra's future behaviour whatsoever?

**Mr WILLIAMS**—I again thank the member for Melbourne for his question. As a general proposition, the government believes that selling the remainder of Telstra is ultimately in the interests of the company itself—1.8 million shareholders—the wider telecommunication industry and, most importantly, all Australians. It is competition

that drives new services and lower prices, and regulation that provides safeguards to protect consumers. The government does not need to own Telstra to achieve those outcomes—and, in fact, there is a conflict in the government being the owner and the operator.

The government has indicated many times that it would not progress the further sale of Telstra until it was satisfied that services were up to scratch in the bush. This commitment was met with the government's comprehensive response to the regional telecommunications inquiry, including proposals for future proofing. If the member for Melbourne by his question is seeking to have the government insert into a statute precisely what action it will take in an industry in which technological change is happening every day, then he is misleading himself.

The bill that is before the Senate and the Senate committee at the moment contains an obligation on the government and on future governments to conduct regular reviews of the services within the bush and to respond to those reviews. This is an obligation that this government will take very seriously indeed. It encompasses the obligations that the member for Melbourne wants detail on—detail that it is impossible for any government to provide.

#### **Family Services: Child Care**

**Ms GAMBARO** (2.51 p.m.)—My question is addressed to the Minister for Children and Youth Affairs. Is the minister aware of any new information that shows that the government's child-care policies are working for Australian families? Are there any other alternatives?

**Mr ANTHONY**—I would like to thank the member for Petrie for her question. She is a wonderful advocate for children in the Redcliffe area and I want to commend her on the work that she does. She asked a question

about the government's policies on child care. One of the outstanding successes of the Howard-Anderson government since 1996 has been the unprecedented amount of funding going to child care, with \$8 billion having been committed for the next four years. That is 70 per cent more than the amount provided by the Australian Labor Party in its last six years in government.

The Department of Family and Community Services will soon be releasing a census done on child care up to May 2002. That census contains some very interesting indicators that I would like to share with the House. The first point is that the number of children who are using Commonwealth funded child care has increased substantially since the introduction of the child-care benefit. Indeed, there was a 27 per cent increase in the number of children accessing such child care, increasing from 577,000 children in 1999 to over 732,000 children in May 2002.

What is interesting as well is that the cost of child care has gone down. Child care is 10.2 per cent more affordable than it was in 1999. So there are more children using child care and the costs have come down. The maximum rate of child-care benefit was paid to over 43 per cent of families. That means that 43 per cent of families accessing long day care and family day care were receiving child-care benefit at the maximum rate, which is \$137 per week. What is even more remarkable is that there has been a very large increase in employment in the children's services sector. In 1999, 59,000 people were employed in children's services; that figure was up to 76,000 in May 2002.

I am rather concerned because, with all this good news, the only news we hear from the Australian Labor Party is that they are desperate to see the coalition's child-care policies fail. Not long ago we heard the

shadow minister, Senator Jacinta Collins, outlining the failure of the Australian Labor Party's policies, particularly when it came to their youth policy. Just to remind the House, she was very complimentary of the Prime Minister.

*Ms King interjecting—*

**The SPEAKER**—I warn the member for Ballarat!

**Mr ANTHONY**—The shadow minister said that he inspires people, particularly young people. I absolutely concur with those honest remarks, but it is time now for the shadow minister to focus her attention on the child-care policies of the Australian Labor Party. I am very concerned about some comments that were made by Sharan Burrow at an ACTU child-care forum on 30 June in Sydney. She had some interesting proposals. In relation to the ACTU's policy she said, firstly, that for children under school age the first 20 hours of child care should be free. I thought that was interesting, because the political arm of the ACTU have been very silent on this proposal. The second point that she proposed suggested that child-care fees be set at \$50 per day. Isn't that interesting? At the moment the average is \$36 a day. They are actually proposing that Australian families pay more.

What is most alarming is that the ACTU President, Sharan Burrow, stated that private service providers were 'abhorrent and despicable' and that the corporate providers were 'evil'. Two-thirds of the child-care facilities in Australia are provided by the private and corporate sectors. Here is the leader of the industrial arm of the Labor Party saying they are abhorrent and despicable. What an interesting contribution to work and family. What is more ironic is that the introduction of subsidies to the private sector was actually introduced by the Australian Labor Party. Without doubt, it is the coalition that is abso-

lutely committed to child care and it is the coalition that is committed to work and family.

#### **Immigration: Visa Approvals**

**Ms ROXON** (2.57 p.m.)—My question is to the Attorney-General. I refer to his comments in answer to a question in parliament on 4 June 2003:

... I would be very concerned if there were any evidence that Mr Kisrwni took money for advising in relation to migration matters, because that would be a breach of the act.

Now that evidence has come to light of many instances of money changing hands and, in particular, of a \$4,000 contract between Mr Foo and Mr Karim Kisrwni for 'consulting fees for immigration matters', will the Attorney-General investigate whether any Commonwealth laws—

**Mr Abbott**—Mr Speaker, I raise a point of order. I hate to interrupt a carefully prepared question from the member for Gellibrand, but she is supposed to ask questions of ministers in the areas for which they have portfolio responsibility.

**The SPEAKER**—I spend a lot of this time sitting in this chair, as do other occupiers of the chair, hearing things that I do not necessarily want to hear. However, the standing orders of the House oblige me to listen to them in silence. It is precisely the same courtesy that we are expected to extend to each other, because this is a place of free speech. The Leader of the House is entitled to raise a point of order, as is anyone else, and anyone is entitled to ask a question within the standing orders. I had listened to the question from the member for Gellibrand and I had expected her to relate it to the responsibilities of the Attorney-General. As I heard her question concluding, she was doing just that.

**Ms ROXON**—I will just repeat the end of the question. Now that evidence has come to light of many instances of money changing

hands and, in particular, a \$4,000 contract between Mr Foo and Mr Karim Kistrwani for consulting fees for immigration matters, will the Attorney-General investigate whether any Commonwealth laws have been breached by this exchange of money or in respect of any other money paid to Mr Kistrwani for migration matters?

**Mr Abbott**—Mr Speaker, I rise on a point of order. The question asked by the member for Gellibrand clearly relates to responsibilities under the Migration Act, which is the responsibility of the Minister for Immigration and Multicultural and Indigenous Affairs and, in this case, of the Minister for Citizenship and Multicultural Affairs, representing the Minister for Immigration and Multicultural and Indigenous Affairs.

*Mrs Crosio interjecting—*

**The SPEAKER**—Order! I remind the member for Prospect that the obligation to hear, in silence, things that we do not always want to hear applies to her as it applies to everyone else.

**Ms Roxon**—Mr Speaker, I rise on a point of order. I would like to draw the attention of the Leader of the House to the specific question, which goes to whether any Commonwealth laws have been breached. It is my understanding that the Attorney-General is responsible for the implementation of Commonwealth laws and would refer a breach of those laws to the Federal Police. If the Leader of the House thinks that the Attorney-General should not have these powers, we should be advised in a ministerial statement.

**The SPEAKER**—Order! The member for Gellibrand will resume her seat.

**Mrs Bronwyn Bishop**—Mr Speaker, I rise on a point of order. I draw your attention to standing order No. 153, which requires that where imputations of a serious nature are made they must be made by way of substantive motion. Quite clearly, the imputa-

tions in that question reflect on the nature and character of the minister concerned. They should only be done by way of substantive motion and therefore should be ruled out of order.

**Ms Roxon**—Only if he does not investigate.

**The SPEAKER**—Order! The member for Gellibrand, to whom I have extended what I would have thought is a reasonable amount of tolerance, might reciprocate by ceasing the interjections. I had allowed the question to stand, having heard part of it. I believe that the question, while unusual, was valid and can reasonably be responded to by the Attorney-General.

**Mr RUDDOCK**—Offences under the Migration Act are matters that are dealt with by the immigration department. The department has an investigations section that deals with those very issues. Therefore, the question ought properly to be addressed to the Minister for Immigration and Multicultural and Indigenous Affairs and, in this case, to the Minister for Citizenship and Multicultural Affairs, who represents her. I might say—and I do not wish to cut across anything that the member might want to advise—that that matter has been known for some time and, as I understand it, is a matter that is currently under investigation.

#### **Taxation: Small Business**

**Mr CIOBO** (3.03 p.m.)—My question is addressed to the Minister for Small Business and Tourism. Would the minister inform the House how the Howard government is reducing the tax burden on Australia's 1.1 million small businesses? Is the minister aware of any alternative policies?

**Mr HOCKEY**—I thank the member for Moncrieff for his question. I recognise that he is a great advocate for small business on the Gold Coast, and not just for the tourism businesses but for the rapidly growing IT

industry up there and a range of other businesses, including the building industry. What the member for Moncrieff and many on this side of the House know is that the coalition wants to reduce taxes on small business. We are committed to doing that. We have done it in the past by reducing company tax from 36 per cent to 30 per cent, abolishing wholesale sales tax, reducing fuel excise, abolishing stamp duty on the transfer of shares and undertaking a range of other initiatives that are all about reducing the burden of taxation on small business. I picked up on a comment by an economist by the name of Peter Switzer. Peter Switzer has not always been a big fan of the coalition, but when I saw this comment it really prompted me to respond. On the John Stanley program on 2UE he said:

Certainly I think the important thing is if Labor had any brains—

and we know that Labor is not currently displaying many brains at the Federal level—

they would actually put together a group of policies that would really please small business. At the moment, they are totally ignoring a very important part of the voting constituency.

I will not go on, because what happens after this is a little embarrassing for the member for Werriwa.

*Government member*—Go on! We demand it!

**Mr HOCKEY**—It goes on to the leadership credentials of the member for Werriwa. Malcolm T. Elliot says:

No, he won't get there. Women don't like him. What can I say? Women don't like him. I think I know some pretty real women out there, and they don't like Mark Latham.

**The SPEAKER**—Order! Would the minister bring his remarks to the question?

*Honourable members interjecting*—

**Mr HOCKEY**—It could be about the tights.

**Mr Costello**—What about taxi drivers?

**Mr HOCKEY**—That comes up later.

**The SPEAKER**—The minister will address his remarks through the chair and refer to the question or resume his seat.

**Mr HOCKEY**—Mr Speaker, I obtained a copy of the shadow Treasurer and member for Werriwa's 'light on the hill' speech in which he said:

Higher taxes and charges are forcing families deeper into debt. They are also taking away the incentive to work harder in our society.

He went on to say:

The harder people work the more likely they are to fall into the top marginal tax rate of 48.5 per cent ...

I remind the House that the member for Werriwa voted against any attempt to provide relief under the new tax system for people involved in the 48.5 per cent tax threshold. On the one hand, the member for Werriwa is complaining that too many people are paying 48.5 per cent and, on the other hand, he is voting against it. Of most concern to small business is what he went on to say:

Australia has a vast army of wage and salary earners—people who have studied hard through TAFE ... This is the great imbalance in the taxation system. Honest, hard working PAYE taxpayers are cross-subsidising the corporate sector ...

He goes on to say that the 30 per cent tax rate for corporates is too low. There are 600,000 small businesses out there paying 30c in the dollar at the corporate tax rate. What they want to know is: what is the position of the member for Werriwa? Does he believe that the corporate tax rate should rise? How is that going to affect small businesses out there—the electricians, plumbers, carpenters and all of those people who are the very fabric of our nation? The hardworking small business people in coffee shops and delicatessens and all of those people,

who work hard, are paying 30c in the dollar at the corporate tax rate.

Now, the member for Werriwa is clearly signalling that he wants to increase the tax on those small businesses. We want answers from the member for Werriwa. We do not want him to give us the usual dialogue about how Labor is about fiscal rigour or that Labor is committed to lower taxes. We want to know: does he really believe that the 30 per cent corporate tax rate is too low?

#### **Law Enforcement: Assets**

**Mr McCLELLAND** (3.09 p.m.)—My question is to the Attorney-General. Can the Attorney-General confirm that his predecessor, the member for Tangney, was approached by the President of the Philippines Senate, Mr Franklin Drilon, at the end of June to discuss the freezing of Dante Tan's assets in Australia? Can the Attorney-General also confirm that Mr Karim Kisrwan provided a statement to the ABC's *730 Report*, disclosed on 3 July, that he had received a substantial business loan in the order of \$200,000 from Mr Dante Tan? As first law officer of the Commonwealth, what steps is the Attorney-General taking to investigate the terms of the \$200,000 loan from Mr Tan to Mr Kisrwan to determine whether it involves assets which should be frozen pursuant to the request from the Philippines government?

**Mr RUDDOCK**—I may sit next to the former Attorney-General, but I have received no advice from him on that matter.

**Mr McClelland**—Mr Speaker, I seek leave to table, for the benefit of the Attorney-General, a copy of a letter to his predecessor from me dated 7 July 2003 in respect of this matter.

Leave granted.

#### **Science: Funding**

**Mr NAIRN** (3.10 p.m.)—My question is addressed to the Minister for Science. Would the minister outline to the House how government investment in science benefits small business? Is the minister aware of any alternative policies in this area?

**Mr McGAURAN**—I thank the member for Eden-Monaro for his continuing interest and involvement in science and innovation. The government is spending a record \$5.3 billion on science and innovation this year, and the expenditure is increasing as Backing Australia's Ability brings on new spending for new programs which are highly targeted and gaining widespread support throughout the research and business communities.

This government's commitment to small business ensures that the benefits flow through to small businesses. We do this in a number of ways. For instance, one of the key objectives of the new funding provided for the Cooperative Research Centre program—and \$200 million is invested in that in this budget year—has been to provide abilities for SMEs to participate in CRCs. The House will be pleased to know that there are now 350 small businesses involved in CRC programs that provide employment opportunities and economic growth. CRCs are using a range of strategies to engage small businesses in their activities. Some CRCs involve small businesses through a consortium or an alliance. Others have associate arrangements that enable small businesses to be involved in specific projects of the CRC and, for limited amounts of time, to be flexible to incorporate the needs of small business.

In addition, the government is investing \$570 million in the CSIRO. That organisation provides great benefits to small businesses. The CSIRO itself benefits enormously from this linkage with small business, because it ensures that the research un-

dertaken by the CSIRO meets the needs and expectations of industry and keeps the science focused. Collaboration with small businesses leads to enormous breakthroughs in science that create value for Australian industry and the community.

In 2001-02, the CSIRO had 2,030 contracts and 56 licensing agreements with small businesses, representing an aggregate value of over \$30 million. Seventy-one per cent of the CSIRO's private sector contracts were with SMEs and 29 per cent of the aggregate value to the CSIRO of the private sector contracts came from contracts with SMEs. As the science policy of the government continues to evolve and develop, it will be implemented with a view to capturing the strengths of the economy, including our vibrant small business sector.

I am asked about alternative policies. I would like to inform the House that the Australian Labor Party had a skerrick of a policy on science and innovation, but I am unable to do so. Unlike the Aladdin's cave of quotes and policy pronouncements from the member for Werriwa that so interest the Treasurer and the Minister for Small Business and Tourism, my cave is bereft of any announcements from the Labor Party on anything to do with science and innovation. There is no policy, there are no initiatives and there is no new thinking by the Labor Party.

Members on this side will remember the rhetorical question of some weeks ago: who is the shadow minister for science and innovation? Without reference to formal documentation, very few, if any, members of this House would know who it is. He or she is remarkable by their silence on science and innovation. A couple of clues: the person has a great love of Albania, wishes to ape many of the economic policies of Albania and shares a similar surname to the person most

destined to be the next Leader of the Opposition—the New South Wales Premier. That is as many clues as I am prepared to give on this occasion.

#### **Immigration: Visa Approvals**

**Ms ROXON** (3.15 p.m.)—My question is to the Attorney-General. Is the Attorney aware of allegations of possible breaches of the Criminal Code by government officials involving false passports, bribes and the breaching of border controls of other countries? Can the Attorney advise whether these matters have been or will be referred to the Australian Federal Police? Can the Attorney also advise whether any police investigation would investigate any role played by the minister for immigration in the deportation process of failed asylum seekers or the minister's knowledge of the use of fraudulent travel documents?

**Mr RUDDOCK**—Again, this matter has not been raised with me in my role as Attorney-General. I understand the department that I formerly administered was undertaking certain investigations in relation to certain allegations that were made last week, I believe, on a television program and repeated in the *Sydney Morning Herald*. The department of immigration—and the information is publicly available—put out a release dated 3 October making it clear that it does investigate any allegations of misconduct that come to its attention. It does not normally comment on the progress of investigations but, to 'clarify the current reports', it said:

- To assist with the investigations, on 1 October the Department's investigators contacted (among others) ABC Lateline, a by-lined journalist at the Sydney Morning Herald, and the Edmund Rice Centre, on whose research the allegations have been made.
- No information has yet been forthcoming. In two cases, the request for additional detail has so far been refused; the Centre has indi-

cated it needs to consult with an official who is currently in Switzerland.

There was another report that related specifically to me. It was a report that two years ago migration agent Marion Le had raised certain concerns that an immigration officer had suggested returnees obtain false passports. It was asked whether that had been investigated. Records of correspondence between Ms Le and myself showed that earlier concerns had arisen and been resolved. The release quotes the letter from me to Ms Le responding to her advice that she had received certain information. I said:

I am advised that his comments to the group—

this is speaking of the officer who had interviewed them—

have been misconstrued, perhaps mischievously. At their request—

the officer—

met with this group in Port Hedland recently. Members of the group expressed concern with difficulties arranging their departure, contrasting this with the ease with which they were able to travel to Australia.

The officer:

... explained that while members of the group were clearly able to travel around the world with false documents obtained by people smugglers, it was not possible for the Australian Government to use such means.

The officer:

... took pains to explain that they should not take this to mean they should contact people smugglers in order to obtain travel documents.

Ms Le received that advice from me in relation to the investigation that was undertaken and the comments of the officers and made no further contact in the following two years with me to pursue that matter. The following extract, referring to the same officer, is from an affidavit lodged by Ms Le in the Federal Court of Australia, New South Wales Registry, on 3 June:

Ms Le said she had been told by the DIMIA officer—

so she spoke to him—

that: “Essentially in discussion with the—

group—

about their future, I said to them, we’re doing what we can but we can’t move people on documents which aren’t kosher. We need to deal openly, unlike the people smugglers.”

So I simply make the point there are no new allegations.

**Ms Roxon**—What about the allegations—

**The SPEAKER**—The member for Gellibrand has asked her question.

**Mr RUDDOCK**—There are no new allegations.

*Ms Roxon interjecting—*

**The SPEAKER**—The member for Gellibrand!

**Mr RUDDOCK**—The people who made them, to a television program and a newspaper, have been asked to confirm them and, as I said, at the date—3 October—they had not been able to provide any information to the investigation section on those matters.

The department of immigration—and it is not for me to say this—takes these matters very seriously and would not be engaged in providing documentation to people that is false. When people are given documents in the form of an Australian identity document for travel, to use to obtain a visa to enable them to enter another country, that is a valid Australian document properly issued by law and which people are entitled to take and use for overseas travel and to get a proper visa. I understand that in relation to all of the people moved, except one, that was the case. In relation to one of them there was a passport which he presented to officers which was believed to be valid, and we have no reason now to believe that it was not valid but we have not seen it for some three years to know

whether or not it has been interfered with in some way. I simply make the point that the government would not be party—nor would its officers—to giving people documents that were false, and there is no evidence to suggest that they have. Those matters have been investigated where evidence has been provided and evidence has been sought from those who have provided information to the media, and it has not been forthcoming.

#### **Employment: Programs**

**Mr PROSSER** (3.21 p.m.)—My question is to the Minister for Employment Services. Would the minister inform the House what the government is doing to assist older unemployed people to find jobs?

**Mr BROUGH**—I thank the honourable member for his question. This House and most of Australia is now aware that we are at a 13-year low of unemployment at 5.8 per cent, something this government is very proud of. But it is probably less well known that for older workers the unemployment figures have also come down quite dramatically over the term of the Howard government. In fact, mature age unemployment peaked at eight per cent under the Labor Party and was 6.2 per cent when the now opposition leader was employment minister when the Labor Party lost government. Today it stands at 3.6 per cent, and that is something that this government is very proud of—a more than halving of the peak rate of unemployment.

There is a very good reason why this government continues to work to get mature age workers into the workforce. Obviously, it is very helpful to those individuals and it is something that we want to work with them on at a personal level. But it is also good for the economy. As the work force ages, we are going to need more older people in the work force. There is a good news story there from the government as well. During this period

when the unemployment rate for mature age workers has come down, the actual participation rate of mature age workers has in fact increased from 63 per cent to 68 per cent. That is very positive news for both the economy and mature age workers.

There are many very specific measures the government is taking over and above generic programs like the Job Network. The Treasurer and I launched Mature Age Month on 1 October in Melbourne. We are trying to encourage businesses to understand the positive attributes that mature age workers can bring to their business. It is a well-known fact that a mature age worker, when retrained, is likely to remain with a business for five years longer than a retrained younger person. They are less likely to have absenteeism; they are more likely to be a stable person in the workplace and actually help young people and the business overall.

This government is now introducing industry specific measures. In South Australia—and I am sure the member for Hindmarsh and the member for Adelaide would be interested to know this—we are working with the aged care sector to meet its needs and the needs of mature age workers to ensure that we engage these particular people in industry. In Brisbane, we are working with the taxi industry. Salvation Army Employment Plus has recently worked with the Retailers Association of Australia to make sure that we connect mature age workers with what is one of the largest sectors of employers in Australia.

While we have driven unemployment down to 5.8 per cent—while mature age unemployment is now down to 3.6 per cent—this government will continue to work at every level in every community to continue to drive down unemployment for the benefit of individuals and for the benefit of the Australian economy as a whole.

**Attorney-General: Investigation**

**Mr McCLELLAND** (3.25 p.m.)—My question is to the Attorney-General. Can the Attorney confirm that the Federal Privacy Commissioner is currently investigating allegations that the Attorney breached the Privacy Act? What is the appropriateness of the Attorney-General remaining in his role as the first law officer of the Commonwealth while he is under such an investigation by the Federal Privacy Commissioner? Will the Attorney—

**Mrs Bronwyn Bishop**—Mr Speaker, I rise on a point of order. The content of that question clearly makes allegations. It is clearly out of order and should be ruled as such. It should be dealt with on a substantive motion.

**Mr McMullan**—Mr Speaker, I rise on the point of order.

**The SPEAKER**—I will recognise the member for Fraser in just a moment. It would seem to me reasonable to rule on the point of order and then if the member for Fraser wishes to take a point of order following my comments I will recognise him. I have been listening closely to the question of the member for Barton. I hear the concerns of the member for Mackellar but all I have heard from the member for Barton thus far has been what could be called a factual statement.

**Mr McCLELLAND**—I will repeat the second paragraph. What is the appropriateness of the Attorney-General remaining in his role as the first law officer of the Commonwealth while he is under investigation by the Federal Privacy Commissioner, a commission for which he is responsible? Will the Attorney honour the principle of responsible government and the particular responsibilities of his office and stand aside until this investigation has been completed?

**Mr Hawker**—Mr Speaker, I rise on a point of order. The second part of that question was clearly asking for an opinion and should be ruled out of order.

**The SPEAKER**—I will allow the question to stand.

**Mr RUDDOCK**—I have not been advised of any investigation, but I did take advice on the matter when it was raised by the honourable member for Fraser. It relates to the conversation with a journalist—which is known well in this place—in relation to a commissioner of ATSIC. In relation to that matter the written advice I have received is that I had in no way breached his privacy, and I do not believe I did.

**Health and Ageing: Aged Care**

**Mr BAIRD** (3.27 p.m.)—My question is addressed to the Minister for Ageing. Would the minister outline to the House how the Howard government is continuing to provide quality care for Australia's frail aged?

**Ms JULIE BISHOP**—I thank my colleague the member for Cook for his question. I know aged care issues are important in his electorate and I acknowledge his interest. It is relevant to consider how the aged care sector was before the Howard government came to office. Under the Labor government there was no complaints scheme, there was no certification of aged care facilities, there was no accreditation of approved providers, there was no regular evaluation of the care subsidised by the Commonwealth, there was no authority to place sanctions on providers for noncompliance and—members will find this of interest—there were no prudential reporting requirements.

**Mr Latham**—Mr Speaker, I rise on a point of order. The question went solely to the subject of what this government is doing about aged care. It did not ask for any assessment of governments in years gone by.

**The SPEAKER**—I invite the minister to come to the things the government is doing.

**Ms JULIE BISHOP**—Obviously, in order to gauge achievements one has to look at what we started with.

**The SPEAKER**—I remind the minister that I have not ruled her answer out of order; I have simply asked her to come to the point about what the government is now doing.

**Ms JULIE BISHOP**—All of these have been put in place by the Howard government. It is enshrined in history that a 1998 auditor's report demonstrated that, under Labor, there was a 10,000-bed deficit. There were in fact only 148,000 allocated places in 1996. As at 30 June 2003, there were 197,000 allocated places.

**Mr Latham**—Mr Speaker, I rise on a point of order. The minister is clearly unable to break from her prepared text to comply with your ruling, and that is to address what the government is doing. Does she have to read it out?

**The SPEAKER**—The member for Werriwa will resume his seat or I will deal with him!

**Ms JULIE BISHOP**—As I was saying, as at 30 June 2003 there were 197,000 allocated aged care places, so we are well on track for meeting our target of 200,000 places by 30 June 2006. Along with the increased places, the government has increased the level of funding for the aged care assessment teams—the ACATs. In fact, last week the government announced a 10.6 per cent increase for the assessment program. That brings it to \$46.3 million and is helping to provide timely assessments for the aged seeking community aged packages or residential care.

Also the Howard government has been working in partnership with the aged care sector to provide a transparent and account-

able system that will deliver continual improvements to the quality of care that our aged so richly deserve. I think one comparative statistic tells it all. In 1995-96, \$3 billion was spent on residential and community aged care. Today, under the Howard government, \$6 billion is spent on aged care. This 100 per cent funding increase compares very favourably with the 16.5 per cent growth in the over-70 population.

Some of the individual increases are very telling. If one compares the 1995-96 Labor expenditure with the 2003-04 government budget, in residential care subsidies there has been a 59 per cent increase. In community aged care packages—they are the packages to help people remain independent and remain at home—there has been a 784 per cent increase from the Labor figures. In the flexible care subsidies—a very important area—there has been a 783 per cent increase, and so the list goes on.

According to the annual report on the operation of the Aged Care Act, there was a total of \$941.7 million expended in building activities in the last financial year. This indicates real confidence in the aged care sector. As well as the general ageing of the population, the report specifically cites the government's record funding levels and the allocation of new aged care places over the past 12 months. That includes 52,700 in the past five years. They are the reasons underpinning a healthy level of investment in the aged care sector. So the report is a very positive endorsement of the Howard government's achievements, and we will continue to work on progress in this regard. This is a government that cares about older Australians.

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

**PERSONAL EXPLANATIONS**

**Mr CREAN** (Hotham—Leader of the Opposition) (3.34 p.m.)—Mr Speaker, I wish to make a personal explanation.

**The SPEAKER**—Does the Leader of the Opposition claim to have been misrepresented?

**Mr CREAN**—I do.

**The SPEAKER**—Please proceed.

**Mr CREAN**—Today in question time, the Minister for Health and Ageing claimed I was not telling the truth in making the claim that families earning more than \$32,000 a year will be denied access to bulk-billing under John Howard's plan.

**The SPEAKER**—The Prime Minister's.

**Mr CREAN**—That claim reflects the effect of the Howard government's Medicare package. I stand by it and it has been verified by independent modelling.

**Mr JENKINS** (Scullin) (3.35 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

**Mr JENKINS**—Most harshly.

**The SPEAKER**—Please proceed.

**Mr JENKINS**—In today's *Daily Telegraph*, in an article headlined 'Critics ready to discuss Abbott's reforms', the Minister for Health and Ageing's accusation in question time yesterday—that I, along with others, had distributed false flyers claiming the government plan to introduce a \$20 up-front fee—was reported. Whilst I suspect the *Daily Telegraph* is not widely read in the electorate of Scullin, as an Australian with an interest in honest politics and on the basis that the minister again alluded most pugnaciously to his claim in today's question time—

**The SPEAKER**—The member for Scullin will come to his personal explanation.

**Mr JENKINS**—I simply indicate to the House that I have not used such words. At least on 18 September in the other place the former Minister for Health and Ageing accurately quoted a statement I used against the government's plan but regrettably stretched its faithful representation by taking it out of context. On that matter, I refer to the Leader of the Opposition's personal explanation.

**Ms GILLARD** (Lalor) (3.36 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

**Ms GILLARD**—Yes, on two occasions and most grievously.

**The SPEAKER**—Please proceed.

**Ms GILLARD**—Firstly, in question time today the Minister for Health and Ageing claimed that I had said that members of the Labor opposition had circulated false claims about Medicare. I have never made such a statement. Secondly, the Minister for Health and Ageing has claimed that I have circulated in my electorate a petition which has false claims. The petition that I have circulated seeks that people call on the Howard government to maintain bulk-billing and not introduce up-front fees for GP visits. Both the loss of bulk-billing and an increase in up-front fees for GPs—

**The SPEAKER**—The member for Lalor must indicate where she has been misrepresented.

**Ms GILLARD**—are the effect of the Howard government's package, as verified by independent modelling.

**Mr LATHAM** (Werriwa) (3.37 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

**Mr LATHAM**—Grievously so, Mr Speaker.

**The SPEAKER**—The member for Werriwa may proceed.

*Honourable members interjecting—*

**The SPEAKER**—The obligation to hear people in silence is something that the standing orders insist we all recognise, including the member for McEwen.

**Mr LATHAM**—In question time the Minister for Small Business and Tourism said that in my Light on the Hill speech in Bathurst I said that the company tax rate is too low. He quoted one half of a sentence from that speech. Let me give an account of what I actually said. I said:

This is the great imbalance in the taxation system. Honest, hard working PAYE taxpayers are cross-subsidising the corporate sector—in some cases, cross-subsidising high-wealth individuals who are avoiding tax altogether. The incentive system is all wrong. The hard workers are being punished while the rorters are being rewarded.

At no point did I say that the company tax rate was too low. This is a blatant misleading of the parliament by the minister, for which he should—

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

**Mr MELHAM** (Banks) (3.38 p.m.)—Mr Speaker, I wish to make a personal explanation.

**The SPEAKER**—Does the member for Banks claim to have been misrepresented?

**Mr MELHAM**—I do, Mr Speaker.

**The SPEAKER**—The member for Banks may proceed.

**Mr MELHAM**—Yesterday, the minister for health said in the House that in brochures or advertisements the members for Scullin, Lowe and Banks have said that the federal

government wants to charge a \$20 fee every time you visit your doctor. That claim was carried in today's *Daily Telegraph* as well. I have caused a search by my staff of all the brochures and material that I have circulated in my electorate. We have gone through them but nowhere can we see where I have made such a claim, so I claim to have been grievously misrepresented by the minister for health.

**Mr MURPHY** (Lowe) (3.40 p.m.)—Mr Speaker, I wish to make a personal explanation.

**The SPEAKER**—Does the member for Lowe claim to have been misrepresented?

**Mr MURPHY**—Most shockingly, Mr Speaker.

**The SPEAKER**—The member for Lowe may proceed.

**Mr MURPHY**—In relation to the Howard government's proposed changes to Medicare, the minister for health did me over in question time again today regarding my claim that my constituents will have to pay \$20 more when they visit the doctor. I stand by that claim and I invite the minister to deny it.

**The SPEAKER**—The member for Lowe will resume his seat.

#### QUESTIONS TO THE SPEAKER

##### Joint House Department: Certified Agreement

**Mr KERR** (3.40 p.m.)—Mr Speaker, I am requesting you to give consideration to consulting with the President of the Senate to consider whether you might intervene in negotiations currently under way between the Joint House Department and security attendants and staff who work in this building. At the moment I am given to understand that one of the negotiating terms that are the subject of discussion is a request that staff trade off rights of return to work under maternity

leave provisions for increased wages. Whatever side of the House that we speak from, all would claim to represent family-friendly approaches to industrial matters of this kind. It does the House no honour that these negotiations are occurring in that context.

I appreciate that those negotiating on our behalf are entitled to strike the best bargain that they can but in this instance I ask that you give consideration to this matter and, firstly, advise the House whether it is your understanding that these matters are afoot and, secondly, advise whether there could be some intervention on our behalf to ensure that, in particular, women, who would represent a relatively small component of that work force and who predominantly would benefit from maternity leave, are not put in a position in negotiations where perhaps the majority would determine that those rights be abrogated or restricted.

**The SPEAKER**—I will respond briefly to the member for Denison and come back to him with more detail later. I can indicate that, following the decision to amalgamate the House departments and to move from five departments to three, a new series of workplace agreements have been entered into. I am not aware of the provisions the member has just indicated being a part of that agreement, but I have spoken to the President about the progress of that workplace agreement. I will consult with the President once again and, with his agreement, come back to the member for Denison. But I can indicate that, yes, a new workplace agreement is inevitably being negotiated because of the amalgamation.

#### Questions on Notice

**Ms JACKSON** (Hasluck) (3.42 p.m.)—Mr Speaker, I hope that you will be able to assist me. On three occasions I have raised with you under standing order 150 two questions which I placed on the *Notice Paper* but

which have not been answered. Those questions are question No. 636, which was placed on the *Notice Paper* on 19 August 2002, and question No. 937, which I placed on the *Notice Paper* on 19 September 2002. Over a year has now gone past. Both questions were put to the Treasurer as the minister representing the Minister for Revenue and Assistant Treasurer. I am happy to give you, Mr Speaker, the *Hansard* references where I have raised the matter under standing order 150. I am at my wits' end and I wonder whether there is any other avenue that I am able to pursue.

**The SPEAKER**—I responded to a question like this earlier this year, but it was not from the member for Hasluck. As all members are aware, prior to the application of standing order 150, there was no limitation on the time taken for answers, so there has been a step in the right direction. That step was taken by parliaments presided over by former Speakers; I am not claiming credit for it. Standing order 150 allows backbenchers to put on the record their concern about an unanswered question. If the House wishes there to be some other action taken, the House will amend the standing orders accordingly. It is not the Speaker's prerogative or in the Speaker's capacity to do so.

#### MINISTERIAL STATEMENTS

##### Constitutional Reform: Senate Powers

**Mr HOWARD** (Bennelong—Prime Minister) (3.45 p.m.)—by leave—Today I am releasing, on behalf of the government, a document entitled 'Resolving deadlocks', which is a discussion paper on possible changes to section 57 of the Australian Constitution. The purpose of releasing this discussion paper is to initiate a widespread debate throughout Australia regarding a very moderate and reasonable proposal for possible amendment of section 57 of the Australian Constitution.

Before canvassing what is proposed in this discussion paper, I want to take a few moments to make clear what is not proposed. The first point I would make is that these proposals do not represent an attack on the powers of the Senate. They do not represent an attempt to remove the fundamental role or the fundamental influence of the Senate within the Australian bicameral system of government, nor are they an attempt to extend the power of the executive. There is nothing in these proposals that represents any attempt to extend the power of the executive, nor do these proposals represent an attack on the minor parties or on the Independents.

It is important to make the observation that in debate which has occurred in recent years in Australia about the role and the powers of the Senate, particularly in relation to the deadlocks that from time to time arise between the two houses, one of the proposals canvassed has been, in one form or another, an alteration in the voting system for the Senate. I want to stress to the House and through the House to the Australian public that there is absolutely no proposal in this discussion paper regarding the voting system for the Senate, and there is no proposal to change the terms of the senators or indeed the method of electing them.

As the House would be aware, for more than 100 years under our current Constitution the only way of resolving deadlocks that occur between the two houses has been through the application of the existing section 57 of the Australian Constitution. That is the double dissolution route which provides that, once the circumstances have been met, if a double dissolution is held and the legislation which caused the deadlock is again presented and again rejected by the Senate, it is within the province of the Governor-General to convene a joint sitting of the parliament at which the rejected legislation is presented. If

it obtains a majority at that joint sitting, then the legislation becomes law.

As the House would know, this has occurred on only one occasion and that was in 1974 when four pieces of legislation which had been rejected by the Senate were, after the 1974 election, again presented to the Senate, again rejected and were then presented to a joint sitting. I remember that occasion well because it was the first parliamentary sitting that I attended.

Until 1948, it is fair to say that the effective operation or otherwise of section 57 of the Constitution was largely an academic issue. Prior to 1948, 13 of the 18 governments which had power in Canberra had majorities in both houses of parliament. The introduction of proportional representation in 1948 plus the enlargement of the parliament in 1983 have created a very different situation. Crucially, the enlargement of the parliament in 1983 meant that, for the first time, the number of senators retiring each year was even. It became six through the enlargement by two of each state's representation, whereas between 1949 and 1983 it had been five. Prior to that, until 1948, it had been three, when each state elected six senators. Effectively, as I think people on both sides of the parliament know, with proportional representation this means in practice, although obviously not in theory, that the government of the day—absent a landslide victory never previously obtained in over 100 years of Federation—will not be able to win a majority in both houses of parliament no matter how strong its electoral support.

The paper discloses that, in order to win four out of six Senate seats in a half Senate election, a party would need to obtain 57.6 per cent of the vote in a Senate election. I think those of us—and that includes all of us—who follow electoral outcomes closely would understand that that is very hard. In-

deed, my quick research tells me that the best two-party preferred vote in a House of Representatives election in any one state since Federation was that obtained by the coalition in Queensland in 1996 of 60.5 per cent but, in relation to the Senate, the figure that we obtained fell a long way short of that. I want to make it clear that the government accepts these current realities. Although the Liberal Party in 1983 voted against the enlargement of the parliament, it remains the case that we are not proposing that it be reduced. Let me also say that we are not proposing that it be increased. I do not believe there is any case, now or in the foreseeable future, for an increase in the size of the national parliament. There may be arguments about facilities for members, but they are other issues. There is no argument in my judgment for an increase. I think that any suggestion of an increase in the size of the parliament, given that 12 senators from each state is seen by many Australians as being a fairly large number anyway, would be very strenuously resisted, and rightly so, by the Australian people.

Having said that, and having made it very clear that we do accept these realities, we do as a consequence argue that because legislative deadlocks are now more likely—and bear in mind that the last occasion on which any government held a majority in the Senate was in June 1981; the coalition government, led by Malcolm Fraser, lost its control of the Senate in 1981—and there is no foreseeable likelihood, absent some unprecedented landslide that I do not feel is coming on either side of politics—

*Honourable members interjecting—*

**Mr HOWARD**—Let us be realistic about these things. You need realism when it comes to constitutional reform. That is the most important ingredient of all. I think we have to recognise that no government is likely to control fully in its own right both houses of

parliament. Given that, it is our central argument that we ought to explore in a moderate, calm and sensible fashion a new and simpler way to resolve legislative deadlocks without resort to what can reasonably be described as the sledgehammer effect of a double dissolution.

It is not my purpose today to engage in a lengthy partisan recitation of the outrages that have been inflicted by the upper house on the decent, honourable legislative program of the government. Suffice it to say that there are many pieces of legislation that we believe have been patently part of our program through successive elections—and I quote in particular the unfair dismissal law—which have been rejected by the Senate despite the patent mandate that we have obtained in relation to that. We believe that for legislation like that, which is obviously going to be rejected again and again by the Senate, there does need to be some mechanism explored as to whether you can find a way of resolving once and for all what to do with that legislation. That is a proposition that will obtain, irrespective of who is in power. Australian politics tells us that no political party remains in power forever. Anybody who imagines anything to the contrary is deluding themselves. What I am putting is something which is relevant to not only the current government but also, I suggest, future governments in this country.

There is a very strong case for finding a simpler mechanism which is different from the existing double dissolution provisions. In anticipation of some of the arguments that will be advanced against this proposal—and they have already been advanced—I make the point that when you are looking at the behaviour of the Senate, or sections of the Senate, you do not look at the number of government bills that have been passed; you look at the number of important government bills that have been passed. Of course, most

legislation numerically described is passed by the Senate without demur, because most legislation is uncontroversial and does not produce any kind of political divide within the Australian community.

When you examine section 57, it is interesting to note that it has, as I said earlier, been used fully on only one occasion, and that was in 1974. Since Federation there have been only six double dissolution elections: in 1914, 1951, 1974, 1975, 1983 and 1987. But it was only in 1974 that the legislation that formed the basis of the grant of the double dissolution by the Governor-General was presented to a joint sitting. Indeed, section 57 has led to the passage of deadlocked bills only in 1974 and in 1951. The government of the day won at the 1951 election a majority in both houses of the parliament, which led to the passage of the government's banking legislation which had formed the basis of the double dissolution obtained by Sir Robert Menzies.

It is fair to say that if this experience is any indication, over a period of a century section 57 has not been a particularly workable means of resolving deadlocks. Frankly, I can understand why. If people on the other side are objective, they will share that understanding. It is a sledgehammer constitutional response to repeated deadlocks. As a result of this, there have been over the years—and I will not go into the detail—a number of examinations made of alternative approaches. For example, in 1950 a Senate committee, including both government and opposition senators, recommended removing the requirement for a double dissolution altogether. Rather better known was the bipartisan parliamentary committee in 1959, which included the then member for Werriwa and later Prime Minister, Gough Whitlam, and also the late Sir Alec Downer, the father of my valued colleague and friend the foreign minister. Both of them suggested alternatives

to the existing section 57. Indeed, their recommendations are really the genesis of the proposal which has been put forward in the discussion paper that I am releasing today.

Earlier this year I announced that the government was interested in exploring more workable ways to resolve deadlocks. The discussion paper I am releasing today suggests two possible options for change, both of which would supplement the existing mechanism in section 57. The first would allow the Governor-General to convene a joint sitting of both houses to consider a deadlocked bill without the need for an election. If an absolute majority of members and senators at the joint sitting voted in favour of the deadlocked bill, it would become law.

The second option, which has become known as the Lavarch option—so named because it was suggested, perhaps not for the first time but certainly in the current debate, by Michael Lavarch, a former Labor Attorney-General and now Secretary-General of the Law Council of Australia—would allow the Governor-General to convene a joint sitting of both houses after an ordinary general election. Again, if an absolute majority of members and senators at the joint sitting voted in favour of legislation deadlocked in the previous parliament, it would become law.

The paper discusses the strengths and limitations of each option and canvasses some possible variations; and I am quite sure that the Australian people will have many suggestions of their own. It is important for me to stress again that these options do not seek to remove proportional representation in the Senate. They do not seek to reduce the size of the Senate, nor do they seek to remove the Senate's powers of review. They simply attempt to ensure that when deadlocks do arise they are resolved as effectively, as democratically and as reasonably

speedily as possible, consistent with the bicameral nature of our parliamentary system. They are moderate, sensible, careful solutions, and I hope that they will draw forth constructive debate.

I am hardly proposing a constitutional revolution in what is being put forward in this proposal. I am barely suggesting that there be a radical restructuring of the power balance between the House of Representatives and the Senate. Any change to the Constitution is, of course, a matter for the Australian people. It is notoriously difficult to amend the Australian Constitution. Like every member in this House who has been in politics for a long time, I have been responsible for campaigning against referendum proposals, and I make no apology for the stance I have taken in the past. I have been involved in campaigns in favour. Very few get through. Bipartisan support is a good start but, as the Leader of the Opposition and I recalled in a discussion we had earlier today, even when bipartisan support was obtained in 1967—when an attempt was made, I thought reasonably at the time, to remove the nexus provision in the Constitution—it was defeated. I recall that day very well. I joined the former Lord Mayor of Sydney, Doug Sutherland, in handing out yes pamphlets at the Campsie Public School; but all to no avail. We were resoundingly defeated by the efforts of the Democratic Labor Party. That is a bit of political history to remind us that, even with bipartisan support, you cannot automatically assume that you are going to win. But certainly bipartisan support is a good starting point.

I announced earlier this year that the government will engage in three months of public consultation. If, at the end of that time, there is a reasonable prospect of community support for a change, the government will consider holding a referendum on this issue in conjunction with the next general election.

But we would consider doing that only if we thought there were a reasonable prospect. If there is not, it is not something that I will commit the government to and it is not something that I believe the resources of the Australian taxpayer will be involved in.

In that context, let me say that I had the opportunity to have this morning what I regarded as a very useful discussion, at my invitation, with the Leader of the Opposition regarding this issue. I fully respect the fact that the opposition has some other ideas about constitutional reform. I have already publicly indicated that I am personally in favour of four-year parliaments, and I would venture to say that the great majority of my colleagues are in favour of four-year parliaments. I also have to say that I have a disinclination to support fixed terms. I do, however, believe that the just-expired Victorian system of having a maximum of four years and a minimum of three, with some flexibility in the fourth year, is something that is attractive to me. I know there are other proposals that the Labor Party has; we will consider them.

We would like to achieve a bipartisan position on the proposal which is contained here. There are two options, and we are not collectively wedded to one in preference to the other. I would regard either of these options, if they were adopted by the Australian people, as a very significant advance on the present system and as providing, I think, a sensible contemporary mechanism for resolving deadlocks which inevitably are going to arise. At the moment we are seen as wanting to remove the deadlocks because they are deadlocks involving our legislation. If the Constitution is not changed, as sure as we sit here today, there will come a time when a Labor government will, in the future, have the same difficulty. Being realistic about it, I put that to the Australian Labor Party.

We can make partisan comments about this, and no doubt they will be made, but I do think this is important if we are to achieve any sensible change in something—and this is pretty modest. We are not dealing with overturning 100 years of ingrained practice. We are just recognising that, in the modern reality, the public wants to elect small parties and Independents into the Senate and we must respect that wish. I think the worst thing would be for the major parties to gang up and try to change the system to squeeze out the small parties. That would draw very deep resentment in the Australian community. I think that what we have to try to do, sensibly, is to find a mechanism to resolve these deadlocks. I will be encouraging as many Australians as possible to take part in this debate over the next three months. My department will be taking submissions from interested parties on these issues, and instructions on how to make submissions are set out in the discussion paper.

I am also very pleased to announce that three distinguished Australians have agreed to form a consultative group to encourage debate around the country. The Hon. Neil Brown QC, a former minister assisting the Attorney-General and former Minister for Communications in the Fraser government, will chair the consultative group. The Hon. Michael Lavarch, a former Labor Attorney-General in the Keating government and the current Secretary-General of the Law Council of Australia, and Professor Jack Richardson, a former Commonwealth Ombudsman and respected academic who has written extensively on section 57, have also agreed to participate in the group.

In the coming weeks, the group will be visiting each capital city to support, and focus, public debate. They will hold meetings where Australians will have an opportunity to have their say on these issues and, indeed, raise related issues if they so wish. Details of

these meetings will be advertised widely in each state and territory. I encourage Australians to take the opportunity to participate in this debate. I repeat that these are moderate, careful, sensible proposals. I hope they get a constructive debate. If we can reach agreement then, as I say, the government will give consideration to holding a referendum. We do need a constructive debate, and I commend a careful consideration of the discussion paper not only to the House but also to the Australian people. I thank the House and I present the following paper: *Constitutional Reform: Senate Powers—Ministerial Statement, 8 October*.

**Mr ABBOTT** (Warringah—Leader of the House) (4.09 p.m.)—I move:

That the House take note of the paper.

**Mr ABBOTT** (Warringah—Leader of the House) (4.09 p.m.)—I move:

That so much of the standing and sessional orders be suspended as would prevent Mr Crean (Leader of the Opposition) speaking for a period not exceeding 23 minutes.

Question agreed to.

**Mr CREAN** (Hotham—Leader of the Opposition) (4.09 p.m.)—Labor welcome constitutional reform and we welcome the release of this paper. I also welcome the conversation that the Prime Minister has already alluded to between him and me earlier today to discuss these and other issues. I would like to indicate that not only did I find it a very useful discussion but that there was agreement that, depending upon how the debate progresses and subsequent to the release of his discussion paper and a discussion paper that I will be releasing today, it would probably make sense for us to meet again to discuss how we proceed.

Labor have consistently proposed constitutional reform—I think that is terribly important to acknowledge as a starting point in this—so we do not shy away from this issue.

The difficulty with the paper itself is that it is a limited proposal. The Prime Minister calls it a modest proposal, but it is a limited proposal. The very strong view of the Labor Party is that it needs to be considered in the context of other proposals, and the discussion paper that I will be putting forward today outlines some of those. The Prime Minister is seeking Labor's support because he has acknowledged that, historically, the ability of referenda to succeed in this country requires, as a starting point, agreement by the two major political parties. That, of itself, does not guarantee success; but it is an important starting point. If we are to reach agreement between ourselves, it cannot be simply on the basis of the proposals that the Prime Minister puts forward. The consideration has to be genuine and it has to be comprehensive—not an exercise simply designed to help a government argue during an election campaign that the Senate has been obstructionist.

What we have to have is a circumstance in which, if proposals are being put forward, they are for the Australian people—not for political advantage. For that reason, we have said that consideration has to include other issues. I have also suggested—although I note the group of three that the Prime Minister has talked about—that, in progressing these issues, we need a joint select committee of the parliament to help consider the views of the Australian people in the context of constitution reform, to seek their support and their understanding of the reasons why this reform is essential for us, as a parliament, to modernise and, as a country, to move forward.

Constitutional reform needs a proper process to receive those proposals, and the joint select committee is an initiative that I have previously put to the Prime Minister. In fact I wrote to him on 28 May 2003 proposing a joint select committee. Regrettably, he

wrote back to me on 6 June rejecting the proposal. I have again, in our discussions, asked him to reconsider that position and I do so formally in the House in the context of this debate. I acknowledge the importance of the group of three that the Prime Minister has announced. Indeed, as I told him this morning, I encouraged Michael Lavarch to be a participant in this process in the interests of advancing the discussions. But I repeat the point that if we are to seek constitutional reform and the support of the Australian people then it has to be reform that the Australian people acknowledge the need for, support and see as being in their interests, not in the interests of serving politicians.

We are talking about a major change that has the potential to take us forward, but I do underscore the importance of bringing the Australian people with us and I seriously ask the Prime Minister to consider the joint select committee again as a mechanism for the consideration of the broader context of constitutional reform. I turn now to the proposals contained in this document. The first model proposed by the government—the Howard model, the one that was first floated by the Prime Minister—is effectively an assault on the Senate. It seeks to deny the Australian people the right to have a vote on the outcome of a deadlocked parliament, and that is why I do not believe it will be supported. I do not support it myself, and I suspect—and we have not considered the detail of this because it has only just come out—that that would be the view of the Labor Party.

The second model does deserve further consideration, but it is an incomplete model. The Prime Minister refers to it as the 'Lavarch model'; it is not, because Michael Lavarch has made it clear that he would not support this option unless it also removed the Senate's ability to block supply. That is the Lavarch model, and I think we should be

honest about that in the way in which this proposal is presented. Labor would be prepared to consult on and consider the Prime Minister's second model, but only if it is accompanied by two other important reforms: the removal of the power of the Senate to block supply and the introduction of fixed four-year terms.

The Prime Minister has based his proposal for reform on the claim that it will overcome Senate obstructionism—something that he referred to in the debate. But I think that we really have to look at the question of how significant that obstruction has been. The real story is far less dramatic than the Prime Minister has made out. He has talked about the many pieces of legislation that have gone through and said that they were not controversial in the main. That is not true, Prime Minister; many of the pieces of legislation that have been passed by the Senate have been quite controversial, but they have been passed. In terms of your unfair dismissal bills, which you specifically alluded to, I simply say to you that there is another way to address this problem that does not involve deadlock mechanisms, and that is to negotiate on them, which Labor has consistently said it would do. It has put alternative proposals forward on many occasions when these bills have been reintroduced in the parliament.

Another important point is this: for 37 of the last 42 years, the government of the day has not had a majority in the Senate. That is the truth of it. What we are addressing here is not a new circumstance; for 37 out of the last 42 years the government of the day has not had the control of the Senate. Governments and Senates of both political persuasions have had to negotiate with each other to take the nation forward. It is the checks and balances in our political system, and it is what the Australian people have become comfortable with—voting for a member of the

House of Representatives in a way that is different from the way they are voting for a candidate standing for the Senate. Overwhelmingly, the Senate has operated as it was intended and as the Australian people want it to—not necessarily as a states' house but as a house of proportional representation and a house not just of review but of checks and balances.

The previous Labor government never had a majority in the Senate for all of their 13 years, but they implemented one of the most wide-ranging economic and social reform agendas in the nation's history, and our nation is better for it. We had difficulties with the Senate, but to argue that we were incapable of governing because of the difference in composition between there and here is not true, because we sought genuinely to negotiate with them. I think it is also a tenet for those of us who firmly believe in the democratic process—and I take it that all of us do in this place—that governments may not always get what they want but the Australian people get what they need. That is reflected in the way in which they vote, and we have to understand it. The fact that the Australian people continue to vote differently for the Senate and the House of Representatives indicates also, I think, the importance of the role the Australian people see the Senate playing.

During the present government—and this comes specifically to the Prime Minister's point about how obstructionist the Senate has been to them—1,269 bills have been passed by the Senate, with or without amendment. Many of those have been controversial. Only 25 bills have been negatived in the Senate, and seven of them have been negatived twice. Eleven have been laid aside by the government, and four of them have been laid aside twice. Since 1996 the management of the Senate has also become much easier. The opposition has granted the government extra

sitting hours, extra sitting days, extra sitting weeks and exemptions to allow early consideration of urgent legislation. Labor has ensured more time is devoted to government business.

The Prime Minister got his GST through the Senate—not with our support, of course, but he got it through—plus the first two tranches of the sale of Telstra. Of the six bills that are laid aside currently, interestingly only three would in fact satisfy the Prime Minister's second model, having also been rejected twice in the previous parliament. So the bottom line is that 98 per cent of the Howard government's agenda is through. This compares very favourably with the record of Senates controlled by the coalition when we were in government. From 1972 to 1975, under the Whitlam government, the opposition rejected a record 93 government bills—25 more than the total number of rejections in the first 71 years of the Senate's history. And it used, as we remember, the Senate's power to block supply to bring a government down. So, if you want to talk about obstruction, let us have a look at the historical context.

Labor believes that the debate about constitutional reform must be wider. I set out an agenda earlier this year, on 28 May, that indicated the other areas in which reform should take place. I believe very strongly that reforms designed to enhance the cooperation between the Commonwealth and the states must be a priority for us as a national parliament and for those seeking to govern in this place. More than any other reforms, these are the ones that can deliver real advantages to the daily lives of Australians. You only have to look to see that the Australian public is sick to death of the buck-passing between federal and state governments, whether it be on health, education or the environment. This is what the Australian people want us to resolve, but there are con-

stitutional constraints on our ability to resolve it. I think that we seriously have to address it, and I have put forward initiatives that would do just that. A joint select committee would provide a perfect opportunity for us, as a parliament, to consider those proposals.

I also believe that any serious attempt to deal with the powers of the Senate and so-called Senate obstructionism must address the power of the Senate to block supply—that is, the effective ability of the Senate to bring down a democratically elected government. Let me pose a question. How can you talk seriously about dealing with Senate obstructionism if you are not serious about dealing with the Senate's power to block supply? That must count as the most obstructionist power that the Senate has. We, of course, would never exercise it; we have said that consistently. Not only is that our policy but we have never believed in the ability of the Senate to block supply. There has only been one group of parties that not only believed in it but exercised it, and they sit opposite.

The Prime Minister knows that removing the power of the Senate to block supply is fundamental to Labor. He also knows that the minor parties in the Senate also support that removal. The only current obstruction to removing that power is the coalition. So if the Prime Minister is serious about addressing the issue of Senate obstructionism he should be embracing that proposal as well. He knows it, and we know it; but the Australian people need to have it presented as part of a package which is broader than simply what is put forward in this document. There is no plausible rationale for keeping the power to block supply—particularly, Prime Minister, if your argument is that you want to resolve deadlocks. I know what the political argument is going to be in a wider context later; however this plays out, it is going to be

about Senate obstructionism. I ask again, Prime Minister: how you can seriously pretend to talk about ending Senate obstructionism if you are not prepared to take away the Senate's power to block supply, the lifeblood for any government? It is the most obstructionist power that the Senate has, and it should be removed.

Labor also believes that an alternative deadlock provision would remove the necessity for early elections. That is, in essence, what we are trying to get to, because the argument for early elections is that the government wants a double dissolution because it is frustrated in its agenda. But, if the terms of parliament are to be addressed, for national planning and economic reasons Labor firmly believes that the House and the Senate should have fixed four-year terms. We also believe that, where the two houses of parliament are deadlocked, both houses, in full, should face the judgment of the Australian people. Therefore, each election would effectively become a double dissolution election in the context of the deadlocked issues, with the Australian people having the right to determine how to resolve that deadlock through a new vote and a new parliament sitting together to resolve the deadlock. That is what the Prime Minister's first proposal does not countenance; it takes away the right of the Australian people to be part of the deadlock mechanism. The second proposal gets closer, but serious consideration of it cannot be supported unless we are also prepared to consider the taking away of the power to block supply and the introduction of fixed four-year terms.

Moving the Senate to four-year terms would make that chamber more accountable to the people. I do not believe Australians would tolerate eight-year terms. If we are serious about saying we need more power in the modern context, we cannot look as though people are seeking to extend their

particular terms unrealistically. The Prime Minister floated on Sunday—and he talked about it again today—the adoption of what he then called the Victorian model. He has acknowledged today that it is no longer the Victorian model, because the Victorian model has now moved to fixed four-year terms, as has the New South Wales model. When we look at how the elections have functioned in these states—whatever you may think about the composition of the governments, Prime Minister—we see that they have worked. There has not been an outrage about the extension of the time, because people know that governments cannot manipulate the timing to suit their own political advantage. Indeed, the Prime Minister himself acknowledged during the last Victorian state election that voters are entitled to be cynical about a government that chooses not to serve its full term. So let us take that choice out. Let us set the term. Let us fix it, and let us also ensure that we overcome the problem faced in the past about that doubling the terms in the Senate, by taking that out and saying that the Senate should have four-year terms as well. The truth is that the people are prepared to extend greater opportunity for the government to develop its plan but not in circumstances in which the Prime Minister gets more power to manipulate the election timetable to suit himself.

I do not have time in this debate, so I refer people to the speech I made in May that listed the issues that I think the constitutional reform should look at. I also make this point: we can talk as much as we like about obstructionism in the Senate, but we have to look to ourselves in this chamber. We have to look at the ability of this chamber to be more accountable and more responsive to the concerns of the Australian people. Likewise, Prime Minister, I put on the record almost 18 months ago suggestions as to how we can reform the proceedings in this place, includ-

ing having an independent Speaker, for example. Those proposals are on the record. I note that at the time the Prime Minister said he would consider the proposals because they go to the question of the conduct of business in question time, greater flexibility and the way in which we use the parliament to debate and to consider issues. The Prime Minister said 18 months ago that he would consider those proposals. I have heard nothing since.

I make the point that the Prime Minister looks for bipartisan support and we are prepared to give it, but we want to be involved genuinely in a process that takes us forward and makes this parliament and this chamber more accountable and more respected. We have to earn that respect back. I think the Australian people do get sick of the squabbling, our frustration at not getting questions answered. We do have to address those issues seriously.

In conclusion, we welcome the opportunity that the Prime Minister brings to us today to consider reform of the nation's Constitution. It has served us well, but it needs to move on. We have got to constantly replenish and modernise it. But any reform has to accept some basic principles: there have to be checks and balances inherent to us in our bicameral system of government. We have to preserve the right of Australians to have a say when both houses disagree. We have to continue to ensure that the parliament and the government are accountable. We have to genuinely deal with unnecessary obstruction in all forms, including removal of the ultimate power of the Senate to block supply. If the Prime Minister is genuine, if he is prepared to give as well as take, then we can strengthen these principles, strengthen our parliament and strengthen our democracy with a modern Australian Constitution for the Australian people. I seek leave to table a further document that proposes Labor's sug-

gestions as to what else should be considered in the context of the Prime Minister's proposals today.

Leave granted.

**Mr PRICE** (Chifley) (4.32 p.m.)—On indulgence, through you, Mr Speaker, I ask the Prime Minister: has consideration been given to refer the ministerial statement to the Main Committee so ordinary members of parliament are also able to express a point of view on what I think is a very important constitutional proposal?

**Mr HOWARD** (Bennelong—Prime Minister) (4.33 p.m.)—I say to the member for Chifley—through you, Mr Speaker—that, subject to checking with those who know much better than I of the exigencies of the government's program, I have no objection to that.

Debate (on motion by **Mr Lloyd**) adjourned.

#### PAPERS

**FRAN BAILEY** (McEwen—Parliamentary Secretary to the Minister for Defence) (4.33 p.m.)—Papers are tabled as listed in the schedule circulated to honourable members. Details of the papers will be recorded in the *Votes and Proceedings*.

#### MATTERS OF PUBLIC IMPORTANCE

##### National Security: Law Enforcement

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

The importance of impartial law enforcement for national security.

I call upon those members who approve of the proposed discussion to rise in their places.

*More than the number of members required by the standing orders having risen in their places—*

**Ms ROXON** (Gellibrand) (4.34 p.m.)— This week we have a new Attorney-General. The Prime Minister has chosen to appoint to this vital portfolio someone who was dogged by controversy in his previous portfolio. That controversy is going to follow him into his next job as Attorney-General. The Attorney-General is meant to play a vital role in the Australian parliament. He is meant to be impartial. He is meant to be able to enforce Commonwealth laws without fear or favour. But this first law officer's first job is going to be to investigate himself.

Last week there were allegations of passport fraud and bribery. Members need to understand that these allegations are against government officials. The suggestion is that there is government-sanctioned passport fraud and bribery being used to encourage people who are in detention to get false passports to let them get out of the country. The allegations say that these false passports and travel documents have been used by the department to book them on flights, that tickets to destinations that there was no intention people would travel to were paid for by the department and that these documents were used to defraud overseas immigration officials. This is really the triple whammy for the Attorney-General, because although it involves matters of immigration it much more centrally involves issues of law enforcement and national security.

The minister's inaction in the previous portfolio, ignoring these allegations when they were brought forward, just shows how inappropriate he is to be appointed to his new job. People would have heard in this House in question time today how he took no action about these allegations when he was the minister for immigration. As Attorney-

General, we heard him say in question time today that it still has nothing to do with him. Neither the minister for immigration nor the Attorney-General in the Prime Minister's new ministerial line-up has responsibility for looking at passport fraud, bribery or defrauding overseas officials. This is absolutely outrageous.

The reason that this is such a matter of public importance today is that the allegations go to the heart of national security. This government has pretended for the last seven years that it is interested in tackling national security, clamping down on terrorists and tightening border controls. But now we see it has its own officials helping people get false passports. We see this government is using the very tactics of people smugglers that it has been pretending it is trying to stamp out. How is our government going to seriously talk to Indonesia next time and ask them to clamp down on people smugglers when officials in the Department of Immigration and Multicultural and Indigenous Affairs have been using exactly the same tactics—encouraging people to travel on false passports and buying them documents that show that they are travelling to destinations that they are not going to? I hate to think what the international and diplomatic consequences will be when we deal with Syria next, because certainly a fraud has been perpetuated against that country if these allegations are true.

Minister Ruddock, as Minister for Immigration and Multicultural and Indigenous Affairs, was alerted to these practices two years ago and did nothing. This is not only a serious neglect of his duties but also a possible criminal offence if he in any way, in issuing deportation orders, was involved in aiding and abetting what would be a breach of the Criminal Code and possibly also the Migration Act. But what is the Prime Minister's answer to these extraordinary allegations? It

is to put him in charge of national security. Does the Prime Minister want him to run national security? Let him test if he can breach national security first. It really is quite extraordinary.

This just adds to a string of unanswered questions from the past. The ghosts from the minister's previous job as the minister for immigration will continue to haunt him in his new job. The cash for visas scandal has not been resolved. There are allegations of breaches of the Privacy Act. The Human Rights and Equal Opportunity Commission is still inquiring into children in detention, and the latest and most extraordinary allegations relate to bribery. These allegations have DIMIA officials providing detainees with money and advising them to put it in their travel documents to help them at their next port of call. Under this government it seems that you can pay to get a visa to get into the country and it will give you money to get out of the country. This is just extraordinary. The Attorney-General oversaw an immigration system where you can buy your way in and you can buy your way out of Australia.

We are very concerned that money seems to follow the Attorney-General. Like King Midas, everything the Attorney-General touches turns to gold. Everyone that he meets has large amounts of money, it seems. Would you believe, colleagues, a 1970s poster of the former minister for immigration, now the Attorney-General, is worth \$5,000 when the Midas minister sells it himself? Money seems to go to him, to the Liberal Party or to their friends and supporters without the Attorney-General blinking an eye. There was \$100,000 from a Buddhist monastery and the minister does not even know that he has got the money.

There were hundreds and thousands of dollars for his 30-year celebrations. Can you believe, colleagues, that they made \$197,000

on one auction at his 30-year celebrations? There are not many people on this side of the House who just happen to come across that sort of money. Nearly half a million dollars all-up was made on that one night, which is an extraordinary amount of money. Then we have all the money changing hands with the minister's friend, Mr Kisrwan. There was \$4,000 from Mr Foo, \$200,000-plus from Mr Tan and several thousands of dollars from many individuals, and we still have not got to the bottom of just how many of them have been involved in handing over money to the minister while they were seeking visas.

We are talking about serious amounts of money here. Why are we raising this as being important for national security? Why does it matter? Is it, as Minister Abbott loves to say, just a part of the political process that people happen to give money or does the Attorney-General's quite breathtaking fundraising capacity actually link in some way to his quite breathtaking personal powers as the previous minister for immigration? As the previous minister for immigration, his personal powers were used more times than any previous minister. I do not know if my colleagues would know that for every single working day that the minister got up when he was minister for immigration he granted a visa using his personal powers to someone who otherwise did not get through the system. This minister granted those visas nearly 2,000 times. He used his powers in secret. He did not have to tell the parliament the reasons for granting the visas and he did not have to give any details of those daily decisions.

So while the minister talked tough and claimed to be against queuejumpers, we see that every single day he was on the job he personally showed someone to the front of that queue and handed them a visa to stay in Australia. Why did he pick them? That is the question that we are asking on this side of

the House. Did his fundraising efforts play a part in the people that he picked? That is what we want to know the answer to. Labor are worried about the integrity of this process. We are worried that the Prime Minister is now putting someone who has these questions hanging over his head in charge of Australia's law enforcement and in charge of national security.

We are really worried about the people the former minister for immigration has chosen. Some who got visas have the most extraordinary backgrounds. A lot of them have been connected to the Liberal Party and certainly many of them have given money to the Liberal Party. So it seems that this government is only against queuejumpers when it is talking about asylum seekers, but when it is talking about getting in to see doctors, whether you can get to university or ministerial intervention, if you have money, money talks to this government.

It is a dangerous situation for the minister to have taken advantage of. Serious amounts of money—as the minister at the table, the Minister for Citizenship and Multicultural Affairs, Mr Hardgrave, knows—are involved in migration matters and migration advice. The Senate inquiry heard that many matters start at \$2,000, \$5,000 or \$10,000 but many people can spend \$30,000, \$40,000 or \$50,000 on getting advice because these people are desperate and determined to come to Australia. That is fine for them to want to come to Australia but the minister's powers to let some people stay and deny others have no checks or balances in the system. He turned away people who are at risk of torture and abuse but he let others with family and political connections stay.

Never has the saying been so true that power corrupts but absolute power corrupts absolutely. The previous minister for immigration has chosen to use these powers very

often. He has chosen to channel much of the migration system towards him. At the same time, I bet that compared to anybody on this side of the House he has been able single-handedly to raise more money than almost any other MP or federal electoral council would have been able to. So we query the mix of this money—the amount of money that is around, the amount of money that is coming to the minister and the number of times that he was granting visas. We think it is this dangerous mix that is still going to bring him unstuck as the Attorney-General.

I said that this minister does seem to have the King Midas touch. Anything that he touches turns to gold. He seems to be able to make money whichever way he turns. But we all know that King Midas cursed his golden touch when he touched his daughter and turned her to gold. We also know that any moral fable only has a happy ending if the character learns his lesson. So, until this Midas minister opens up his books to the public, explains his fundraising efforts and explains the secret decisions that he has made to grant visas, there will be no happy ending for him.

The Prime Minister can try to move portfolios and think that he will protect the former minister for immigration by putting him in the position of Attorney-General, but that will not work, because, as the Attorney-General, he has to oversee allegations of passport fraud, corruption and criminal activity. If he has been involved in them in any way, he has a direct conflict of interest and must stand aside until those allegations have been investigated. We want to know whether or not these allegations can be disproved. The minister could come in today and disprove them. I see he is not even at the table. He is not even going to stand up and show why he should be given the responsibility of being Attorney-General. We want him to produce the Berowra Liberal Party books.

We want to know which donors and which supporters got visas from Minister Ruddock's personal intervention; we want to know why 50 per cent of Mr Kisrwani's requests for a visa were granted while only 17 per cent of the referrals from the Refugee Review Tribunal were granted; and we want to know, Minister, why a travel agent had so much more luck with the Midas minister than Amnesty International or the Sisters of Mercy. Are you going to stand up and tell us that it has nothing to do with his touch with money? We would like to know that.

The minister might think that by taking this new post all this will go away, but it will not. He can run but he cannot hide as Attorney-General. Many on this side of the House have been to many multicultural functions in their own electorates. He might have thought that all those hundreds of events, fundraisers, lunches, dinners and campaign launches were going to be at an end now that he has been made Attorney-General. We know that for the last seven years the previous minister for immigration, now the Attorney-General, has been sharing tables with the rich—not so much the rich and famous but the rich and infamous, we now know.

Those leading that list are the now well-known Mr Kisrwani; corporate Filipino crook Dante Tan; wanted—and now apparently in prison—Singaporean Jim Foo; convicted embezzler Nabil Nasr; and convicted fraudster and Liberal Party candidate Bob Robertson. This gallery of rogues is just a small selection of the people that seem to have shared Minister Ruddock's dinner tables over the last seven years during his term as minister for immigration. And he might think that by moving on to be the Attorney-General all this wining, dining and fundraising will come to an end. In fact, I think he might think that he is the ultimate dinner party companion, who knows the perfect time to leave a dinner party—knows to leave

before things get a bit too aggravated, before the conversation gets a bit too feisty and perhaps before the real truth comes out—but I can tell the minister that, although he might think he has left the dinner party at the right time, he still has to pay the bill. We are going to make him pay the debt. We are going to make him come clean on all of these issues. The only way that we are going to be able to do that is for him to be prepared to be honest, to come into this House and to give us the details of all the people who gave him and the Liberal Party money when they were wanting him to grant a visa.

Buying your way in and out of the country might be the Liberal Party's idea of nirvana, but we in the Labor Party call it a rort. We do not want an immigration system where you can buy your way in and out of the country. We do not want an immigration system where the biggest queuejumpers are those who are Liberal Party mates—and not just Liberal Party mates but often Liberal Party crooks. The minister who oversaw all of this is now the Attorney-General. I have to say that I fear, colleagues, that our first law officer must think that his new job is to be above the law instead of being above reproach. We will hold him to account in his new job.

**Mr HARDGRAVE** (Moreton—Minister for Citizenship and Multicultural Affairs and Minister Assisting the Prime Minister) (4.49 p.m.)—The member for Gellibrand should hang her head in shame. This contribution to public debate today shows that the Australian Labor Party simply do not take this sort of discussion seriously. We on this side, though, do take the sorts of accusations that have been made so seriously that we challenge the Australian Labor Party to, if they have proof, cough it up—cough it up once and for all—because we and the Australian people are absolutely, totally dissatisfied with the absolute laziness of the Australian lazy party and their complete lack of attention to detail.

They come in here day after day, they go around the press gallery and they try to circulate headline after headline, but on no particular occasion have they been able to prove some sort of causal link or nexus between the payment of some money, a photograph with a person and the issuing of a visa. But they come in here today to try and defame yet again—

**Fran Bailey**—Smear.

**Mr HARDGRAVE**—to drag in and smear, as the member for McEwan says, the name of the father of the House, a long-serving member in this place, the member for Berowra and the Attorney-General of this country. This is yet another nasty fishing expedition and, like all fishing expeditions, there is a bit of a smell about it. The Australian Labor Party are again today judging us by their own particular morals and their own particular approach. In the process of trying to get some sort of career advancement or some sort of factional appeasement as the left and the right fight about who is going to be the leader, the Labor Party and all of their little personalities keep coming in here trying to defame anyone and any group of people within our community.

They make generalisations about certain ethnic groups and certain religious groups to try and satisfy some particular cause that they say they are trying to defend. What they are trying to do has included tactics such as putting ads in language-specific newspapers in parts of Western Sydney saying to the Arabic speaking community: 'If you know of any problems with a migration agent or you have had any difficulties, contact the Labor Party. Contact the member for Gellibrand. Contact the member for Reid.' Heavens above!

At the end of the day, when we want to talk about lawful process in this country, if you have an allegation about some wrongdo-

ing by a public official—either elected or appointed—contact the law enforcement authorities. Put it up for investigation. I am surprised. The member for Gellibrand used to brief High Court judges. I do not understand why the member for Gellibrand does not understand the need for evidence—the need for something to back up the basis of this absolutely outrageous set of claims that she is now perpetuating on top of those of the member for Lalor, plaintiff lawyer and former spokesman on that side. Ads in language specific newspapers are sending a message that the Labor Party say the Arabic-speaking community cannot be trusted—that is what they are saying. They are trying to target a particular part of our community in order to make them feel bad.

These allegations that the Labor Party are making are being investigated. The investigations are under way. But the Australian Labor Party are not satisfied by the fact that there are investigations in progress. They seek instead to try to divide the community, to pit Australians against other Australians, to reinforce and create new stereotypes in their rush for a headline. They are actually standing in the way of the investigations that are being undertaken by the correct lawful agencies. They are standing in the way because they are trying to tip off sections of the migration advice industry, for instance, that there might be an inquiry into their conduct. That is what they are doing, by putting ads in newspapers, by trying to put a little bit of a crease of information out here and a little snippet out there and maybe a little bit of innuendo somewhere else. They are trying to tip off sections of the whole industry who are trying to do the wrong thing before we can actually get to them.

Labor are most seriously, and in fact without any form of defence, trying to damage the entire migration system of this country. The Australian Labor Party are trying to cre-

ate—deliberately—mistrust between groups of differing ethnic and religious origins in this country. They are trying to create community disharmony, and that sort of thing threatens national security. At the end of the day community harmony is absolutely key to the national security that we rightly enjoy in this country. Labor want to destroy a sense of community trust for a migration system that is producing real net benefits to this country.

We might have effective economic stewardship, with the Treasurer at the helm and the leadership of the Prime Minister making our economy the world's best, but one thing that is never talked about is the role our migration program is playing in growing our economy. The fact is that our migration program deliberately invests into Australia people from all parts of the world—people with abilities, with something to invest; even the poorest of refugee grows our economy. But the Australian Labor Party and the would-be Leader of the Opposition, the New South Wales Premier, leads the charge. On the weekend the member for Gellibrand and the Leader of the Opposition joined the Carr antimigrant call and started the talk about the fact that every problem in Western Sydney was the fault of migrants—that every overcrowded hospital, every traffic jam, every overcrowded school classroom was not the fault of the New South Wales government but was all about the fact that there are so many migrants there. The Labor Party have this constant pattern of trying to destroy the standing of our migration system.

This attack on the Attorney-General because of the work he did and the effective stewardship that he provided is yet again another part of an ongoing game—a game the Labor Party are playing with people's lives. They want individuals within this country to distrust each other. They want people to question whether somebody has come to this country rightly or wrongly.

They are trying to suggest that there is some process by which, if you pay money to a political party or you have a photo with personalities, you in fact gain a visa. The Labor Party should know that no visa is purchased by favour; it is purchased by the lawful process of someone's claim for a migration outcome. It is always the case that no deal produces a visa. There is a proper process involved and it is absolutely offensive that the Labor Party do not understand this and, moreover, that they do not take this matter seriously.

They have raised a whole bunch of individual cases; we are not going to comment about the details of those individuals cases. I am not going to comment about investigations that are under way because, unlike the Australian Labor Party, we on this side have the responsibility to actually ensure that proper processes are followed. But I challenge them yet again: if they have some proof—some tangible link—between some sort of purchase and some sort of outcome, they had better produce it. It is going to keep coming back on them. It is as certain as Nick Bolkus sells raffle tickets that these things are going to keep coming back to bite the Australian Labor Party. They cannot continue with this process of smear on the Attorney-General. They cannot continue with this process of smear on people and groups within our community who are unable to defend themselves in this place by airing this particular information that they say they have but which they never pass on to authorities. They simply want to retread, reair, regenerate, regurgitate, repeat a whole bunch of nonsense. They are after headlines not outcomes.

Let us deal with this business of false passports. This is in itself an absolute farce. The member for Gellibrand should know this. It is certainly never the Australian government's practice to encourage, condone or

require the use of false passports. There is no need to do so. The Australian government issues a certificate of identity if it is required. If a detainee suggests that they could obtain and use a false passport, my department automatically, as a matter of process, rejects such a notion. If a person provides their own travel document and there is doubt about its authenticity, my department checks with relevant authorities.

The allegations that are made seem to involve cases where persons voluntarily departed from Australia. In these circumstances, my department is obliged to take all lawful and reasonable steps to assist that person in their departure. This can include, as standard practice, where required, providing an onward ticket for travel to another country. The destination on the ticket, whenever the person ultimately uses it, will depend on individual circumstances. Also, standard practice for them is to be escorted or assisted through transit points to facilitate transit formalities. No-one has ever been channelled improperly through those transit points. Another standard practice provides for a modest allocation of funds for removees who lack initial financial and family support. The department certainly does take those processes seriously. Indeed, we take any allegations of corruption or misconduct by staff very seriously.

If the member for Gellibrand keeps wanting to retread, retry and regurgitate suggestions that my department or any of its officers have been involved in any sort of misconstruance of the law, any sort of breach, any use of false passports, bring the evidence. Do not just simply run rubbish that is printed in a paper offshore, in a paper in South-East Asia on the weekend and start to claim it as fact. What we need and what we have repeatedly asked for publicly and what I am asking for again here in this House today is that those making allegations come

forward with real information, real facts, real details. But none are forthcoming. We have gone back to sources that have been making claims in the media in the last week and people are in fact not able to confirm. Others have to refer it off to somebody else.

At the end of the day, everyone goes awfully quiet when they are put under pressure and asked for facts to back up their allegations. Perhaps the only person who has got any credibility, because he has actually gone to the point of saying, 'I've heard this; I'm not sure,' is Senator Bob Brown. I understand that he has referred a matter to the Australian Federal Police—and rightly so. If people have some basis for an action to be suspected, they should report it directly to the Australian Federal Police. Again, as far as I am concerned, those opposite are judging us by their own morals. As the member for Oxley said in a contribution earlier today, 'If I paid somebody \$100,000, I would expect something for it.' That is not how it works. That is how the member for Oxley sees the world.

It is interesting that Mr Foo's name has come up for further discussion and it is interesting to talk about money that is paid for people to have dinners. The member for Gellibrand will be somewhat embarrassed to know that the New South Wales Premier, as reported in the *Daily Telegraph* on 25 July, charged \$5,000 for a private dinner and a chat with himself—Bob Carr—and with New South Wales Treasurer, Michael Egan—

*Ms Roxon interjecting—*

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

**Mr HARDGRAVE**—and this particular person was an illegal immigrant! Who was this particular person who fronted with five grand and gave it to the Australian Labor

Party? It was Mr Foo. So the member for Gellibrand needs to be better briefed.

In fact, if you think people might say, 'Oh, that is all a bit old,' Eric Roozendaal—a good friend of some of those opposite but hated by many others on the opposite side—in a letter he wrote to Mr Foo on behalf of the New South Wales branch of the ALP, said:

I would like to sincerely thank you for your generous donation to the party. I trust you enjoyed the evening and found private conversations with the New South Wales Premier and the New South Wales Treasurer useful and interesting. ... The key to continued economic success is to work cooperatively with businesses such as your own. Again, thank you, and I look forward to our continuing good relationship and your ongoing support.

So if we want to talk about money changing hands for chats over dinner, it has blown up again in the Labor Party's face. Just keep it coming! We can start to talk about a few of the others that have happened. The discredited former head of Froggy.com, Karl Suleman, was one of the biggest donors to the Labor Party last year. In fact, the records of the Australian Electoral Commission found that he was No. 3 on the hit list, at \$172,000.

The Labor Party are not afraid of where they get their cheques from and who they happen to sit down and have dinner with—they are not afraid of any of those things. But the point which is absolute and which, in fact, defeats the Labor Party's claims that something mischievous or worse has occurred is that it is all declared to the Australian Electoral Commission. I know these figures because they are made public. There are no secrets, and nor should there be, about money that is donated to political parties. We had that debate 20 years ago and we sorted out the business of the public declaration of donations to political parties. So if you want to try and influence a minister to get a certain

outcome and you make a donation to his campaign fund, and you think that is going to achieve something, you are wrong. It is actually declared. In fact, the only sort of place those funds could be laundered is through the trade union movement. The only way you could launder funds from people involved in illegal activities is through the trade union movement, which makes millions of dollars worth of donations to the Australian Labor Party. That is the only way you can launder it. I have no proof, but—

**Mr Dutton**—What about a raffle?

**Mr HARDGRAVE**—The member for Dickson is right. A raffle was the perfect choice for the South Australian senator, Nick Bolkus, himself a former immigration minister. Are we in fact seeing the Labor Party's real tactics at work here? Are they trying to judge us by their own morals? Are they trying to suggest to us that when they were in government it was a case of, 'Pay us some money and you will get a visa outcome'? We have all heard stories. I have heard stories but I would not debase the value of this place or, indeed, waste the time of the Australian people by simply regurgitating hearsay. If I were a shadow minister and I took my job seriously, I would produce the evidence and present it to the people who were going to investigate it. I would take the time to say that I respect the processes of the parliament, the people of Australia, the processes of the law and community harmony in this country to the point that I would take seriously an allegation about a public official—elected or appointed—doing something for money. We take those things seriously. That is why there are those disclosure rules. Again, the Australian Labor Party have to put up or shut up. (*Time expired*)

**Mr McCLELLAND** (Barton) (5.04 p.m.)—I note that the previous speaker, whom I have some time for, failed to address

the topic at all. The topic of the MPI is the importance of impartial law enforcement for national security—‘impartial’ being the operative word. I note that the previous speaker acknowledged that investigations are underway in respect of a number of allegations concerning the administration of the department of immigration at the time when the minister was in charge. Those investigations are of course being undertaken by Australian law enforcement agencies. This is fundamentally our concern, Mr Deputy Speaker Causley, because the member for Berowra—the Attorney-General—is now at the peak of that investigate body. He is at the top of those agencies. We have real concerns regarding the perception of independence and impartiality, at the very least, in respect of those investigations.

The minister accused us of trying to create distrust among certain classes of citizens. Mr Deputy Speaker, if you had applied for an exercise of discretion through Amnesty International, the Little Sisters of Mercy or your local member of parliament—and in the great majority of cases this is done without success—and you saw a fellow who was a substantial donor to the Liberal Party and who arranged for others to make substantial contributions achieving a success rate of 50 per cent, you would be asking why that was so, given that the consequences of deportation are so significant for the individuals and their families. Where is the Attorney-General to explain his actions as minister for immigration? He is not here. He is effectively ‘pleading the fifth’, as the saying goes—the right to silence in the United States Constitution is called the fifth amendment. He is claiming a right to silence when the Australian people are entitled to know the minister’s explanation—in terms of how he exercised his discretion—of why Karim Kisrwni had such tremendous success in his representations to the minister.

That leads us on, really, to an analysis of the role of the Attorney-General, as the member for Berowra now is, in terms of national security. It is a fundamentally important role, because this parliament has recently given the Attorney-General tremendous executive powers in terms of the exercise of his discretion. So any question mark over the Attorney-General’s head as to the propriety with which he has exercised his executive powers is a very live issue in terms of this nation’s national security.

There are unquestionably questions regarding his integrity under the umbrella of the entire ‘cash for visas’ scandal, as the media has put it. To suggest that there is some distance between donations—substantial donations—and his FEC is quite ludicrous. There is no way a candidate for office would not know what their FEC was spending. They would see the ads in the local paper, they would see the signs going up around the electorate, they would see the literature being distributed and they would say: ‘Who is paying for this? How are we paying for this?’ Of course, they would know how much money was in their FEC account. Of course, they would know who the big donors were. Of course, the minister would be aware of the connection to Karim Kisrwni—the person in Australia who has had the greatest success in terms of visa applications.

We have challenged the propriety of this minister’s exercise of discretion. I would do it face to face, were he here, and give him the courtesy of putting it to his face. We have challenged the integrity with which this minister has exercised his discretion—let me put that firmly on the record. What have we seen when that use of executive power has been challenged or questioned in a court of law? This minister, with demonstrated arrogance, gets stuck into the courts. Just to get a flavour of his conduct: ‘Ruddock attacks Family Court’—that headline is from the *Sydney*

*Morning Herald*, 27 August 2003. Other headlines are: 'Ruddock attacks judges over freed children'—the *Australian*, 27 August 2003; 'Ruddock attacks court'—*Sun-Herald*, 3 August 2003; 'Minister plays politics with Federal Court'—*Courier-Mail*, 7 June 2002; 'Butt out, Ruddock tells judges'—the *Australian*, 4 June 2002; and 'Ruddock lashes out at judges'—*Canberra Times*, 30 May 2002.

In perhaps the worst instance, on the John Laws program just a few weeks ago, the minister commenced by saying that it was not normally appropriate to impugn the integrity of judges, but he went on in the interview to do just that. We have placed on the record that we believe this minister has misused his discretion and executive powers. When it comes to the courts—the independent judiciary—calling the minister into line and reviewing how he has exercised those powers, he gets stuck into them. If there is any threat to the rule of law in this country, it is going to come, first and foremost, from the first law officer of the land. It is of great concern.

This minister has quite clearly been prepared to play the game of political opportunism whenever it has been in the interests of the Liberal Party. I would commend to people the book, *Dark Victory*, by David Marr and Marian Wilkinson. It refers to the events of 6 to 9 October in terms of the children overboard scenario. Not many people appreciate that it was the member for Berowra who initiated that in the public domain. This person who wears his Amnesty International badge on his lapel hid behind that and, after obtaining a very circumspect briefing from his department and military officers, in a media interview at the time—and reports, of course, were that the vessel had sunk and that there were children and others in the water—said:

I regard these as some of the most disturbing practices I have come across in public life ... People would not come wearing lifejackets unless they planned action of this sort.

We talk about the morals of competing political parties. I tell you what: the morals of the Labor Party are not to condemn mothers and fathers for throwing children overboard where there is absolutely no evidence. Worse still, they failed to have the integrity to correct the public record when the true facts came to light. Through that silence, we probably have the worst misleading of the Australian people in Australia's political history. That is by a minister who is now our first law officer. In respect to arguments about the Administrative Decisions (Effect of International Instruments) Bill, we have seen him accusing the Labor Party of trying to keep drug runners and rapists here. What he did not disclose to the Australian people was that his own ministerial guidelines require his departmental officers to have regard to the interests of children in exercising their policies.

This is a minister who, despite the fact that he wears the Amnesty International badge—hypocritically, I might say, and disgracefully—on his lapel, has been proven to have misused his ministerial discretion as Minister for Immigration and Multicultural and Indigenous Affairs. Many of those instances are the subject of investigation by law enforcement agencies of which he is now the pinnacle. In respect to circumstances where executive powers are reviewable by courts, if the courts have impugned the minister's decision-making process, this minister has got stuck into the courts. He is totally unfit to be first law officer of this nation. As there is now a requirement for a fine balance in the exercise of ministerial discretion as part of the fight against terrorism, we need someone who is going to use those powers with integrity, exercise that executive power

with integrity and respect the role of the courts in reviewing that power. (*Time expired*)

**Mr DUTTON** (Dickson) (5.14 p.m.)—It gives me a great deal of pleasure this afternoon to support the Attorney-General in what has been an unprecedented and disgraceful attack by the Australian Labor Party. For a person that I normally have a lot of time for, the contribution this afternoon by the member for Barton was bordering on being as pathetic as that of the member for Gellibrand. They really have sunk to new depths this afternoon in their disgraceful slur on the Attorney-General, a slur which is completely without foundation and which if it were mentioned outside of this place would incur the wrath of the courts for defamation, and for very good reason.

The people of Australia know Philip Ruddock to be a person who has served his country well with great honour and, for the last 30 years, with great distinction. The Attorney-General is a person who has dedicated much of his public life to the betterment of Australians and some of the allegations that we have heard made by the member for Gellibrand and by the Australian Labor Party today are an absolutely disgraceful slur. What we have seen this afternoon is an attack by the Australian Labor Party based on envy and a disgraceful and complete lack of morals.

The Labor Party, and this is well known to the Australian people, have a particular dislike for the former immigration minister and now Attorney-General. They know that he is the person that stood up for Australia during 2001 at the time when we had great difficulty with border protection and immigration policy. To this day, it still really annoys them that he carries such credibility with the Australian people. Having listened to some of the allegations made by the member for

Gellibrand today, I think she should walk from this place this afternoon with her head hung in shame, because Philip Ruddock is a person of high moral integrity for whom the Australian public have a great deal of respect. Philip Ruddock is a person that does not deserve, by any stretch of the imagination, the disgraceful contribution that has been made by the member for Gellibrand and others this afternoon.

The ALP has become pretty desperate when its re-election strategy is to attack the man and not the ball. We saw it when the Attorney was immigration minister. We saw it yesterday against the minister for health, we see it again today in relation to the Attorney-General and we saw it in question time in relation to the Minister for Ageing. It is a disgrace because when Labor hasn't got a clue, when it hasn't got a policy and when it is torn apart by leadership problems, it plays the man. What a disgrace it is!

It needs to be noted, as part of this debate this afternoon, that the Labor Senate inquiry in relation to this matter and these allegations has produced not one shred of evidence of any illegality or improper behaviour by the Attorney-General, the former immigration minister, yet we see the parade this afternoon, one after the other, of members from the Australian Labor Party coming in here to defame the Attorney-General without any shred of evidence whatsoever.

**Mr Albanese**—Where is he?

**Mr Zahra**—Where is he? Bring him in here!

**Mr DUTTON**—The interjections from those opposite show how far down in the gutter they are. The member for Gellibrand came in this place the other day talking about their contribution to national security and she has the hide to come in here today and take some sort of moral high ground. I cannot quantify the number of calls I had to my of-

fice last week after the disgraceful comments by the member for Gellibrand when we were discussing the topic of national security and she said to me in an interjection, 'Once a copper always a copper.' I say to the member for Gellibrand after her contribution today, 'Once a grubby Labor lawyer always a grubby Labor lawyer,' and you have really epitomised that today because your contribution to this debate has been nothing short of disgraceful. The Australian people will look at the Australian Labor Party and say, 'Is it any wonder that you have no connection with the Australian people whatsoever?'

**Mr Zahra**—Mr Deputy Speaker, I rise on a point of order. I consider that reference that he made to the member for Gellibrand offensive and I would ask you to ask the member for Dickson to withdraw it.

**The DEPUTY SPEAKER (Mr Jenkins)**—The chair is obliged to reflect on whether the statement was unparliamentary. If in fact the member has taken offence, it is a requirement that the member should draw that to the attention of the chair.

**Ms Roxon**—Mr Deputy Speaker, I rise on a point of order. I think I am actually doing the member a favour because he clearly has nothing to say about law enforcement, which is actually the issue before the House, but I do find the comments offensive and I do ask him to withdraw them.

**The DEPUTY SPEAKER**—I would ask that the honourable member for Dickson withdraw the reference to the honourable member for Gellibrand.

**Mr DUTTON**—Mr Deputy Speaker, can I seek clarification on which part of it you would like me to withdraw?

**The DEPUTY SPEAKER**—No. I would just seek your withdrawal without qualification.

**Mr DUTTON**—Well, Mr Deputy Speaker, if the member for Gellibrand has taken offence then I happily withdraw. But I say to her this afternoon that if she has taken offence over the comments that I have made she should take into account the disgraceful attack that she has made on the Attorney-General. If she has any common decency at all, she should rise, come to the dispatch box and withdraw the comments and the allegations she has made in relation to the Attorney-General because the comments really are offensive not just to the Attorney-General but to all of the Australian people because the Australian people have a particular connection with Philip Ruddock. They have a particular connection, in complete contrast to the way in which the Australian Labor Party has no connection with the Australian people.

The Australian Labor Party has no connection with the Australian people on the issue of national security. We have seen that time after time since the tragic circumstances that surrounded 9-11. Whilst this government has been about implementing a policy of strong border protection to protect the interests of all Australians and has been about implementing antiterrorism legislation and providing for the future and present safety and security of this nation, the Australian Labor Party has blocked us at every turn. That point needs to be made today because if the Labor Party wants to contribute to the debate on national security then it should be doing it in a constructive way. It should be doing it in the way that the Australian people want it to do it. Quite frankly, it really goes to the core of how out of touch the Australian Labor Party is and continues to be with the Australian people on these important issues. We have seen this afternoon a true test. It has been a true test that the member for Gellibrand has not spoken any of this rubbish outside of the parliament.

As we are talking about the issue of national security, I want to turn to the issue of the listing of terrorist organisations. The opposition continues to handicap Australia's ability to act independently to list terrorist organisations by insisting that we wait for the United Nations Security Council to tick off on it first or that we introduce specific legislation group by group. This is yet another example of the way in which the Australian Labor Party is standing in the way of this government protecting the Australian people.

*Mr Albanese interjecting—*

**Mr DUTTON**—The contribution by Mr Albanese really is as childish as his contributions to this parliament normally are. I would ask you, Mr Deputy Speaker Jenkins, to draw the member's attention to his childish behaviour. If he wants to continue with it, it really shows the disdain he has for the Australian people on this very important issue.

The member for Gellibrand during her contribution spoke about how disgraceful it was that people should be making donations to political parties in this country. Let us look at the contribution, for argument's sake, that has been made to Bob Carr in New South Wales, who was once seen as the saviour of the federal Labor Party—but I doubt it. On 26 July 2003 it was reported in the *Weekend Australian* that businesses were asked to pay \$100,000 to have a private boardroom lunch and pre-Christmas drinks with the nation's longest-serving Premier, Bob Carr of New South Wales. What are those people getting out of their \$100,000? If today's allegation by the member for Gellibrand is that a person making a contribution to a particular political party has something to gain out of it, that is a disgraceful contribution by the member for Gellibrand. (*Time expired*)

**The DEPUTY SPEAKER (Mr Jenkins)**—The discussion has concluded.

## BUSINESS

### Withdrawal

**FRAN BAILEY** (McEwen—Parliamentary Secretary to the Minister for Defence) (5.24 p.m.)—by leave—I move:

That the following orders of the day, government business, be discharged:

#### Orders of the day

**AUSTRALASIAN POLICE MINISTERS' COUNCIL—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 28 May 2003—Mr McMullan) on the motion of Mr Abbott—That the House take note of the paper.

**NATIONAL CRIME AUTHORITY—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 27 May 2003—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**NCA INTER-GOVERNMENTAL COMMITTEE MEMBER—PAPER—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 27 May 2003—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**OPERATION OF THE PROHIBITION ON INTERACTIVE GAMBLING ADVERTISEMENTS—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 15 May 2003—Mr Latham) on the motion of Mr Abbott—That the House take note of the paper.

**ADVANCE TO THE FINANCE MINISTER—PAPER—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 14 May 2003—Mr Latham) on the motion of Mr Abbott—That the House take note of the paper.

**ADVANCE TO THE FINANCE MINISTER—ISSUES PAPER—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 14 May—Mr Latham) on the motion of Mr Abbott—That the House take note of the paper.

**EXPERT ADVISORY GROUP ON HEPATITIS C AND PLASMA IN 1990—**

**REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 14 May 2003—Mr Latham) on the motion of Mr Abbott—That the House take note of the paper.

**PAYMENT SYSTEMS BOARD—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 13 May 2003—Ms Roxon) on the motion of Mr Williams—That the House take note of the paper.

**INDEPENDENT SOCCER REVIEW COMMITTEE—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 13 May 2003—Ms Roxon) on the motion of Mr Williams—That the House take note of the paper.

**PHARMACEUTICAL BENEFITS PRICING AUTHORITY—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 13 May 2003—Ms Roxon) on the motion of Mr Williams—That the House take note of the paper.

**PUBLIC ACCOUNTS AND AUDIT—JOINT STATUTORY COMMITTEE—REPORT—REVIEW OF THE ACCRUAL BUDGET DOCUMENTATION—GOVERNMENT RESPONSE—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 13 May 2003—Ms Roxon) on the motion of Mr Williams—That the House take note of the paper.

**AUSTRALIA AND THE ASIAN DEVELOPMENT BANK—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 13 May 2003—Ms Roxon) on the motion of Mr Williams—That the House take note of the paper.

**AUSTRALIA AND THE IMF—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 13 May 2003—Ms Roxon) on the motion of Mr Williams—That the House take note of the paper.

**AUSTRALIA AND THE WORLD BANK—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 13 May 2003—Ms Roxon) on the motion of Mr Williams—That the House take note of the paper.

**HEALTH SERVICES AUSTRALIA—PAPER—MOTION TO TAKE NOTE OF**

**PAPER:** Resumption of debate (from 13 May 2003—Ms Roxon) on the motion of Mr Williams—That the House take note of the paper.

**FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—REPORT—REVIEW OF FOREIGN AFFAIRS, TRADE AND DEFENCE ANNUAL REPORTS 2000-01—GOVERNMENT RESPONSE—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 27 March 2003—Mr McMullan) on the motion of Mr Abbott—That the House take note of the paper.

**FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—REPORT—AUSTRALIA'S ROLE IN UNITED NATIONS REFORM—GOVERNMENT RESPONSE—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 27 March 2003—Mr McMullan) on the motion of Mr Abbott—That the House take note of the paper.

**EMPLOYMENT, EDUCATION AND WORKPLACE RELATIONS—STANDING COMMITTEE—REPORT—SHARED ENDEAVOURS: AN INQUIRY INTO EMPLOYEE SHARE OWNERSHIP IN AUSTRALIA—GOVERNMENT RESPONSE—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 27 March 2003—Mr McMullan) on the motion of Mr Abbott—That the House take note of the paper.

**DEPARTMENT OF TRANSPORT AND REGIONAL SERVICES—PAPER—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 26 March 2003—Mr Swan) on the motion of Mr McGauran—That the House take note of the paper.

**DEPARTMENT OF HEALTH AND AGEING—PAPER—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 26 March 2003—Mr Swan) on the motion of Mr McGauran—That the House take note of the paper.

**DEPARTMENT OF IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS—PAPER—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 25 March 2003—Mr Swan) on the motion of Mr

McGauran—That the House take note of the paper.

**MINISTERIAL STATEMENT ON MARALINGA REHABILITATION TECHNICAL ADVISORY COMMITTEE REPORT—PAPERS—MOTION TO TAKE NOTE OF PAPERS:** Resumption of debate (from 25 March 2003—Mr McGauran, in continuation) on the motion of Mr McGauran—That the House take note of the paper.

**ADVISORY PANEL ON THE MARKETING OF INFANT HEALTH FORMULA—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 20 March 2003—Mr Sidebottom) on the motion of Mr Abbott—That the House take note of the paper.

**PRIVATE HEALTH INSURANCE—REPORT ON PREMIUM INCREASES FOR THE QUARTER BEGINNING 1 JANUARY 2003—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 20 March 2003—Mr Sidebottom) on the motion of Mr Abbott—That the House take note of the paper.

**TREATIES—JOINT STANDING COMMITTEE—REPORT ON INQUIRY INTO THE CONVENTION ON THE RIGHTS OF THE CHILD—GOVERNMENT RESPONSE—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 6 March 2003—Mr McMullan) on the motion of Mr Abbott—That the House take note of the paper.

**NATIONAL HEALTH AND MEDICAL RESEARCH COUNCIL—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 5 March 2003—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**KIMBERLEY LAND COUNCIL—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 13 February 2003—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**SOUTH WEST ABORIGINAL LAND AND SEA COUNCIL—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 13 February 2003—Mr Swan) on the

motion of Mr Abbott—That the House take note of the paper.

**YAMATJI BARNA BABA MAAJA ABORIGINAL CORPORATION—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 13 February 2003—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**GURANG LAND COUNCIL (ABORIGINAL CORPORATION) NATIVE TITLE REPRESENTATIVE BODY—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 13 February 2003—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**NGAANYATJARRA COUNCIL (ABORIGINAL CORPORATION) NATIVE TITLE UNIT—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 13 February 2003—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**PRODUCTIVITY COMMISSION—REPORT No. 25—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 13 February 2003—Ms Macklin) on the motion of Mr Abbott—That the House take note of the paper.

**TAKEOVERS PANEL—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 13 February 2003—Ms Macklin) on the motion of Mr Abbott—That the House take note of the paper.

**INDUSTRY RESEARCH AND DEVELOPMENT BOARD—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 13 February 2003—Ms Macklin) on the motion of Mr Abbott—That the House take note of the paper.

**ADVANCE TO THE FINANCE MINISTER—PAPER—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 6 February 2003—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**NEW BUSINESS TAX SYSTEM (CONSOLIDATION AND OTHER MEASURES) BILL (No. 2) 2002 AND NEW BUSINESS TAX SYSTEM (VENTURE**

**CAPITAL DEFICIT TAX) BILL 2002—CORRECTIONS TO EXPLANATORY MEMORANDUM—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 6 February 2003—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**INDEPENDENT REVIEW OF PRIVATE HEALTH INSURANCE GAP COVER SCHEMES—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 4 February 2003—Mr Latham) on the motion of Dr Stone—That the House take note of the paper.

**CENTRAL LAND COUNCIL—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 4 February 2003—Mr Latham) on the motion of Dr Stone—That the House take note of the paper.

**GENE TECHNOLOGY REGULATOR—QUARTERLY REPORT FOR 1 JULY TO 30 SEPTEMBER 2002—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 4 February 2003—Mr Latham) on the motion of Dr Stone—That the House take note of the paper.

**TOBACCO ADVERTISING PROHIBITION ACT—PAPER—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 4 February 2003—Mr Latham) on the motion of Dr Stone—That the House take note of the paper.

**ANNUAL REPORTS OF ADVISORY PANEL ON MARKETING IN AUSTRALIA OF INFANT FORMULA—CORRIGENDA—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 4 February 2003—Mr Latham) on the motion of Dr Stone—That the House take note of the paper.

**GOLDFIELDS LAND AND SEA COUNCIL—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 4 February 2003—Mr Latham) on the motion of Dr Stone—That the House take note of the paper.

**QUEENSLAND SOUTH REPRESENTATIVE BODY ABORIGINAL CORPORATION—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 4 February 2003—Mr Latham) on the motion of Dr Stone—That the House take note of the paper.

**FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT BILL 2002—**

**CORRECTION TO EXPLANATORY MEMORANDUM—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 4 February 2003—Mr Latham) on the motion of Dr Stone—That the House take note of the paper.

**PRODUCTIVITY COMMISSION—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 12 December 2002—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**TAXATION LAWS AMENDMENT (EARLIER ACCESS TO FARM MANAGEMENT DEPOSITS) BILL 2002—CORRECTIONS TO EXPLANATORY MEMORANDUM—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 11 December 2002—Mr Swan) on the motion of Mr Tuckey—That the House take note of the paper.

**EXPORT MARKET DEVELOPMENT GRANTS—PAPER—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 10 December 2002—Mr Swan) on the motion of Mr McGauran—That the House take note of the paper.

**NATIONAL ROAD TRANSPORT COMMISSION—ERRATUM—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 10 December 2002—Mr Swan) on the motion of Mr McGauran—That the House take note of the paper.

**AUSTRALIAN TAXATION OFFICE—DATA-MATCHING PROGRAM—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 4 December 2002—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE) ACT—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 4 December 2002—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**MANAGING MIGRATION—MINISTERIAL STATEMENT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 3 December 2002—Mr Ruddock) on the motion

of Mr Williams—That the House take note of the paper.

**OFFICE OF THE EMPLOYMENT ADVOCATE—ERRATUM—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 3 December 2002—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**FREEDOM OF INFORMATION ACT—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 3 December 2002—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**MID-YEAR ECONOMIC REVIEW AND FISCAL OUTLOOK 2002-03—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 3 December 2002—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**CONSOLIDATED FINANCIAL STATEMENTS—2001-02—PAPER—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 3 December 2002—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**DEPARTMENT OF HEALTH AND AGEING—ERRATUM—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 3 December 2002—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**HEALTH SERVICES AUSTRALIA—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 3 December 2002—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**MEDIBANK PRIVATE—STATEMENT OF CORPORATE INTENT 2002-05—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 3 December 2002—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**COMPANIES AUDITORS AND LIQUIDATORS DISCIPLINARY BOARD—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from

3 December 2002—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**OFFICE OF THE EMPLOYMENT ADVOCATE—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 12 November 2002—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**COMMONWEALTH OMBUDSMAN—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 12 November 2002—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**ADMINISTRATIVE APPEALS TRIBUNAL—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 23 October 2002—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**DEPARTMENT OF FAMILY AND COMMUNITY SERVICES—REPORT—VOLUME 1—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 23 October 2002—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**DEPARTMENT OF FAMILY AND COMMUNITY SERVICES—REPORT—VOLUME 2—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 23 October 2002—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**SOCIAL SECURITY APPEALS TRIBUNAL—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 23 October 2002—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

**CENTRELINK—REPORT—MOTION TO TAKE NOTE OF PAPER:** Resumption of debate (from 22 October 2002—Mr Swan) on the motion of Mr Abbott—That the House take note of the paper.

#### **TARIFF PROPOSALS**

Customs Tariff Proposal No. 1 (2002)—moved 29 May 2002—Resumption of debate (Dr Lawrence).

Customs Tariff Proposals No. 2 (2002)—moved 26 June 2002—Resumption of debate (Mr Cox).

Customs Tariff Proposal No. 2 (2003)—moved 27 March 2003—Resumption of debate (Mr Sidebottom).

Question agreed to.

## COMMITTEES

### Selection Committee

#### Report

Mr CAUSLEY (Page) (5.25 p.m.)—I present the report of the Selection Committee relating to the consideration of committee and delegation reports and private members' business on Monday, 13 October 2003. The report will be printed in today's *Hansard* and the items accorded priority for debate will be published in the *Notice Paper* for the next sitting.

*The report read as follows—*

#### Report relating to the consideration of committee and delegation reports and private Members' business on Monday, 13 October 2003

Pursuant to standing order 331, the Selection Committee has determined the order of precedence and times to be allotted for consideration of committee and delegation reports and private Members' business on Monday, 13 October 2003. The order of precedence and the allotments of time determined by the Committee are as follows:

#### COMMITTEE AND DELEGATION REPORTS

##### Presentation and statements

**1 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE:** Review of the Defence Annual Report 2001-02.

*The Committee determined that statements on the report may be made—all statements to conclude by 12.40 p.m.*

*Speech time limits—*

*Each Member—5 minutes.*

*[Proposed Members speaking = 2 x 5 mins]*

**2 NATIONAL CAPITAL AND EXTERNAL TERRITORIES—JOINT STANDING COMMITTEE:** Not a town centre: The proposal for pay parking in the Parliamentary Zone.

*The Committee determined that statements on the report may be made—all statements to conclude by 12.50 p.m.*

*Speech time limits—*

*Each Member—5 minutes.*

*[Proposed Members speaking = 2 x 5 mins]*

**3 PROCEDURE—STANDING COMMITTEE:** House Estimates.

*The Committee determined that statements on the report may be made—all statements to conclude by 1 p.m.*

*Speech time limits—*

*Each Member—5 minutes.*

*[Proposed Members speaking = 2 x 5 mins]*

**4 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE:** Review of Foreign Affairs and Trade Annual Report 2001-02.

*The Committee determined that statements on the report may be made—all statements to conclude by 1.10 p.m.*

*Speech time limits—*

*Each Member—5 minutes.*

*[Proposed Members speaking = 2 x 5 mins]*

**5 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE:** Statement to the Parliament on the JSCFADT Human Rights Sub-Committee's recent activities concerning conditions within immigration detention centres and the treatment of detainees.

*The Committee determined that statements on the report may be made—all statements to conclude by 1.15 p.m.*

*Speech time limit—5 minutes.*

*[Proposed Members speaking = 1 x 5 mins]*

**6 ASIO, ASIS AND DSD—PARLIAMENTARY JOINT COMMITTEE:** Private Review of Agency Security Arrangements.

*The Committee determined that statements on the report may be made—all statements to conclude by 1.25 p.m.*

*Speech time limits—*

*Each Member—5 minutes.*

*[Proposed Members speaking = 2 x 5 mins]*

**PRIVATE MEMBERS' BUSINESS**

**Order of precedence**

**Notices**

**1 Mr Cadman** to move:

That this House:

- (1) condemns the abuse of human rights in North Korea and the unconscionable treatment by that government of its citizens;
- (2) calls on the Government of North Korea to comply with international standards to reform conditions for its citizens;
- (3) urges the DPRK to engage more fully with the international community to address Australia's and the international community's concerns over border crossers in North Korea and notes Australian support for further scrutiny by the UN Commission on Human Rights of the human rights situation in the DPRK; and
- (4) calls on the North Korean regime to cease and desist from any development of weapons of mass destruction. (Notice given 18 August 2003.)

*Time allotted—remaining private Members' business time prior to 1.45 p.m.*

*Speech time limits—*

*Mover of motion—5 minutes.*

*First Opposition Member speaking—5 minutes.*

*Other Members—5 minutes each.*

*[Proposed Members speaking = 4 x 5 mins]*

*The Committee determined that consideration of this matter should continue on a future day.*

**2 Mr Sidebottom** to move:

That this House:

- (1) acknowledges the importance of 17 October 2003 being the International Day for the Eradication of Poverty;

(2) is deeply concerned about the 1.2 billion people world-wide who are required to live on less than \$1 per day, and the adverse effects on health, education, and income earning ability which result;

(3) supports efforts by the United Nations to reduce world poverty through the development of its Millennium Development Goals, which call for:

- (a) halving the proportion of people living on \$1 per day and halving the number of people who suffer from hunger;
- (b) ensuring that boys and girls alike complete primary schooling;
- (c) eliminating gender disparity in all levels of education;
- (d) reducing by two-thirds the under-five mortality rate;
- (e) reducing by three-quarters the maternal mortality ratio;
- (f) reversing the spread of HIV/AIDS, malaria and other major infectious diseases;
- (g) ensuring environmental sustainability through integration of sustainable development into country policies and reversing the loss of environmental resources, halving the proportion of people without access to potable water and significantly improving the lives of at least 100 million slum dwellers; and
- (h) developing a global partnership for development through raising official development assistance, expanding market access, and encouraging debt sustainability; and

(4) calls on all national governments and international institutions to make achievement of the Millennium Development Goals a key purpose of their international and domestic programs. (Notice given 11 August 2003.)

*Time allotted—30 minutes.*

*Speech time limits—*

*Mover of motion—5 minutes.*

*First Government Member speaking—5 minutes.*

*Other Members—5 minutes each.*

*[Proposed Members speaking = 6 x 5 mins]*

*The Committee determined that consideration of this matter should continue on a future day.*

**3 Mr Baird** to move:

That this House commends the efforts of the Indonesian Government in bringing justice to those who were responsible for the Bali bombing and, in particular:

- (1) applauds Indonesia in formally charging 24 people in connection with the Bali bombing and the conviction of 5 of those people;
- (2) congratulates the Indonesian police and Australian Federal Police in the rapid dismantling of the cell that carried out the attack on 12 October 2002;
- (3) recognises and commends the Australian Federal Police for the significant role it has played in helping the Indonesian police bring these terrorists to trial; and
- (4) commends the Government on the \$10 million package of assistance for counter-terrorism capability building. (Notice given 15 September 2003.)

*Time allotted—remaining private Members' business time.*

*Speech time limits—*

*Mover of motion—5 minutes.*

*First Opposition Member speaking—5 minutes.*

*Other Members—5 minutes each.*

*[Proposed Members speaking = 6 x 5 mins]*

*The Committee determined that consideration of this matter should continue on a future day.*

### **Public Accounts and Audit Committee Report**

**Mr CHARLES** (La Trobe) (5.25 p.m.)—On behalf of the Joint Committee of Public Accounts and Audit, I present the following report: Report 396—*Review of Auditor-General's reports 2002-2003, first, second and third quarters.*

Ordered that the report be printed

**Mr CHARLES**—by leave—I would like to make a short statement in connection with the report. The committee has reviewed the

29 Auditor-General's reports tabled during the first, second and third quarters of 2002-03 and selected 11 for further examination at three public hearings. Rather than discussing the committee's findings in regard to each of these 11 audit reports, I would like to draw attention to some of the highlights of the committee's review.

Members would be aware of the recent theft of computer equipment from Customs offices adjacent to Sydney airport, an event which Customs chose not to reveal to the committee at a public hearing. The public hearings into two of the audit reports reviewed by the committee revealed two other circumstances where information provided to the JCPAA and others may have been misleading. I hasten to add that the committee did not form a view that there had been a deliberate attempt to mislead the committee.

The first example involved the use of the Department of Defence's system for recording actions taken in response to committee and Audit Office recommendations. Evidence at the public hearing revealed that many of Defence's responses to recommendations were being marked off by Defence personnel as 'complete' simply because the due date for action had been reached. This potentially compromises the veracity of Defence's advice concerning its progress in implementing the recommendations to which it had agreed. The committee has recommended that Defence immediately update its progress recording system and provide advice on the current status of all committee and ANAO recommendations.

The second example involved the actions of the Child Support Agency in response to a JCPAA recommendation made in 1999. The ANAO audit, and subsequent evidence at the public hearing, revealed that the CSA had reinterpreted a committee recommendation. The CSA had completed action with regard

to the reinterpreted recommendation and reported to the committee in an executive minute that the recommendation had been agreed to. The committee considers that its recommendations are sufficiently well thought out and considered to warrant full implementation. If an agency disagrees with the recommendations of external reviewers, it should make its concerns explicit to both its minister and those reviewers. To do otherwise potentially misleads its minister and, when parliamentary committee recommendations are involved, the parliament.

I will turn to more positive matters. The committee continues to find that agencies subject to audit are responding positively to the Auditor-General's recommendations. In fact, sometimes audit reports and the committee's subsequent review produce good news stories. I will provide two examples. Audit report No. 20, 2002-03 reviewed the management of two employee entitlements support schemes by the Department of Employment and Workplace Relations. The committee notes that the administration of both the Employee Entitlements Support Scheme and the General Employee Entitlements and Redundancy Scheme has been a major challenge for the department because these schemes were the first of their kind in Australia. The committee commends DEWR on its positive response to suggestions for improvement from both the ANAO and a consultant engaged by the department. The committee notes that many of the suggestions and recommendations have already been partially or fully implemented.

The second example concerns audit report No. 28, 2002-03: *Northern Territory land councils and the Aboriginals Benefit Account*. The committee is pleased to note that all of the land councils subject to the audit have understood and acted upon the recommendations regarding risk assessment, management and accountability, and the collec-

tion and use of performance information. The committee commends the land councils for having accepted the advice of the ANAO in a responsive and proactive manner and for having acted quickly to apply the advice to their organisational practices.

Three of the audit reports examined by the committee had a financial management flavour. These were audit report No. 18, *Management of trust monies*; audit report No. 25, *Audits of the financial statements of Commonwealth entities for the period ended 30 June 2002*; and audit report No. 47, *Management of Commonwealth guarantees, indemnities and letters of comfort*. During the committee's review of the audit of the Commonwealth's financial statements, the committee revisited its recommendation in an earlier report that the final budget outcome be audited. The committee notes the two significant impediments to achieving this goal: firstly, the need to determine which audit standards to use; and, secondly, the difficulty in preparing and auditing the final budget outcome within the three months specified by the Charter of Budget Honesty.

The committee is encouraged by the move to harmonise Australian and international reporting standards and the move to progressively bring forward the provision of financial information by agencies. While the government has not agreed to the recommendation that the FBO be audited, the committee still believes in the merits of its recommendation. The committee recognises, however, that the goal of producing an audited FBO is achievable only in the medium term.

Finally, the review of the audit of the management of the Commonwealth's contingent liabilities drew attention to the parliamentary accountability procedures for the issuing of indemnities adopted by the United Kingdom parliament. The committee notes that the UK model provides the opportunity

for the UK parliament to become involved at an early stage in the creation of contingent liabilities. This contrasts with the system in Australia, where contingent liabilities are reported after the event. The committee supports the earlier involvement of the parliament in the creation of the Commonwealth's contingent liabilities. The committee has recommended that the Commonwealth adopt procedures for notifying the parliament of the issuing of indemnities based on the procedures used by the UK parliament.

In conclusion, I would like to express the committee's appreciation to those who contributed to the inquiry by preparing submissions and giving evidence at the public hearings. I also wish to thank the members of the sectional committee involved for their time and dedication in conducting this inquiry. I also thank the secretariat staff: the acting secretary to the committee, Mr James Catchpole; the inquiry secretary, Dr John Carter; research staff, Ms Maryellen Miller and Ms Mary-Kate Jurcevic; and administrative staff, Ms Maria Pappas and Ms Sheridan Johnson. I commend the report to the House.

**Ms PLIBERSEK** (Sydney) (5.33 p.m.)—by leave—We are looking at the Joint Committee of Public Accounts and Audit report No. 396. The chair of the committee has already covered much of the ground that this report covers. He certainly told you that we looked at grants management in ATSIC; facilities management at HMAS *Cerberus*; client service in the Child Support Agency; management of trust moneys; the Australian Taxation Office management of its relationship with tax practitioners; financial statements of Commonwealth entities for 2001-02; Commonwealth guarantees, warranties, indemnities and letters of comfort; employee entitlements support schemes; physical security arrangements in Commonwealth agencies; and the Northern Territory land councils and the Aboriginals Benefit Account.

I want to turn in particular to our coverage of audit report No. 25 for 2002-03 about the financial statements of Commonwealth entities for 2001-02. This was one of the areas that we were most interested in and paid most attention to, because it goes right to the heart of the accountability of the government to the parliament and the accountability of departments to the government. The audit findings from the ANAO included comments on the harmonisation of standards used to prepare the Commonwealth's two key financial reports: the consolidated financial statements and the final budget outcome. There were also comments on the timeliness of the preparation of entity financial statements. There were also a number of audit qualifications of the consolidated financial statements that we looked at, including the estimation of taxation revenue by the taxation liability method, which did not conform to Australian Accounting Standard 31: financial reporting by governments. We also looked at the accounting treatment of the collection of the goods and services tax—the GST—and the insufficient audit evidence to support the figures for defence's inventory and repairable items under the 'specialist military equipment' balance. The chair has already mentioned that.

When the committee looked at these issues, perhaps one of the most important was the harmonisation of accounting standards. Consolidated financial statements, as you would know, Mr Deputy Speaker Scott, are prepared under Australian Accounting Standard 31. The CFS is audited and tabled in the parliament some time after the end of each financial year. In contrast, the final budget outcome contains some information prepared under this accounting standard—AAS31—and other information that is prepared under the GFS, the government finance statistics. The audit report commented that the combination of the two frameworks often results in

confusion and difficulty. The ANAO supported the harmonisation of the reporting standards. The OECD has taken a keen interest in this area as well and is pursuing the creation of a single reporting framework and recently examined the treatment of defence weapons platforms, which is one area that the ANAO was looking at in relation to the statements that it examined. So the harmonisation of accounting standards is one area.

Auditing the final budget outcome was something to which we paid a great deal of attention. It has been raised before and supported by the Joint Committee of Public Accounts and Audit. It is something that the Australian National Audit Office has said that it would be able to do if the government made it a priority. Obviously, it has serious resource implications. Division 3 of the Charter of Budget Honesty Act 1998 requires the Treasurer to publicly release and table the FBO no later than three months after the end of the financial year. One of the government's reasons for not agreeing to a previous Joint Committee of Public Accounts and Audit recommendation that the final budget outcome be audited is that only three months after the end of the financial year it would be difficult to get the final budget outcome papers prepared and audited in time to meet the legislative requirements. Obviously, if these things are governed by legislation, the legislation can be changed by governments, particularly if they have the support of oppositions. The committee agreed that the evidence showed that these processes were speeding up as we went along and in future may become possible as our procedures improve. We gave a great deal of consideration to the auditing of the final budget outcome. We also looked at the timeliness of preparing financial statements. There has been a slight drop in the last year but we are told that that is due to a number of recent changes and that the pace should pick up again next year.

Other issues that we considered include the qualification of defence's financial statements, which were very serious indeed. I know that the chair spoke about them. Certainly this is an area that anyone who is interested in defence spending should be concerned about. We heard the ANAO refer to specific examples such as the possibility that total unrecorded assets could be worth as much as \$255 million. We are not talking about pennies or cents; they are substantial amounts of money.

The treatment of GST revenue is another incredibly important issue. Year after year we have the ANAO disagreeing with the Australian Taxation Office, denying that the GST is imposed under Commonwealth legislation and claiming that therefore the Commonwealth controls the revenue that is raised and that the relativity factor which adjusted the subsequent payments to the states was determined by the Commonwealth Treasurer. The ANAO have made the point again and again that they believe it to be a Commonwealth tax. Commonsense would tell you that it is. Of course the tax office still denies that and the finance minister says that, from the perspective of the finance minister, the GST is not a Commonwealth tax but a state tax. That is a triumph of wishful thinking in the area of taxation.

The Australian Taxation Office also had its financial statements qualified because it called its lease of computer equipment an operating lease, whereas commonsense would tell you that it was a finance lease because all the risks and benefits had passed from the lessor to the ATO. Other Commonwealth entities which had entered into similar arrangements had changed their accounting treatment for these leasing arrangements from operating leases to finance leases. It would seem sensible—indeed, we recommend—that the ATO should review the terms of its information technology outsourcing

contract when the contract is renewed so that the nature of the lease is clarified and the subsequent accounting treatment does not attract an audit qualification.

The standardisation of accounting treatment, the treatment of GST revenue and the auditing of the final budget outcomes were issues that taxed us greatly. We have again come down with a unanimous report from the committee, and that is largely to the credit not only of the witnesses who were so helpful in providing us with information but also of the members of the committee, the sectional committee, the chair of the committee and of course the committee secretariat.

### **CIVIL AVIATION AMENDMENT BILL 2003**

#### **Report from Main Committee**

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

Ordered that this bill be considered forthwith.

#### *Main Committee's amendments—*

- (1) Clause 2, page 2 (table item 2, column 2), omit "1 July 2003", substitute "The day on which this Act receives the Royal Assent".
- (2) Clause 2, page 2 (table item 4, column 2), omit "1 July 2003", substitute "The day on which this Act receives the Royal Assent".
- (3) Clause 2, page 2 (table item 6, column 2), omit "1 July 2003", substitute "The day on which this Act receives the Royal Assent".
- (4) Clause 2, page 2 (table item 8, column 2), omit "1 July 2003", substitute "The day on which this Act receives the Royal Assent".
- (5) Clause 2, page 2 (table item 10, column 2), omit "1 July 2003", substitute "The day on which this Act receives the Royal Assent".
- (6) Clause 2, page 2 (at the end of the table), add:

11. Schedule 2, item 1 At the end of the period of 4 months beginning on the day on which this Act receives the Royal Assent
12. Schedule 2, item 2 The day on which this Act receives the Royal Assent
- (7) Clause 3, page 3 (line 2), after "Each Act", insert ", and each regulation,".
- (8) Clause 3, page 3 (after line 5), at the end of the clause, add:
  - (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) To avoid doubt, regulations amended under subsection (1) are taken to still be regulations.
- (9) Clause 4, page 3 (lines 14 to 20), omit subclauses (3) and (4).
- (10) Clause 4, page 4 (after line 6), after subclause (9), insert:
  - (9A) The repeal of regulation 268 of the *Civil Aviation Regulations 1988* by this Act does not apply to notices served by CASA before the repeal happened.
- (11) Schedule 1, item 15, page 9 (line 10), after "the holder", insert "has engaged in,".
- (12) Schedule 1, item 17, page 24 (line 28), at the end of subsection (2), add "or a decision under the regulations to cancel a licence, certificate or authority on the ground that the holder of that licence, certificate or authority has contravened a provision of this Act or the regulations (including the regulations as in force by virtue of a law of a State)".
- (13) Page 30, after line 2, at the end of the Bill, add:

#### ***Schedule 2—Amendment of regulations***

#### **Civil Aviation Regulations 1988**

##### **1 Regulation 268**

Repeal the regulation.

##### **2 After subregulation 269(1)**

Insert:

(1A) CASA must not cancel a licence, certificate or authority under subregulation (1) because of a contravention mentioned in paragraph (1)(a) unless:

- (a) the holder of the licence, certificate or authority has been convicted by a court of an offence against a provision of the Act or these Regulations (including these Regulations as in force by virtue of a law of a State) in respect of the contravention; or
- (b) the person was charged before a court with an offence against a provision of the Act or these Regulations (including these Regulations as in force by virtue of a law of a State) in respect of the contravention and was found by the court to have committed the offence, but the court did not proceed to convict the person of the offence.

**The DEPUTY SPEAKER (Hon. B.C. Scott)**—The question is that the amendments be agreed to.

Question agreed to.

Bill, as amended, agreed to.

**Third Reading**

**Mr HOCKEY** (North Sydney—Minister for Small Business and Tourism) (5.44 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**SEX DISCRIMINATION AMENDMENT (PREGNANCY AND WORK) BILL 2002**

**Consideration of Senate Message**

Message received from the Senate returning the bill and acquainting the House that the Senate does not insist on its amendments disagreed to by the House.

**BILLS RETURNED FROM THE SENATE**

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

Crimes (Overseas) Amendment Bill 2003  
**SUPERANNUATION (SURCHARGE RATE REDUCTION) AMENDMENT BILL 2003**

**Consideration of Senate Message**

Bill returned from the Senate with amendments.

Ordered that the amendments be considered forthwith.

*Senate's amendments—*

- (1) Clause 2, page 2 (table items 2, 3 and 4), omit the table items, substitute:
  - 2. Schedule 1 1 July 2003
- (2) Schedule 1, item 1, page 3 (line 10), omit paragraph (a) of the definition of *higher income amount*, substitute:
  - (a) for the 2003-2004 financial year—\$114,981; and
- (3) Schedule 1, item 1, page 3 (line 14), omit paragraph (a) of the definition of *lower income amount*, substitute:
  - (a) for the 2003-2004 financial year—\$94,691; and
- (4) Schedule 1, item 1, page 3 (lines 17 to 20), omit the definition of *maximum surcharge percentage*, substitute:
 

*maximum surcharge percentage* means:

  - (a) for the 2003-2004 financial year—14.5%; and
  - (b) for the 2004-2005 financial year—13.5%; and
  - (c) for the 2005-2006 financial year and later financial years—12.5%.
- (5) Schedule 1, item 7, page 4 (line 10), omit “2003-04”, substitute “2004-05”.
- (6) Schedule 1, item 7, page 4 (line 12), omit “2003-04”, substitute “2004-05”.

- (7) Schedule 1, item 8, page 4 (line 14), omit “2003-04”, substitute “2004-05”.
- (8) Schedule 1, item 9, page 4 (line 22), omit paragraph (a) of the definition of *higher income amount*, substitute:
- (a) for the 2003-2004 financial year—\$114,981; and
  - (b) for the 2004-2005 financial year—13.5%; and
  - (c) for the 2005-2006 financial year and later financial years—12.5%.
- (9) Schedule 1, item 9, page 4 (line 26), omit paragraph (a) of the definition of *lower income amount*, substitute:
- (a) for the 2003-2004 financial year—\$94,691; and
  - (b) for the 2004-2005 financial year—13.5%; and
  - (c) for the 2005-2006 financial year and later financial years—12.5%.
- (10) Schedule 1, item 9, page 5 (lines 3 to 6), omit the definition of *maximum surcharge percentage*, substitute:
- maximum surcharge percentage*  
means:
- (a) for the 2003-2004 financial year—14.5%; and
  - (b) for the 2004-2005 financial year—13.5%; and
  - (c) for the 2005-2006 financial year and later financial years—12.5%.
- (11) Schedule 1, item 15, page 5 (line 24), omit “2003-04”, substitute “2004-05”.
- (12) Schedule 1, item 15, page 5 (line 26), omit “2003-04”, substitute “2004-05”.
- (13) Schedule 1, item 16, page 6 (line 2), omit “2003-04”, substitute “2004-05”.
- (14) Schedule 1, item 17, page 6 (line 8), omit paragraph (a) of the definition of *higher income amount*, substitute:
- (a) for the 2003-2004 financial year—\$114,981; and
  - (b) for the 2004-2005 financial year—13.5%; and
  - (c) for the 2005-2006 financial year and later financial years—12.5%.
- (15) Schedule 1, item 17, page 6 (line 12), omit paragraph (a) of the definition of *lower income amount*, substitute:
- (a) for the 2003-2004 financial year—\$94,691; and
  - (b) for the 2004-2005 financial year—13.5%; and
  - (c) for the 2005-2006 financial year and later financial years—12.5%.
- (16) Schedule 1, item 17, page 6 (lines 15 to 18), omit the definition of *maximum surcharge percentage*, substitute:
- maximum surcharge percentage*  
means:
- (a) for the 2003-2004 financial year—14.5%; and
  - (b) for the 2004-2005 financial year—13.5%; and
  - (c) for the 2005-2006 financial year and later financial years—12.5%.
- (17) Schedule 1, item 22, page 7 (line 8), omit “2003-04”, substitute “2004-05”.
- (18) Schedule 1, item 22, page 7 (line 10), omit “2003-04”, substitute “2004-05”.
- (19) Schedule 1, item 23, page 7 (line 12), omit “2003-04”, substitute “2004-05”.
- (20) Schedule 1, item 24, page 8 (lines 7 to 20), omit subsection (3), substitute:
- (3) The amount determined by the Authority may not be more than the total of the following amounts:
    - (a) 15% of the employer-financed component of any part of the benefits payable to the member that accrued between 20 August 1996 and 1 July 2003;
    - (b) 14.5% of the employer-financed component of any part of the benefits payable to the member that accrued in the 2003-2004 financial year;
    - (c) 13.5% of the employer-financed component of any part of the benefits payable to the member that accrued in the 2004-2005 financial year;
    - (d) 12.5% of the employer-financed component of any part of the benefits payable to the member that accrued after 30 June 2005.
- (21) Schedule 1, item 25, page 8 (line 24) to page 9 (line 6), omit subsection (3), substitute:
- (3) The amount determined by the Trust may not be more than the total of the following amounts:
    - (a) 15% of the employer-financed component of any part of the benefits payable to the person that accrued between 20 August 1996 and 1 July 2003;

- (b) 14.5% of the employer-financed component of any part of the benefits payable to the person that accrued in the 2003-2004 financial year;
  - (c) 13.5% of the employer-financed component of any part of the benefits payable to the person that accrued in the 2004-2005 financial year;
  - (d) 12.5% of the employer-financed component of any part of the benefits payable to the person that accrued after 30 June 2005.
- (22) Schedule 1, item 26, page 9 (lines 10 to 23), omit subsection (3), substitute:
- (3) The amount determined by the Board may not be more than the total of the following amounts:
    - (a) 15% of the employer-financed component of any part of the benefits payable to the person that accrued between 20 August 1996 and 1 July 2003;
    - (b) 14.5% of the employer-financed component of any part of the benefits payable to the person that accrued in the 2003-2004 financial year;
    - (c) 13.5% of the employer-financed component of any part of the benefits payable to the person that accrued in the 2004-2005 financial year;
    - (d) 12.5% of the employer-financed component of any part of the benefits payable to the person that accrued after 30 June 2005.
- (23) Schedule 1, item 28, page 9 (line 32) to page 10 (line 12), omit subsection (2A), substitute:
- (2A) The amount of the reduction under subsection (1) may not be more than the total of the following amounts:
    - (a) 15% of the employer-financed component of any part of the benefits payable to the member that accrued between 20 August 1996 and 1 July 2003;
    - (b) 14.5% of the employer-financed component of any part of the benefits payable to the member that accrued in the 2003-2004 financial year;
    - (c) 13.5% of the employer-financed component of any part of the benefits payable to the member that accrued in the 2004-2005 financial year;
    - (d) 12.5% of the employer-financed component of any part of the benefits payable to the member that accrued after 30 June 2005.
- (24) Schedule 1, item 29, page 10 (lines 18 to 30), omit paragraph (b), substitute:
- (b) the total of the following amounts:
    - (i) 15% of the employer-financed component of any part of the benefits payable to the member that accrued between 20 August 1996 and 1 July 2003;
    - (ii) 14.5% of the employer-financed component of any part of the benefits payable to the member that accrued in the 2003-2004 financial year;
    - (iii) 13.5% of the employer-financed component of any part of the benefits payable to the member that accrued in the 2004-2005 financial year;
    - (iv) 12.5% of the employer-financed component of any part of the benefits payable to the member that accrued after 30 June 2005.
- (25) Schedule 1, item 30, page 10 (line 33) to page 11 (line 14), omit paragraph (d), substitute:
- (d) the total of the following amounts:
    - (i) 15% of the employer-financed component of any part of the benefits that would have been payable to the member but for the payment split and that accrued

- between 20 August 1996 and 1 July 2003;
- (ii) 14.5% of the employer-financed component of any part of the benefits that would have been payable to the member but for the payment split and that accrued in the 2003-2004 financial year;
  - (iii) 13.5% of the employer-financed component of any part of the benefits that would have been payable to the member but for the payment split and that accrued in the 2004-2005 financial year;
  - (iv) 12.5% of the employer-financed component of any part of the benefits that would have been payable to the member but for the payment split and that accrued after 30 June 2005.
- (26) Schedule 1, item 31, page 11 (lines 17 to 37), omit paragraph (b), substitute:
- (b) the total of the following amounts:
    - (i) 15% of the employer-financed component of any part of the value of the age retirement benefits of the member when the fund ceased to be a constitutionally protected superannuation fund that accrued between 20 August 1996 and 1 July 2003;
    - (ii) 14.5% of the employer-financed component of any part of the value of the age retirement benefits of the member when the fund ceased to be a constitutionally protected superannuation fund that accrued in the 2003-2004 financial year;
    - (iii) 13.5% of the employer-financed component of any part of the value of the age retirement benefits of the member when the fund ceased to be a constitutionally protected superannuation fund that accrued in the 2004-2005 financial year;
    - (iv) 12.5% of the employer-financed component of any part of the value of the age retirement benefits of the member when the fund ceased to be a constitutionally protected superannuation fund that accrued after 30 June 2005.
- (27) Schedule 1, page 11 (after line 37), at the end of Part 2, add:
- Superannuation Industry (Supervision) Act 1993***
- 31A Subsection 10(1)**
- Insert:
- partner***, in relation to a person, means a person who, whether or not of the same sex as the person, lives with the person on a genuine domestic basis as the partner of the person.
- 31B Subsection 10(1) (definition of *dependant*)**
- Repeal the definition, substitute:
- dependant***, in relation to a person, includes the spouse, partner, and any child of the person or of the person's spouse or partner.
- 31C Subsection 10(1) (definition of *spouse*)**
- Repeal the definition, substitute:
- spouse***, in relation to a person, means another person who, at the relevant time, was legally married to that person.
- 31D At the end of subsection 52(2)**
- Add:
- ; (i) not to discriminate, in relation to a beneficiary, on the basis of race, colour, sex, sexual preference, transgender status, marital status, family responsibilities, religion, political opinion or social origin.
- (28) Schedule 1, item 32, page 12 (line 5), omit "2002-2003", substitute "2003-04".
- (29) Schedule 1, item 32, page 12 (line 8), omit "2002", substitute "2003".

(30) Schedule 1, items 33 and 34, page 12 (lines 10 to 21), omit the items, substitute:

**33 Application of items 24 to 30**

The amendments made by items 24 to 30 apply in relation to benefits that become payable on or after 1 July 2003.

Note: The Acts amended by items 24 to 30 continue to apply in relation to benefits that become payable before 1 July 2003 as if the amendments made by those items had not been made.

(31) Schedule 1, item 35, page 12 (line 25), omit "2002", substitute "2003".

(32) Schedule 1, item 35, page 12 (line 27), omit "2002", substitute "2003".

**Mr ROSS CAMERON** (Parramatta—Parliamentary Secretary to the Treasurer) (5.46 p.m.)—by leave—I move:

That Senate amendments (1) to (26) and (28) to (32) be agreed to.

During the 2001 election campaign, the government announced a package of superannuation reforms designed to make superannuation more attractive. One component of this package of measures was the proposal to reduce the maximum superannuation contribution and termination payment surcharge rates to encourage those who can afford to save for their retirement to do so. As the Minister for Revenue and Assistant Treasurer announced on 7 September 2003, the government has negotiated an agreement with the Australian Democrats to enable passage of the superannuation surcharge rate reduction measure, following the failure of the bill to obtain a second reading in the Senate on 24 June 2003.

Amendments (1) to (26) and (28) to (32) to this bill give effect to those aspects of the agreement relating to the superannuation surcharge. The amendments will provide for a smaller reduction in the superannuation surcharge rates rather than the government's original proposal to reduce the rates by 1.5

per cent each year for three years, reducing the rates from 15 per cent down to 10.5 per cent. The maximum surcharge rates will be reduced by half a per cent in the first year and one per cent for the two subsequent financial years. The savings from the smaller reduction will be applied to the government's co-contribution measure and extend that scheme's parameters. The reduction in the surcharge rates will also be delayed. Consequently, the first reductions will apply from the 2003-04 financial year. I commend the amendments to the House of Representatives.

**Mr COX** (Kingston) (5.49 p.m.)—We have to give the government full marks for persistence, if nothing else, particularly in the negotiations with the Democrats to reach another GST-style sweetheart deal that will allow these bills to pass. The first of these bills, the Superannuation (Surcharge Rate Reduction) Amendment Bill 2003, reduces the superannuation surcharge rate on high-income earners, an inequitable measure even in the government's terms. The second bill introduces the low-income co-contribution scheme, a scheme not without problems; nonetheless, it has considerably greater merit than the surcharge rate reduction. Although the deal made with the Democrats reduces the reduction in the superannuation surcharge from the original 4.5 per cent to 2.5 per cent, it still remains an exclusive tax cut going to high-income earners who make up less than five per cent of superannuation fund members. This small reduction pales into insignificance compared to Labor's proposal to reduce the contributions tax by two per cent, a reduction that would benefit all fund members, not just an exclusive and relatively well-off five per cent. Labor do support the co-contributions measure but, once again, we would point out that this is a very insipid proposal compared to Labor's three per cent co-contribution scheme which

the government promised to maintain but rejected shortly after coming to office. This was one of the Howard government's first broken promises and a most short-term piece of policy.

As I have pointed out several times before, the reduction in the superannuation surcharge rate now proposed (a tax reduction from 15 per cent to 12½ per cent over three years) is highly inequitable, providing an exclusive benefit to less than five per cent of Australian workers—those high-income earners with incomes greater than \$94,691, with the highest tax reduction going to those earning more than \$114,981. Ironically, this same Liberal government which now wants to reduce the surcharge is the one that introduced it in 1996 on, of all grounds, that of equity. The Treasurer, Mr Costello, stated publicly that even he would have to pay the surcharge, a highly equitable move according to him then.

Of course, by introducing the surcharge, the government was also breaking its 1996 election promise to not introduce any new taxes. Now things have changed. Perhaps estimated gains from the tax cut to government members have influenced this change of heart. Costings indicate that the Treasurer stands to benefit by approximately \$4,000 a year through this tax cut. Other ministers, such as Tony Abbott, will also be at least \$5,000 a year better off, while Senator Coonan will have her—

**The DEPUTY SPEAKER (Hon. B.C. Scott)**—Order! The member will refer to ministers by their title or their electorate.

**Mr COX**—I am sorry. The Minister for Health and Ageing will have his tax bill reduced. The Minister for Revenue and Assistant Treasurer will have her tax bill reduced by \$4,700 a year.

**Mr Hockey**—So will you.

**Mr COX**—We are voting against this.

*Mr Hockey interjecting—*

**The DEPUTY SPEAKER**—Order! The member for Kingston has the call.

**Mr COX**—Perhaps these losses hurt them so much that the government's uncharacteristic and fleeting dalliance with equity soon evaporated. I once again call on all other government members who plan to speak on this bill to disclose the individual benefit from the tax cut they now want to give themselves.

**Mr Hockey**—How much are you getting?

**Mr COX**—I am voting against it. Labor opposes the surcharge tax cut, so, hopefully, there will be no benefit to any parliamentarian as a result of this proposal. If there is one aspect of the surcharge that is inequitable, it is the administrative costs that are spread across all fund members, regardless of their level of income. Although these charges have declined now that the system is in place, reducing the rate now will do nothing to alleviate the problem.

Labor has a much more equitable alternative to this exclusive tax cut. Labor will instead cut the contributions tax—a tax that is applied to all fund members regardless of income level. This is the best way to deliver higher retirement incomes to millions of working Australians, not a selective reduction to the relatively well-off few. We now have an opportunity to implement a fairer proposal which will boost retirement savings, but this chance will be lost if the government gets its way with these unfair changes. (*Extension of time granted*) Labor's alternative proposition is to cut the superannuation contributions tax from the present 15 per cent to 13 per cent for all Australians who pay it, adding many thousands of dollars to the retirement incomes of Australians.

I now turn to the contributions measure. The current co-contribution proposed in this bill is, as I have already pointed out, a very

insipid imitation of the much more extensive co-contribution arrangements proposed by the ALP government in the May 1995 Savings for our Future statement. Those proposals included the government matching contributions of up to three per cent of average weekly ordinary time earnings, which did not phase out until a member achieved a wage of twice average weekly ordinary time earnings.

The current Treasurer committed an incoming Liberal government to implementing the 1995 ALP co-contribution proposals. Unfortunately, the Treasurer reneged on that promise, implementing instead a savings rebate—an initiative which he quickly abolished. Had Labor's co-contribution measure been fully implemented, as it would have been, on 1 July 2002, it would have delivered three per cent extra for all Australians in superannuation funds—some nine million persons—which is \$4.5 billion in retirement savings. The current government proposal delivers a co-contribution one-twentieth of the size of Labor's proposal.

Labor support this bill, although we have some reservations—which were also raised by others in the inquiry of the Senate Select Committee on Superannuation. These are concerns in relation to the effectiveness and equity of the proposed co-contribution scheme. The Labor Party are particularly concerned that there is scope for abuse by comparatively well-off people who will make contributions in respect of family members in part-time employment in order to access the tax concessions available. For that group of people the co-contribution arrangements provide a new tax minimisation opportunity. On the other hand, the capacity of single or lower income sole breadwinners in the salary target range to afford to make contributions to superannuation in order to qualify for the matching co-contribution is untested. Evidence given to the committee

suggested that it was most unlikely that many of those in the target income range could raise the extra money to make the contributions necessary to attract government matching.

I understand that Senator Ian Campbell made some absurd claims that low-income earners making co-contributions will become millionaires. Most low-income earners will not be able to find the money to contribute. Hopefully, those few who will be able to will not be doing so based on Senator Ian Campbell's grossly misleading statement, which gave values in future dollars rather than today's dollars. They would be very disappointed millionaires. If that is converted back to today's dollars—a realistic picture of the results of contributing—no-one is going to become a millionaire.

As revealed in evidence from the peak superannuation body, the Association of Superannuation Funds of Australia Ltd, the number of people estimated to receive the full \$1,000 is only 75,000. This is from a total pool of 4.4 million people with incomes of less than \$32,500. Increasing the income threshold to \$40,000 is unlikely to increase this number significantly. Senator Coonan has tried to convince us that the surcharge reduction and the co-contribution scheme make up a balanced package and that this justifies debating the two measures together. This is nothing but window-dressing, trying to justify the Liberals' unfair tax cut to the well-off by pretending the measure is linked to co-contributions. If the government were serious about helping those most in need of assistance to accumulate a retirement nest egg, they would have maintained Labor's proposed three per cent co-contribution scheme for all. They have watered down the co-contribution arrangements to the surcharge reduction bill. Labor is prepared to support the co-contribution bill. Unfortunately, the government's insistence on tying

it to the surcharge reduction means that Labor must oppose this package.

**Mr ROSS CAMERON** (Parramatta—Parliamentary Secretary to the Treasurer) (5.59 p.m.)—I simply note that the purpose of the measure was to increase the incentive for those who could afford to make provision for their own retirement. I would have regarded that as a fairly uncontroversial positive step in public administration. Labor has taken a different view. I regard that as regrettable. Nonetheless, I commend the measure to the House. We would have preferred it to be more generous. We would have preferred that it began faster than it now will. Nonetheless, it represents a step forward. I commend the amendments to the House.

Question put:

That Senate amendments (1) to (26) and (28) to (32) be agreed to.

The House divided. [6.04 p.m.]

(The Deputy Speaker—Hon. B.C. Scott)

Ayes.....	75
Noes.....	58
Majority.....	17

AYES

Abbott, A.J.	Anderson, J.D.
Andrews, K.J.	Anthony, L.J.
Bailey, F.E.	Baird, B.G.
Baldwin, R.C.	Barresi, P.A.
Bartlett, K.J.	Billson, B.F.
Bishop, B.K.	Bishop, J.I.
Brough, M.T.	Cadman, A.G.
Cameron, R.A.	Causley, I.R.
Charles, R.E.	Ciobo, S.M.
Cobb, J.K.	Costello, P.H.
Downer, A.J.G.	Draper, P.
Dutton, P.C.	Elson, K.S.
Entsch, W.G.	Farmer, P.F.
Forrest, J.A. *	Gallus, C.A.
Gambaro, T.	Gash, J. *
Haase, B.W.	Hardgrave, G.D.
Hartsuyker, L. *	Hawker, D.P.M.
Hockey, J.B.	Hull, K.E.
Hunt, G.A.	Johnson, M.A.

Jull, D.F.	Katter, R.C.
Kelly, D.M.	Ley, S.P.
Lindsay, P.J.	Lloyd, J.E.
Macfarlane, I.E.	May, M.A.
McArthur, S. *	McGauran, P.J.
Moylan, J. E.	Nairn, G. R.
Nelson, B.J.	Panopoulos, S.
Pearce, C.J.	Prosser, G.D.
Pyne, C.	Randall, D.J.
Ruddock, P.M.	Schultz, A.
Secker, P.D.	Slipper, P.N.
Smith, A.D.H.	Somlyay, A.M.
Southcott, A.J.	Stone, S.N.
Ticehurst, K.V.	Tollner, D.W.
Truss, W.E.	Tuckey, C.W.
Vaile, M.A.J.	Vale, D.S.
Wakelin, B.H.	Washer, M.J.
Williams, D.R.	Windsor, A.H.C.
Worth, P.M.	

NOES

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

\* denotes teller

Question agreed to.

**Mr ROSS CAMERON** (Parramatta—Parliamentary Secretary to the Treasurer) (6.09 p.m.)—I move:

That Senate amendment (27) be disagreed to.

The government will be opposing Senate amendment (27). If the Senate insists on this amendment then the government will need to reconsider the compromised package negotiated between itself and the Australian Democrats. It appears that the Senate has misunderstood the intended operation of this bill and its application to same-sex couples. The surcharge measure in the bill only applies to an individual. The bill does not distinguish between eligible individuals in same-sex relationships or any other relationship. The surcharge rate reduction will benefit a surchargeable gay or lesbian person as it will a surchargeable married or single heterosexual person.

The same-sex amendments to this bill are redundant because there is no possible discrimination in respect of the operation of this bill. The government will honour the agreement it has with the Australian Democrats, which is confined to the subject matter of this bill. At any rate, superannuation fund trustees can take into account same-sex partners when distributing death benefits. There is nothing in the law to prevent a trustee paying death benefits to a same-sex partner who was financially dependent on the deceased. The Superannuation Industry (Supervision) Act 1993 already provides that superannuation funds may cash the benefits of a deceased member in favour of the legal personal representative of either or both of the members or in favour of one or more of the members' dependants. A dependant is ordinarily interpreted to include those partly financially dependent on or financially interdependent with the member. Therefore, same-sex partners can usually access the death benefits of their partner where the de-

pendency test is met and the government considers that these amendments are not necessary. Where cohabiting persons have joint financial commitments and financial dependency is shown, the death benefits paid to the partner of the deceased member are concessionally taxed. This is the same concessional tax treatment that is afforded to any dependant, whether they are the husband or wife, same-sex partner, or parent or child of the deceased.

I will also take this opportunity to highlight that the government's choice of fund legislation, which is due to be debated in this parliamentary sitting, would allow same-sex couples to choose a superannuation fund that best serves their needs—that is, a fund with governing rules that allow payments to same-sex partners. In addition, the government's portability policy will mean that, having chosen such a fund, the individuals will be able to transfer their existing benefits to that fund. Let me finish by restating that the deal negotiated between the government and the Australian Democrats did not include any agreement to deal with the subject matter of this amendment. The government will be rejecting this amendment in the House of Representatives and will not be supporting it if it is considered again in the Senate.

**Mr COX** (Kingston) (6.13 p.m.)—Labor's amendment to the Superannuation (Surcharge Rate Reduction) Amendment Bill 2003 would provide the equal rights to superannuation benefits to couples in same-sex relationships as are enjoyed by Australians living in heterosexual relationships. Labor proposed this amendment as a contribution to a fair and just Australia. At present, same-sex couples do not have automatic entitlements to each other's superannuation benefits. This means that they often have to fight long battles to receive the benefits only to find that when they are successful they are

denied the tax concessions afforded other fund members.

Where the surviving partner of a same-sex couple is denied the benefits and that person was dependent on the deceased partner, she or he may be left to rely on Commonwealth benefits. This is particularly a problem for elderly same-sex couples who have had been in very long-term relationships. Someone's superannuation is their property and it is unreasonable to provide legal impediments to how they provide for their dependants.

The Human Rights and Equal Opportunity Commission produced a report on discrimination under the law against same-sex couples which highlighted the inequities in superannuation law. This report was written after considerable community consultation. There is also considerable community support for removing this discrimination, judging by the responses to the select committee inquiry into the Albanese private member's bill on same-sex rights. This amendment before us today would redress that situation by changing the definition of a dependant in the Superannuation Industry Supervision Act to include same-sex couples. I commend the amendment to the House.

**Mr ALBANESE** (Grayndler) (6.15 p.m.)—I am very pleased to rise in support of amendment (27), moved by my colleague Senator Nick Sherry and carried by the Senate with the support of the Australian Labor Party, the Greens and the Democrats. This amendment goes to the heart of an issue that I have raised over many years. I first raised the issue of discrimination against same-sex couples with regard to superannuation in a speech in this House on 10 December 1996. I called upon the government to take action to remove this discrimination. When that did not occur, I moved a private member's bill on 22 June 1998. The government refused to bring it on for debate, so after the election I

reintroduced my private member's bill on 7 December 1998. This time it had a second reading on 7 June 1999. However, in spite of that, it then lapsed again. It was then introduced by me again on 25 June 2001. It then got referred to a Senate select committee.

I gave evidence before that committee, along with organisations including the Association of Superannuation Funds of Australia, the association of Certified Practising Accountants, gay and lesbian rights lobbies, the ACTU, specific industry funds and human rights organisations. All these groups gave evidence before that committee, which recommended that the discrimination be removed. And now we are one inch away from removing that discrimination by simply accepting this amendment which has already been adopted by the Senate. What this amendment would do is remove the five areas where discrimination currently takes place. As described in an explanatory memorandum, those areas are:

- On retirement of the contributor, refusal to pay a joint pension for the contributor and his or her same sex partner;
- On retirement of the contributor, refusal to pay a lump sum benefit in respect of a same sex partner;
- On the death of the contributor, refusal to pay death benefits to a same sex partner, either by reversionary pension or lump sum benefit;
- On the death of the contributor, failure to investigate or acknowledge the claim to dependency of a child of a same sex couple when the contributor is not the biological parent of the child; and
- On the death of the contributor, payment of death benefits to the estate of the contributor rather than to the same sex partner as a dependant.

I believe in removing all discrimination on the basis of sexuality. In terms of this issue, we are talking about someone's money that

they have contributed as part of their working life. What this discrimination says is that if you happen to be in a same-sex relationship you cannot determine where that money goes—you cannot determine that it goes to your spouse. It is an obscene form of theft of people's money and a blatant abuse of human rights.

The government stands condemned for refusing to move on this issue at a time when the member for North Sydney, the member for Parramatta, the member for Bradfield and a number of other members opposite have indicated their support for removing this discrimination in the past. The Australian Democrats stand today as complete sell-outs of everything that they have said over many years they stand for, because they have run a campaign which has been hypocritical, deceitful, dishonest and incompetent and which has now been exposed as an absolute sham and a fraud. This is the worst sell-out done by them since the GST, and it impacts on a community that they have singled out as purporting to defend.

This discrimination has a real human impact. I want tonight to have the opportunity to place on the record the human dimension of this discrimination. (*Extension of time granted*) There are very real tragedies to this discrimination. When your partner dies, it should be a time of compassion, a time of sympathy, a time of bereavement and a time of respect. This discrimination occurs at that very time in people's lives when we should be most sympathetic towards the bereaved partner of a loved one. Bereavement does not depend upon one's sexuality at all, but that is essentially what this discrimination reinforces.

The first example I want to give is that of Greg Brown. Greg and his partner, Robert Corva, had been in a relationship for more than a decade when Robert passed away in

1993. Mr Corva had been employed by the Department of Defence for 17 years and had therefore contributed to the Commonwealth Superannuation Scheme. After Mr Corva died, Mr Brown was unable to access his partner's super funds, but he was a fighter, so he took up the challenge. This case went to the Administrative Appeals Tribunal. After a long hearing and after going through this process, in 1995 it determined:

There is no doubt that the applicant and Mr Corva had a close marriage like relationship and that they conformed to the requirements of section 8A in all respects except for their gender. Yet the 1992 amendments, which were designed to remove discrimination on the ground of marital status, provide no redress in relation to the form of discrimination which is illustrated by this case.

In other words, despite the 1992 amendments which removed discrimination on the ground of marital status, discrimination for same-sex couples still applied. It is important to recognise what happened in 1992 under the former Labor government. When the minister gave his second reading speech to amend the Superannuation Act 1976, he stated that the key criterion for eligibility of a surviving spouse will be the existence of a permanent and bona fide relationship. There was no discussion at the time about whether it was to apply to same-sex relationships or just to heterosexual relationships. There was no judgment there. It was meant to apply to all. But what is clear is that the law has not been interpreted that way.

Greg Brown did not stop there. He took his case to the Human Rights and Equal Opportunity Commission, which handed down its decision in November 1998. Commissioner Sidoti found:

In denying to surviving same sex partners of superannuation fund members an entitlement to benefit, these acts contravene the prohibitions on sexual preference discrimination in the *International Covenant on Civil and Political Rights* and

the International Labor Organisation *Discrimination (Employment and Occupation) Convention* (ILO111), both of which are scheduled to the *Human Rights and Equal Opportunity Commission Act 1986*.

Essentially what Commissioner Sidoti found was that there was discrimination but it was legal discrimination. It is 2003! We have had an amendment carried in the Senate only to be overturned by an obstinate government and a bunch of weaklings in the Democrats who have been prepared to roll over on this issue. How can we cop a situation in this House of legal discrimination?

This matter has been taken a step further by Edward Young, whom I had the privilege of meeting in my office some years ago. His spouse was Larry Cains, a member of the Defence Force who fought for our nation in World War II. Edward Young took his case to the United Nations Human Rights Committee. It found that Australia contravened the law on that basis as well. I believe very strongly that we need to support this amendment. (*Extension of time granted*) I believe that the Democrats, through their hypocrisy in rolling over on this issue, stand condemned. They have put out a pile of press releases dated 15 February 2000, 29 February 2000, 24 August 2001, 28 June 2002, 4 April 2000, 29 June 2001, 12 March 2002 and 23 June 2003 in which they make all sorts of statements. A press release dated 27 June states:

Regrettably the Labor Party once again voted with the government to continue discrimination against same sex couples in superannuation law.

That is what the Democrats said. That is exactly what they are going to do when this bill goes back over to the other place—to their utter shame. What is even worse is that they are going to get Senator Greig and Senator Stott Despoja to vote with the ALP on this issue so they can say, 'We're pure, we didn't vote.' I say to the Democrats, including

Senator Greig and Senator Stott Despoja: we will ping you on this; we will not allow you to ever again talk about how you are opposed to this discrimination. They have moved absurd amendments to bills in the past, the most absurd of which was to the Governor-General Amendment Bill 2001. That was a bill which was about increasing the Governor-General's salary because it was then becoming taxable. They moved a same-sex super amendment for the Governor-General, who happened to be heterosexual. Therefore it would have had no impact whatsoever. It was the ultimate grandstanding. They went out there in the community and said that the ALP voted against it. Yes, we did, because it was grandstanding and it had zero real impact. What we believe is that this discrimination has to be removed against all people, all Australians. We are opposed to it. That is why Senator Sherry moved this amendment. That is why the Labor Party voted for it. We are so close to real reform that has been set down as a priority for those concerned with removing discrimination.

The world does not end when you remove discrimination. Since, in the New South Wales parliament earlier this year, we equalised the age of consent, nothing has changed except that we can all hold our heads a bit higher. Discrimination is such that an injury against one is an injury against all. That is why this is an issue not just for people who are gay or lesbian. This is an issue for all Australians concerned about removing discrimination. I commend the amendment to the House. I call upon the government to reconsider its position and I call upon the Australian Democrats—if they have a sliver of integrity left—to ensure that when this amendment goes back to the Senate they actually vote to remove this discrimination.

**Mr DANBY** (Melbourne Ports) (6.29 p.m.)—Like the member for Grayndler, I have sought to raise the issues in this

amendment since being elected to this parliament in 1998. Labor moved this amendment because it believes it is a significant and long overdue step in giving those who live in a same-sex relationship the same right to superannuation benefits as that enjoyed by Australians living in heterosexual relationships. I was very pleased that Senator Sherry moved this amendment in the Senate and, like the member for Grayndler, I was very pleased that this was passed in the Senate by the opposition, together with the Greens and the Democrats. I am astonished at the hypocrisy of the Australian Democrats, who announced a week ago that they are going to vote with the government to sabotage this amendment.

As the member for Grayndler said, this is the right time to raise this issue. This is a superannuation bill, a perfect opportunity, and we are very close to achieving an end to this discrimination against the gay community. It is an opportunity which I hope against hope that the Australian Democrats will take up in the Senate. I will come back to that in a minute.

This is an area in which my constituents are particularly interested. My electorate has a very high level of people in same-sex relationships, and I know there is a great deal of concern in the gay and lesbian community over this particular issue. I share their concerns. I think this is an issue of outrageous discrimination. As the member for Grayndler said, this involves people's money, and people who have earned money in superannuation being able to pass it on to the partner they wish to pass it on to. Here we have the Australian government interfering in the wishes of someone who may have passed away and wanted to pass their superannuation on. This is a matter of discrimination which I think all Australians, regardless of their sexuality, would want us to speak out

on, and I am very pleased that the opposition has taken the lead on this.

Labor sees this as one more step in the development of a socially just Australian society that accords all persons equal rights and dignity regardless of nationality, ethnicity, religion, gender, age or sexual preference. The present situation, in which same-sex relationships are effectively excluded from the superannuation regime, results in same-sex partners having no automatic entitlement to a deceased partner's superannuation benefits. In cases where the surviving partner does receive the benefits, those benefits are denied the concessional tax treatment given to surviving partners of marriages and de facto relationships. In many cases, those who have been in a long-term same-sex relationship are denied those benefits, only to see them go to family members who, in many cases, have been estranged from the deceased person because of their objection to the person's sexual or gender preference. This is outrageous and it is a blatantly unjust result of this amendment not being passed and of the government's failure to face up to these issues at earlier opportunities. This occurs because the definition of dependent in the Superannuation Industry (Supervision) Act does not include same-sex partners or non-biological children of same-sex relationships as dependents of the member of a superannuation fund.

The denial of superannuation benefits in these circumstances can result in a same-sex partner or child of a same-sex couple who was a financial dependent of the fund member being left in poverty. Just as in a marriage, same-sex couples in long-term relationships may find in later years that one partner is reliant on the other because of illness. If the supporting partner dies and the survivor is denied the benefit of the deceased partner's superannuation, the results can be financially and emotionally devastating. Can

we continue to allow this to happen simply because of a person's sexual preference being different to our own? Is this any different to denying someone his or her rights because she or he is a Muslim, black or a Scientologist? The list of differences could be endless. Some of us may not approve of other people's preferences, religion or background, but would we deny them equal rights on that basis? I do not think so.

But this is what we are doing with same-sex couples. I say to those few who for whatever reason have moral objections to same-sex relationships: does that give you the right to deny those same-sex relationships the rights that are available in heterosexual relationships? Anyone who opposes these proposed changes should, I believe, examine their motives. If they do, they may find some things that are not particularly pleasant, and I would say that a degree of prejudice is involved.

In 1999, following extensive community consultation, the Equal Opportunity Commission, produced a report on same-sex relationships which highlighted the way in which those in a same-sex partnership were discriminated against by laws that denied their long-term loving relationships. Superannuation is one of the areas of the law highlighted. Hopefully, we will today redress this discrimination by supporting this amendment. (*Extension of time granted*) The government's role in denying equal rights to same-sex couples has been noticed even by the United Nations. In a communication released in August 2003 the Human Rights Commission of the United Nations found in *Young v. Australia* that Australia was in breach of international obligations under the International Covenant on Civil and Political Rights. Referring to the refusal to recognise Mr Young's relationship, the Australian government, through the application of the Veteran's Entitlement Act, had breached article

26 of the protocol, which prohibits discrimination on the grounds of sexual orientation. Once more, Australia found itself in breach of an international covenant—another sad day for a society with long held claims on egalitarianism.

The passing of this amendment would not only make same-sex couples equal in regard to superannuation with other couples but it would also have a significant validating effect on the relationships of a group of Australians who have historically suffered significant discrimination which has forced many of them to hide their sexuality or gender identity for fear of persecution or discrimination in the workplace, in public, in educational institutions and even in their own families. This discrimination has been amply documented in a report entitled *Enough is enough: a report on discrimination and abuse experienced by lesbians, gay men, bisexuals and transgender people in Victoria* which has been released by the Victorian Gay and Lesbian Rights Lobby. I recommend to all members of this House this report which would enable them to understand the suffering this discrimination has caused.

There are, of course, those who believe that any recognition of same-sex relationships, even in something as benign as rights to superannuation, creates a threat to the status of marriage—it does not. These amendments, in recognising same-sex relationships as non-marriage relations similar to de facto relationships, do not redefine the meaning of marriage.

Despite some very vocal objections to giving equal rights to same-sex couples, there is in fact very broad community support for change. The Senate Select Committee on Superannuation and Financial Services inquiry into the Albanese private member's bill, which I was pleased to second, to pro-

vide equal rights to same-sex couples recorded 1,200 submissions from individuals, industry groups and community organisations. Only five opposed the proposition. It should be noted that this response to the legislation went far beyond the amendment before us today, which deals with superannuation alone.

Although most states and territories have now legislated to allow equal rights in superannuation funds in their jurisdictions, the federal jurisdiction lags behind. This amendment would bring the federal jurisdiction into line. The government has so far shown itself to be opposed to any change and has voted against this amendment in the Senate. It refuses to address this issue at all. What does this say about the government? I appeal to all members opposite—and I know some members opposite have pangs of conscience on this issue—to take a stand on this issue, to look at their own values and beliefs and decide whether, in good conscience, they should oppose this amendment that would give people equal rights. If the government does choose to reject this amendment, I hope that the Australian Democrats in the Senate will maintain their long-held support for the rights of same-sex couples—in particular, in relation to superannuation—and refuse to pass the package until such time as the government accepts this amendment.

I will conclude on the point of the politics of this in the Senate. This amendment was passed with the assistance of the opposition, the Greens and the Democrats. The Democrats' position on this issue is extraordinary, as the member for Grayndler has said, given their professed public attacks on the opposition and their grandstanding on this issue over many years. They have backflipped, tumble-turned and flip-flopped on this particular issue. In my view, Senators Greig and Cherry and the Democrats have lost all credibility. They claim that they are, to use

that well-known expression, 'keeping them honest', but now they are voting against a measure which they have long supported, which they claim to have championed and which they have tried and tried to get up in the Senate. Now they have a real opportunity. But what do the Democrats do? They do the same as they did on the GST and the workplace relations bill. They have backed down, backed off and backflipped. Like the GST, this full political turn and pike will lead them to the political obscurity that I think will face them at the next election.

I will conclude by reading an extraordinary attack that was made on the Democrats by the former Western Australian division president of the Democrats, Tracy Chaloner, in the *Sydney Morning Herald*. She says that the split on this in the Democrats has opened old wounds and it is part of the process that led to the defection of Meg Lees and the resignation of Natasha Stott Despoja as leader. (*Extension of time granted*) Tracy Chaloner says that this latest scrap is another example of the 'gang of four' wedging the party to take it over. I will read one paragraph from this extraordinary attack on the Australian Democrats by a former leading member of the Democrats:

Now they—

that is, the current leadership of the Australian Democrats—

are derailing an 11-year campaign that finally got up with the support of the ALP and Greens—superannuation equity for same sex couples—doing a backflip of epic proportions and abandoning this important amendment to the superannuation legislation now before Parliament. The Democrats had a long and proud tradition of fighting for the rights of same sex couples. It is an extremely important principle, one of equity and anti-discrimination.

The Democrats have a balloted policy on this. This is a clear abrogation of their party policy. Tracy Chaloner, a former leading

member of the Australian Democrats in Western Australia, says that 'the gang and the faceless cabal' who are the real power behind the Democrats are nothing more than political opportunists and have abrogated the policy of the Democrats as it was originally formed. We had the opportunity, as the member for Grayndler said, to pass a really important amendment that would end discrimination in superannuation against a large section of the community. I call on the Australian Democrats and the government to pass this amendment here and in the Senate.

**Mr TANNER** (Melbourne) (6.41 p.m.)—Briefly, I would like to add my voice to those of various members who have spoken in support of outlawing the discrimination that is currently in place with respect to superannuation and same-sex couples. This is an issue I first raised when I was a backbencher in the Keating government late in the time of that government. Unfortunately, before there was an opportunity for the matter to be fully pursued, that government lost office. It has been pursued ever since by a number of people on our side of the parliament, particularly by the members for Melbourne Ports and for Grayndler.

I believe this is a basic matter of human rights. We have a section of the community who pay their taxes, contribute to superannuation and are part of the compulsory superannuation regime, yet they are denied the equal treatment, particularly with respect to death and disability claims, that people who are not in same-sex couple situations take for granted. There should be equity and nondiscriminatory arrangements in this area so that people who are contributing and who do have the coverage are treated on the basis of the nature of their relationships and the extent of the dependency. Their entitlements should not be based on whether or not they are in a same-sex couple relationship. This is

a simple matter of basic human rights and decency.

It is very distressing that the government regards this as some sort of direct threat to the sanctity and security of the institution of marriage. I find it hard to believe that there will be any increase in the incidence of same-sex couples in Australia as a result of reform in this area. All it will mean is that the very substantial number of people who are in same-sex relationships will finally get the equal and decent treatment that applies as a matter of course to people who are in relationships across the genders—who are married or in de facto relationships and are therefore entitled to rely upon their entitlements within the superannuation arrangements.

This is a very straightforward matter. I find it amazing that the government is still unable to grapple with it and deliver justice to people who are entitled to be treated as other members of our community who pay taxes and contribute to superannuation. They are subject to the same rules and obligations as the rest of us, yet they are denied these entitlements simply because they are in stable, long-term, same-sex relationships rather than marriages that happen to suit the Prime Minister. So I add my voice to those of my colleagues in support of reform in this area. I express my very severe disappointment that the government still fails to accept the case for this and also that the Democrats have decided not to press the position further.

Question put:

That Senate amendment (27) be disagreed to.

The House divided. [6.49 p.m.]

(The Deputy Speaker—Hon. I.R. Causley)

Ayes.....	75
Noes.....	<u>56</u>
Majority.....	19

AYES

Abbott, A.J.	Anderson, J.D.
Andrews, K.J.	Anthony, L.J.
Bailey, F.E.	Baird, B.G.
Baldwin, R.C.	Barresi, P.A.
Bartlett, K.J.	Billson, B.F.
Bishop, B.K.	Bishop, J.I.
Brough, M.T.	Cadman, A.G.
Cameron, R.A.	Charles, R.E.
Ciobo, S.M.	Cobb, J.K.
Costello, P.H.	Downer, A.J.G.
Draper, P.	Dutton, P.C.
Elson, K.S.	Entsch, W.G.
Farmer, P.F.	Forrest, J.A. *
Gallus, C.A.	Gambaro, T.
Gash, J. *	Haase, B.W.
Hardgrave, G.D.	Hartsuyker, L. *
Hawker, D.P.M.	Hockey, J.B.
Hull, K.E.	Hunt, G.A.
Johnson, M.A.	Jull, D.F.
Katter, R.C.	Kelly, D.M.
Ley, S.P.	Lindsay, P.J.
Lloyd, J.E.	Macfarlane, I.E.
May, M.A.	McArthur, S. *
McGauran, P.J.	Moylan, J. E.
Nairn, G. R.	Nelson, B.J.
Panopoulos, S.	Pearce, C.J.
Prosser, G.D.	Pyne, C.
Randall, D.J.	Ruddock, P.M.
Schultz, A.	Scott, B.C.
Secker, P.D.	Slipper, P.N.
Smith, A.D.H.	Somlyay, A.M.
Southcott, A.J.	Stone, S.N.
Ticehurst, K.V.	Tollner, D.W.
Truss, W.E.	Tuckey, C.W.
Vaile, M.A.J.	Vale, D.S.
Wakelin, B.H.	Washer, M.J.
Williams, D.R.	Windsor, A.H.C.
Worth, P.M.	

NOES

Albanese, A.N.	Andren, P.J.
Beazley, K.C.	Bevis, A.R.
Brereton, L.J.	Burke, A.E.
Byrne, A.M.	Corcoran, A.K.
Cox, D.A.	Crosio, J.A.
Danby, M. *	Edwards, G.J.
Ellis, A.L.	Emerson, C.A.
Evans, M.J.	Ferguson, M.J.
George, J.	Gibbons, S.W.
Gillard, J.E.	Grierson, S.J.
Griffin, A.P.	Hall, J.G.

Hatton, M.J.	Hoare, K.J.
Irwin, J. *	Jackson, S.M.
Jenkins, H.A.	Kerr, D.J.C.
King, C.F.	Latham, M.W.
Livermore, K.F.	Macklin, J.L.
McClelland, R.B.	McFarlane, J.S.
McLeay, L.B.	Melham, D.
Mossfield, F.W.	Murphy, J. P.
O'Connor, B.P.	O'Connor, G.M.
Plibersek, T.	Price, L.R.S.
Quick, H.V. *	Ripoll, B.F.
Roxon, N.L.	Rudd, K.M.
Sawford, R.W.	Sciacca, C.A.
Sercombe, R.C.G. *	Sidebottom, P.S.
Smith, S.F.	Swan, W.M.
Tanner, L.	Thomson, K.J.
Wilkie, K.	Zahra, C.J.

\* denotes teller

Question agreed to.

**Mr ROSS CAMERON** (Parramatta—Parliamentary Secretary to the Treasurer) (6.53 p.m.)—I present reasons for the House disagreeing to Senate amendment (27) and I move:

That the reasons be adopted.

Question agreed to.

**SUPERANNUATION (GOVERNMENT CO-CONTRIBUTION FOR LOW INCOME EARNERS) (CONSEQUENTIAL AMENDMENTS) BILL 2003**

Message from the Governor-General recommending appropriation for the bill and proposed amendments announced.

**SUPERANNUATION (GOVERNMENT CO-CONTRIBUTION FOR LOW INCOME EARNERS) BILL 2003**

**Consideration of Senate Message**

Message received from the Senate returning the bill and acquainting the House that the Senate has agreed to the amendments made by the House and requests further amendments to the bill.

Ordered that the requested amendments be considered forthwith.

*Senate's requested amendments—*

- (1) Clause 6, page 4 (line 13), omit "\$32,500", substitute "the higher income threshold".
- (2) Clause 10, page 6 (table), omit the table, substitute:

Maximum Government co-contribution		
Item	Person's total income for the income year	Maximum amount
1	the lower income threshold or less	\$1,000
2	more than the lower income threshold but less than the higher income threshold	\$1,000 reduced by 8 cents for each dollar by which the person's total income for the income year exceeds the lower income threshold

**Mr ROSS CAMERON** (Parramatta—Parliamentary Secretary to the Treasurer) (6.54 p.m.)—I move:

That the requested amendments be made.

As I mentioned previously in relation to the Superannuation (Surcharge Rate Reduction) Amendment Bill 2003, the Minister for Revenue and Assistant Treasurer reached an agreement with the Australian Democrats to enable passage of legislation for both the government's superannuation co-contribution for low-income earners and its superannuation surcharge rate reduction measures. Savings generated from the smaller reduction in the superannuation surcharge rates will be applied to this measure, thereby enabling the government to extend the co-contribution scheme's parameters.

The changes means that, while the total pool of money spent on the co-contribution and surcharge rate reduction measures is not estimated to change significantly, it is now applied in favour of low-income earners at a rate of 66 per cent to 34 per cent over the budget years 2004-05 to 2007-08. Requests for amendments (1) and (2) to the Superan-

uation (Government Co-contribution for Low Income Earners) Bill 2003 give effect to this agreement.

These amendments will mean that qualifying people earning up to \$40,000 will now be entitled to a co-contribution if they make eligible personal superannuation contributions. This measure is a significantly greater incentive than the current tax offset it is replacing, which phased out on an income of \$31,000, and will be a direct injection into the retirement savings of these people. In addition, the thresholds will be indexed from the 2007-08 income year onwards to maintain the scheme's targeting of low-income earners.

The amendments also provide for the measure to now apply to eligible personal superannuation contributions made on or after 1 July 2003. Further to this, the date on which superannuation providers must give statements for the purposes of the co-contribution will be prescribed in regulations to enable the government to provide industry groups with time to implement the necessary alterations to their systems. Finally, the amendments also provide for additional reporting to the parliament on a quarterly and annual basis about the operation of the co-contribution measure, including details about the recipients and payments made. I commend these amendments to the House of Representatives.

Question agreed to.

**SUPERANNUATION (GOVERNMENT  
CO-CONTRIBUTION FOR LOW  
INCOME EARNERS)  
(CONSEQUENTIAL AMENDMENTS)  
BILL 2003**

**Consideration of Senate Message**

Bill returned from the Senate with amendments.

Ordered that the amendments be considered forthwith.

*Senate's amendments—*

- (1) Schedule 1, page 3 (after line 7), before item 1, insert:

**1A Section 6 (after the definition of *demerging entity*)**

Insert:

*dependant*, in relation to a person, includes the spouse, partner, any child of the person or any person with whom the person is involved in an interdependency relationship.

- (2) Schedule 1, page 3 (after line 7), before item 1, insert:

**1B Section 6 (after the definition of *insurance funds*)**

Insert:

*interdependency relationship* means a relationship between 2 persons that is acknowledged by both and that involves:

- (a) residing together; and
- (b) being closely interdependent; and
- (c) having a continuing commitment to mutual emotional and financial support.

- (3) Schedule 1, page 3 (after line 7), before item 1, insert:

**1C Section 6 (after the definition of *part of a distribution that is franked with a venture capital credit*)**

Insert:

*partner*, in relation to a person, means a person who, whether or not of the same sex as the person, lives with the person on a genuine domestic basis as the partner of the person.

- (4) Schedule 1, page 3 (after line 7), before item 1, insert:

**1D Section 6 (definition of *spouse*)**

Repeal the definition, substitute:

*spouse*, in relation to a person, means another person who, at the relevant

time, was legally married to that person.

- (5) Schedule 1, page 4 (after line 20), after item 7, insert:

**7A Section 995-5 (definition of *spouse*)**

Repeal the definition, substitute:

*spouse*, in relation to a person, means another person who, at the relevant time, was legally married to that person.

- (6) Schedule 1, page 5 (after line 32), after item 9, insert:

**9A Schedule (Form of Trust Deed, subrule 7(4) (definition of *spouse*))**

Repeal the definition, substitute:

*spouse*, in relation to a member, means a person who is legally married to the member and includes a person who, although not legally married to the member, ordinarily lives with the member as his or her husband or wife or partner, as the case may be, on a permanent and bona fide basis.

**9B Schedule 1 (paragraphs 9(c) and (d))**

After "husband or wife" (twice occurring), insert "or partner".

**9C Clause 12**

Repeal the clause, substitute:

12. In spite of anything in this Part, a partner in relation to a person means a person who, whether or not of the same sex as the person, lives with the person on a genuine domestic basis as a partner of the person.

- (7) Schedule 1, page 6 (after line 22), after item 13, insert:

**13A Section 16 (notes 1, 2, 3 and 4)**

Repeal the notes, substitute:

Note 1: Section 61 deals with individuals who request transfer

of account balances to RSAs or superannuation funds.

Note 2: Section 65 deals with individuals who retire because of disability.

Note 3: Section 66 deals with individuals who have turned 65.

Note 4: Section 67 deals with individuals who are not Australian residents for income tax purposes etc.

Note 5: Section 67A deals with individuals who have permanently departed from Australia.

Note 6: Section 91E deals with debiting of accounts to recover overpayments of Government co-contributions.

- (8) Schedule 1, page 9 (after line 14), before item 16, insert:

**15A At the end of subsection 8B(3)**

Add:

; or (e) if the person at the time of death was the partner of the person.

- (4) For the purposes of this section, *partner*, in relation to a person, means a person who, whether or not of the same sex as the person, lives with the person on a genuine domestic basis as a partner of the person.

- (9) Schedule 1, page 11 (after line 14), at the end of Part 1, add:

*Superannuation Act 1990*

**24AA The Schedule (clause 1.1.1, paragraphs (c), (d), (e) and (f) of the definition of *spouse*)**

After "husband or wife" (wherever occurring), insert "or partner".

**24AB The Schedule (clause 1.1.1, after the definition of *partially dependent child*)**

Insert:

*partner*, in relation to a person, means a person who, whether or not of the same sex as the person, lives with the

person on a genuine domestic basis as a partner of the person.

- (10) Schedule 1, page 11 (after line 14), at the end of Part 1, add:

*Superannuation Industry (Supervision) Act 1993*

**24A Subsection 10(1) (definition of *dependant*)**

Repeal the definition, substitute:

*dependant*, in relation to a person, includes the spouse, partner, any child of the person or any person with whom the person is involved in an interdependency relationship.

**24B Subsection 10(1) (after the definition of *insurance funds*)**

Insert:

*interdependency relationship* means a relationship between 2 persons that is acknowledged by both and that involves:

- (a) residing together; and
- (b) being closely interdependent; and
- (c) having a continuing commitment to mutual emotional and financial support.

- (11) Schedule 1, page 11 (after line 14), at the end of Part 1, add:

*Superannuation Industry (Supervision) Act 1993*

**24C Subsection 10(1)**

Insert:

*partner*, in relation to a person, means a person who, whether or not of the same sex as the person, lives with the person on a genuine domestic basis as the partner of the person.

**24D Subsection 10(1) (definition of *spouse*)**

Repeal the definition, substitute:

*spouse*, in relation to a person, means another person who, at the relevant time, was legally married to that person.

**24E At the end of subsection 52(2)**

Add:

- ; (i) not to discriminate, in relation to a beneficiary, on the basis of race, colour, sex, sexual preference, transgender status, marital status, family responsibilities, religion, political opinion or social origin.

(12) Schedule 1, item 25, page 12 (line 6), omit "2002", substitute "2003".

**Mr ROSS CAMERON** (Parramatta—Parliamentary Secretary to the Treasurer) (6.58 p.m.)—I indicate to the House that the government proposes that amendments (1) to (6) and (8) to (11) be disagreed to and that amendments (7) and (12) be agreed to. I suggest therefore that it may suit the convenience of the House to first consider amendments (1) to (6) and (8) to (11) and, when those amendments have been disposed of, to consider amendments (7) and (12). I therefore move:

That amendments (1) to (6) and (8) to (11) be disagreed to.

The government will be opposing amendments (1) to (6) and (8) to (11) to the Superannuation (Government Co-contribution for Low Income Earners) (Consequential Amendments) Bill 2003. I refer to my previous comments in relation to the Superannuation (Government Co-contribution for Low Income Earners) Bill 2003 and the Superannuation (Surcharge Rate Reduction) Amendment Bill 2003 as to the reasons for opposing these amendments. The government will honour the agreement it has with the Australian Democrats, which is confined to the subject matter of this bill. However, if the Senate insists on these amendments then the government would need to reconsider the compromise package negotiated between itself and the Australian Democrats. Again let me say that the government will be rejecting these amendments in the House of Rep-

resentatives and will not be supporting them if they are considered again in the Senate.

Question agreed to.

**Mr ROSS CAMERON** (Parramatta—Parliamentary Secretary to the Treasurer) (7.00 p.m.)—I present the reasons for the House disagreeing to the Senate amendments (1) to (6) and (8) to (11), and I move:

That the reasons be adopted.

Question agreed to.

**Mr ROSS CAMERON** (Parramatta—Parliamentary Secretary to the Treasurer) (7.00 p.m.)—I move:

That amendments (7) and (12) be agreed to.

I would refer to my previous comments in relation to the Superannuation (Government Co-contribution for Low Income Earners) Bill 2003 and the agreement reached by the Minister for Revenue and Assistant Treasurer and the Australian Democrats to enable passage of both the government superannuation co-contribution for low-income earners and superannuation surcharge rate reduction measures. Amendments (7) and (12) to the Superannuation (Government Co-contribution for Low Income Earners) (Consequential Amendments) Bill 2003 give effect to this agreement. I commend these amendments to the House of Representatives.

Question agreed to.

**SPAM BILL 2003**

Cognate bill:

**SPAM (CONSEQUENTIAL AMENDMENTS) BILL 2003**

**Second Reading**

Debate resumed.

**Mr GRIFFIN** (Bruce) (7.02 p.m.)—There are two spam related bills currently before the parliament: the Spam Bill 2003 and the Spam (Consequential Amendments) Bill 2003. I was going to make light of that and make the point that, when I was growing

up, the issue of spam normally involved one of two definitions. There was the general question about a conglomeration involving, I think, cheese and ham and other bits that came in a can. Beyond that, the common vernacular in my teenage years was that of Monty Python. People of my vintage would remember singing: 'Spam, spam, spam, spam. Lovely spam! Wonderful spam!' But of course in this case we are not talking about that; we are talking about spam that is not quite so wonderful at all. Consumers will be most affected by the Spam Bill 2003. As a result I will primarily be speaking around this today. Despite the fact that Labor has serious concerns about possible damages to civil rights and privacy contained within the Spam (Consequential Amendments) Bill 2003, I will let my colleagues address these issues.

The Spam Bill 2003 sets up a scheme for regulating the sending of commercial electronic messages—commonly referred to as spam, especially when unsolicited—from or into Australia. The regime is to be enforced by the Australian Communications Authority and contains a number of civil—as opposed to criminal—penalty provisions. The purpose of the bill, as outlined in the *Bills Digest*, is to regulate unsolicited and unwanted commercial electronic junk mail, or spam. What we will see with the new antispam legislation is essentially an opt-in regime that will ban the sending of commercial spam without the prior consent of those receiving it. The new regime will be enforced by the Australian Communications Authority and, under the new legislation, commercial electronic messages will have to include the identification details of the sender. The current use of list-generating software to send unsolicited emails and the distribution of such software will also be banned.

While supporting the introduction of antispam legislation, Senator Kate Lundy has

said that the government could have responded earlier to combat the problem of spam. I will outline Labor's other concerns with the government's proposed bills later in my speech. Broadly, spam refers to an electronic message that is transmitted to a large number of recipients where most or all of the recipients have not requested those messages. Spam is a significant problem, affecting millions of Australians. According to the Australian Bureau of Statistics, 4.4 million households and over 600,000 businesses had Internet connections in March 2003, and the National Office for the Information Economy estimates that 75 per cent of Australians accessed the Internet in the first quarter of 2003.

It is hard to quantify, but we have all been inconvenienced and annoyed by spam, and we all realise it is on the increase. For example, Brightmail Inc., an antispam firm, estimates that spam has grown from making up 17 per cent of email in February 2002 to 50 per cent of email in August 2003. The Computer Research and Technology company, an Australian information technology solutions provider, estimates that spam now costs businesses worldwide about \$9 billion per year to deal with and that one in 12 emails was identified as spam by companies using spam Internet filters. Spam levels continue to rise. Between March 2002 and March 2003, global spam attacks almost doubled, by some estimates, from 3.7 million attacks per month to 6.7 million attacks per month. Each individual attack could represent hundreds of individual messages.

The main elements contained in the bill are: a prohibition on sending commercial electronic messages, either singly or in bulk, unless consent has been given or there is an existing business relationship—this is therefore an opt-in regime; the requirement that commercial electronic messages contain accurate information about the individual or

organisation who authorised the sending of the message, and a functional unsubscribe facility; and a prohibition on the supply, acquisition or use of software which harvests email addresses or a list of these harvested email addresses.

Certain emails are exempt from the regime: emails from government bodies, registered political parties, religious organisations, charities or charitable institutions; emails relating to student or former student matters from educational institutions; a message containing no more than factual information and that complies with the identification obligations under the legislation or identified in subsequent regulations made under the legislation.

There will be a tiered enforcement regime available to the Australian Communications Authority, including a formal warning, acceptance of an enforceable undertaking, the issuing of an infringement notice, application to the Federal Court for an injunction, and the commencement of proceedings in the Federal Court for breach of a civil penalty provision. The Federal Court may order an offender under the regime to pay a monetary penalty or it may order compensation to be paid to a victim who has suffered loss or damage due to the contravention. The court may also make an order to recover financial benefits from an offender which can be attributed to a contravention of a civil penalty provision.

The cost of spam is not borne by those who send it; it is borne by the consumer. Unlike junk mail, spam costs little to send. Consumers bear this cost either directly through longer download times or indirectly as Internet service providers pass on to their customers the costs they pay for spam. Because spam is cheap to send, it is Internet service providers who bear the increasing cost of unsolicited mail on their servers tak-

ing up disk space. This increasing cost is now being passed on to consumers as ISPs are forced to add more servers just to cope with spam, including setting up additional mail servers to filter the unwanted mail. Individual consumers are also faced with the task of clearing the spam that gets past the antispy devices. The increasing spam load, if not checked, could act as a disincentive for individuals to access the Internet.

Worryingly, spam messages now include so-called brand spoofing whereby emails are made to appear as though they are from a reputable business address such as a credit card company or a financial planner. These brand spoofs are used to extract personal and financial data from the recipient. Some of the most pervasive scams sent by spammers include free adult site passwords, mortgage refinancing, the so-called Nigerian confidential money transfer, singles and dating websites, and online casinos.

Today I had a look at how many spam messages were coming through to my email account here in Parliament House. There were about 10 or 12 that I could probably count as spam. We have all seen them. One is regularly inundated with requests from various alleged former officials of the Nigerian government and a range of ex-dictators from a range of different regimes, particularly in Africa, or their close families.

*Ms Julie Bishop interjecting—*

**Mr GRIFFIN**—As the member for Curtin says, no matter how often I answer them, all I ever seem to do is give out my credit card details and lose the lot! I joke. But it is interesting to comment on that issue. I have read articles which suggest that occasionally people do respond to them. People often lose large sums of money and, occasionally, their lives when they seek to go to Nigeria or elsewhere to try to get their money back. One problem with this legislation is how you

deal with that sort of activity. For that reason, I do not believe that this legislation is likely to deal with many of those types of emails, but certainly it is at least a step in that direction.

One email that I printed today is allegedly from one Alhaji Musa Madu, whose email address is musamadu@popmail.com. It was a request for urgent assistance, as these things often are, and it was marked 'Attention: Director/CEO'. Luckily, I do not have one of them so they did not get it. That email states:

My search for an individual who will be capable of handling a serious and highly confidential business venture has necessitate my contacting you on this viable venture. My colleagues & I are members of a recently constituted contract review & Award Committee of the government owned by oil sector Nigerian National Petroleum Corporation ... We are currently in possession of Thirty Six Million Five Hundred and Sixty one Thousand United State Dollars ... currently in a secure suspense account of the Central Bank of Nigeria, awaiting payment into a foreign account of our choice.

I am gobsmacked that people occasionally are sucked in by this stuff. I am amazed. But, as P.T. Barnum said, there is a sucker born every minute. I have managed to avoid the temptation and I sincerely suspect that the member for Curtin has also managed to do so, despite her protestations to the contrary. But every morning we find ourselves dealing with a range of these emails. It does not take long to deal with them—it takes longer for me because I am barely computer literate—but it does tend to occupy part of every day. If you do not read your email for several days, you normally take a bit of time to work through it. But there is more. I will not produce all the emails I have received, but another one related to the only solution to certain aspects of personal hygiene and health. Botox is another one. I have seen viagra advertised on a regular basis. At last count, I

received four emails about viagra today—I do not know whether they are trying to tell me something.

Spam certainly has a wide range of applications and it suggests that people are being sucked in on occasions. If it were not working, a lot of these companies would not be doing it. The fact that it is an international issue of note is demonstrated by an article in today's edition of the *Age*, which refers to a company that I mentioned earlier that is trying to deal with this issue. It talks about the way in which the international spam industry can react in certain circumstances. The article, which is headed 'Tsunami of spam hits Melbourne company', states:

Bluebottle, a Melbourne anti-spam company, has been massively attacked by international spammers and forced to suspend most of its operations.

Thousands of forged emails, generated by spammers operating out of the US, China and Russia, are hitting the Bluebottle servers at Nicholson Street in a deliberate denial-of-service attack on the spam-cleansing operation.

It is known as a 'joe-job', named for the first-known example of such an attack, launched in 1996 against Joe Doll, proprietor of a USA internet messageboard known as Joe's Cyberpost.

Rob Casey, technical manager at Bluebottle, said the spammers had targeted Bluebottle by making it appear that all the unsolicited email they sent appeared to come from Bluebottle. When they were rejected, the bounced messages were returned to the Bluebottle mail servers, doubling and redoubling the traffic.

'We have been receiving between 10,000 and 15,000 emails an hour,' said Bluebottle's chief executive, Robert Pickup.

'Trying to process them was impossible and we have had to suspend that aspect of our operations, meaning that spam is now getting through to our subscribers.'

Spammers were obviously worried that international action against them was threatening their revenue and had decided to hit back, he said. He added that he hoped the war would be short as his

technicians were writing new software that should solve the problem.

Labor broadly supports this bill. However, Labor is concerned that it has taken 18 months for the government to act and introduce legislation. It was in February 2002 that the then Minister for Communications, Information Technology and the Arts, Senator Alston, claimed to be concerned about spam. Since that time, spam is estimated to have risen from 17 per cent of all emails in February 2002 to a massive 50 per cent in August 2003. This is despite the fact that Labor introduced a discussion paper on the issue in December of last year. In its final report issued in April this year, the National Office for the Information Economy came to almost exactly the same conclusions that Labor had already reached some five months before. Labor also has some concerns about the content of the legislation, particularly the exemptions provided for government bodies, political parties, religious organisations, charities and educational institutions. If commercial emails from some organisations are to be made exempt, it is unclear why it is acceptable for some non-profit organisations to send commercial emails but not others. If it is acceptable for some, it should be acceptable for all.

Labor argues that if the exemptions are to remain, other non-profit organisations such as trade unions and political lobby groups should also be included. Secondly, Labor is concerned that, according to section 18(1)(b) of the proposed legislation, some messages will be exempt from maintaining functional unsubscribe facilities. Labor would argue that no designated commercial electronic messages should be exempt from providing a functional unsubscribe facility. Thirdly, this legislation applies to single emails rather than to bulk, mass send emails. Labor is concerned that, under this regime, a well-intentioned individual sending single com-

mmercial emails to another person whom they reasonably believe would be interested—for example, from reading the content of a personal web site—would be up for a significant civil penalty, even as a first offender. The minister should provide reassurances that this would not be the case or an explanation as to why this is an appropriate outcome.

Finally, according to the bill, consent to receive commercial email can be inferred by the conspicuous publication of an email address—for example, on a business web site. Labor is concerned that this may be too wide an exemption and seeks clarification of this provision from the minister.

**Mr Tanner**—Spam, spam, spam, spam. Wonderful spam!

**Mr GRIFFIN**—I have been joined by the member for Melbourne. Members may not have heard but the member for Melbourne was picking up on my earlier comments about the relevance of spam to earlier generations with respect to comedy circa the seventies, which I have already put on the public record. According to the comments I have made, I commend that part of the bill to the House.

**Mr BILLSON** (Dunkley) (7.17 p.m.)—I rise in support of the Spam Bill 2003 as I believe it will be a substantial step forward in creating a regime to ban unsolicited commercial email in Australia. The Spam (Consequential Amendments) Bill 2003 aims to end the Australian Communication Authority Act 1997 and the Telecommunications Act 1997 in relation to the enactment of the Spam Act. Why are we doing this? We are doing it because spam is driving computer users mad. There is a clear body of evidence that it is time consuming, that the content is found to be offensive and that it is clogging up servers and driving Internet and email users insane. This inappropriate use of contemporary technology is costing the Austra-

lian economy and users of modern technology and involves a large amount of money.

My senior staffer, Vincent Sheehy, has a Hotmail account and he has given me a printout of the spam he received in the last 24 hours. That sample of 24 hours is a sordid array of interesting contributions, all of which are unsolicited. I want to give you a few examples of the 31 items he received. It talks about 'a blue pill for women'. Like the member for Bruce, there is substantial interest in the price and availability of viagra. It goes on:

Locate medical records.

Whose medical records they are, we are not sure. Then there is:

Nancy Your special invite to a great evening.

I am not sure who Nancy is or necessarily what the evening would involve. There are also some 'all nighters' involving viagra and:

Pics of drunk teen Girlfriends.

... rates have dropped Stop overpaying.

There are things about sperm banks. We have all the stuff for guys: some adaptation and enhancement offers relating to sections of men's anatomy. There is some more advice on how you might have a greater impact on sections of a woman's anatomy. There is quite a substantial amount about satisfying yourself and others. I will not go on any further other than to say what a horrendous collection of absolute garbage this is that is clogging up the Hotmail account. Do you get value for money out of this? For people paying serious money for Internet service providers and having, in some cases, download limits and constraints on the amount of email that they can receive, this kind of spam represents a huge displaced economic cost for the service they are not receiving. Why? Because it is clogged up with the kind of garbage this legislation seeks to curtail.

Vinton Cerf, the senior vice president of MCI, who is often acknowledged as the father of the Internet—before Al Gore thought it was a good idea to parade himself as that—is quoted as saying:

Spamming is the scourge of the electronic mail and newsgroups on the Internet. It can seriously interfere with the operation of public services, to say nothing of the effect it may have on any individual's e-mail system ... Spammers are, in effect, taking resources away from users and service suppliers without compensation and without authorisation.

That quote is part of a NOIE discussion paper released in August this year, which was heavily plagiarised, copied and redistributed with a Labor badge on the front as a Labor discussion paper. The point about that quote is that it emphasises not only the annoyance of spam for system users but also the lost economic opportunity and the cost it involves. Some of the research that is around includes the RMIT's Centre for International Research on Communication and Information Technology. That research suggests that email is fast becoming a third communications channel of national importance, parallel with the telephone and post. That is an important point because many of us in this place, and many of the people who seek to contact us, are using email as a preferred method of communication. Options such as the telephone and post are not always convenient for that kind of engagement.

If you look further into the available research, you see that a preferred, valued and important method of communication is being compromised and abused for spamming purposes. An ACNielsen survey commissioned by the National Office for the Information Economy shows that by April 2002 Australian consumers saw spam as a bigger problem when using the Internet than anything else, including privacy and computer viruses. Thirty-eight per cent of consumers surveyed,

up from 11 per cent in November 2000, put the combination of spam and privacy ahead of virus concerns, which were around 13 per cent. The survey by the Coalition Against Unsolicited Bulk Email suggests that the amount of spam received is doubling every 4.5 months and increased sixfold between 2000 and 2001.

The member for Bruce mentioned some of the spam that we members of parliament get. There is a difficult tension between making sure that we are available for people who wish to communicate with us and being a very soft target because our email and Internet addresses are widely publicised. We make it easy for people by saying through the APH server, 'Come and grab everybody.' We get emails from everybody—and spam would be the nicest way to describe some of them. I think I have won the Netherlands lottery about three times in the last 12 months. As the members at the table would know, that should have offset my child support liability. Unfortunately, it was not a legitimate win and what they were looking for was a couple of hundred dollars to process my winnings. Unsuspecting people could look at that spam email and say: 'Golly, what a great win! Who has bought me the Netherlands lottery ticket? Well, my brother worked there, so maybe that is part of it.' It is great to be so fortunate as to win the same lottery three times and each time to be asked to provide a processing fee. Sadly, that kind of activity, along with emails from every relative of any person who has a surname sounding anything like the hierarchy in Nigeria from years gone by, is clogging up our systems. We have to sift through this spam, this guff, that comes via email to try to identify meaningful correspondence and contact with our citizens and our constituents.

There is a challenge for us both as Internet users and as part of the regulatory framework in this place. How do we find the right bal-

ance between privacy and illegal and offensive content? I mentioned earlier what Mr Sheehy has received in the last 24 hours. There are issues about misleading and deceptive trade practices, and about networks. How do you bring all those things together? I have heard some people say that the legislation before the House will not end spam, and I agree with them. Why? Just look at that sample of what has come through the Hotmail system in the last 24 hours. There is clever spelling. There is an effort to mask the source of the email through the use of seemingly legitimate email addresses to show where they have been generated from. There is always going to be that kind of clever action designed to guard against tracking spam. But this measure at least puts the challenge to the people generating this sort of stuff to be thoughtful about the needs and reasonable expectations of users. Spam does bring many obvious concerns, owing to the potentially illicit nature of the content. Whether it be pornography, illegal online gambling, get-rich-quick schemes or deceptive business enterprises, all of these things need to be managed to ensure that the great technological tool that is before all of us can be used for good and for benefit, and so that people get from the Internet service providers the service that they pay for.

A number of things are addressed in the legislation, such as privacy issues about email addresses and personal information being collected or harvested, and computer technologies that generate emails in bulk and keep firing them out to see if they get a response. To seek to dissociate yourself from those emails is actually a confirmation that you exist. That then starts an unwelcome cycle of further emails, none of which you are terribly interested in. This legislation also deals with nuisance emails that can be routed through systems by what seem to be the names of legitimate firms. The commercial

reputations of those firms can be irretrievably damaged. I am sure that a number of us in this place received an email which purported to be from Microsoft, offering a patch for virus software. In fact, it was a virus. So all that is going on.

UK research has uncovered that it costs an average of \$960 per employee per year in time spent opening and reading spam in the workplace. That represents a huge cost in labour time but does not include bandwidth and network costs and the downtime that can be attributed to spam overload, as the member for Bruce mentioned earlier. The increased volume of email can slow Internet speeds, overload servers, threaten network integrity and also spread viruses. A June 2001 Gallup poll on email usage in the United States showed a situation that is reflected in Australia. It found that, for 54 per cent of US email users, spam accounted for 20 per cent or more of all email received. Most of the spam received by Australians originates from the US, through some of the systems that have been spoken about earlier. I will not go over them again. The Australian Bureau of Statistics estimates that in June 2001 125,000 businesses, or 26 per cent of all online businesses in Australia, reported using the Internet for marketing purposes. So there is a legitimate effort to use the Internet, to use email for commercial purposes. They have to work through the misappropriation of the technology which this bill seeks to address.

The challenge of combating spam is its low cost to the sender. It is estimated that it can cost as little as .00032 cents to obtain one email address. Through investing modest sums of money you can obtain an awfully large number of email addresses then make yourself a spammer. That is what this bill seeks to overcome. The previous speaker, the member for Bruce, did not mention that this bill is the result of consultation. The discus-

sion paper was released in August. There has been some criticism about the time it has taken to bring this bill forward. But that discussion paper—which was plagiarised by the Labor Party and then circulated as if it were its own discussion paper—does identify the need to consult if there is going to be a legislative response like the one we are discussing tonight. So the time was appropriate to make sure that all the stakeholders had a chance to have their input into the regulatory structure that this bill seeks to implement.

The bill responds to the NOIE recommendations. The key word in anti-spam legislation is 'balance'—that is, trying to find a balance between the needs of legitimate businesses wanting to conduct their enterprises through marketing over the Internet, and through email, and reducing unsolicited, unvalued and unwanted emails that are in circulation. All commercial electronic messages will be required to contain accurate details of who is sending them so that if people want to track those people down and ask that they not be contacted or want to activate a functional unsubscribe facility they can opt out. That is a reasonable measure. There are other measures in the legislation relating to the unlawful conduct—

Debate interrupted.

#### ADJOURNMENT

**The SPEAKER**—Order! It being 7.30 p.m., I propose the question:

That the House do now adjourn.

#### Medicare

**Ms BURKE** (Chisholm) (7.30 p.m.)—Medicare is undoubtedly one of the premier universal health schemes in the world. It has few peers. Even those schemes that are similar are arguably inferior in terms of affordability and value. When introduced by a Labor government, Medicare was a scheme based on equity and not on a person's financial po-

sition. It was a scheme where everyone contributed in proportion to their means through both the Medicare levy and general taxation. As a result everyone—without question—receives reliable health care. There are few countries that can boast about a system where your ability to pay is irrelevant to the treatment you receive—a system that I see as a great equaliser, because access to health care should be a right, not a luxury.

But what is happening to this magnificent system that provides health cover to every Australian? Logic would tell you that it should be growing and flourishing, since it is a predominant contributor to the very health and longevity of the people of this wonderful land. But, instead, Medicare is being attacked. It is being cunningly yet ruthlessly dismantled by the Howard government as we speak. The Prime Minister has always detested the concept of social medicine or a public health system because it does not fit in with his and his party's user-pays ideology. Why else would he call bulk-billing an 'absolute rot' or Medicare a 'quagmire', and why would he have previously threatened to destroy it?

And what greater evidence of his wanting to destroy Medicare can there be than his handing of the health portfolio to Tony Abbott? This is a person who has no time for those who are not wealthy, such as the ACI workers in my electorate, but who tolerated them since they were the grease that lubricated his beloved corporate machinery. Given that logic, you can imagine how much time or sympathy he will have for the sick and needy. Yet it is this same government that has the audacity to try to cover up this attack and its disgust for Medicare by labelling its reforms A Fairer Medicare, as if the changes are in some shape or form beneficial to anyone except the government's bottom line. John Howard knows the changes are not

beneficial—not to ordinary Australians, anyway.

Since John Howard's election, Medicare—and especially bulk-billing—has taken a tremendous beating. Australia-wide, bulk-billing has dropped about 11 per cent since 1996, and in the same period bulk-billing in my state of Victoria has dropped by a staggering 12.2 per cent. That is right: 12.2 per cent. But what does this mean? What is the purpose of even mentioning a statistic unless it can have a tangible, relevant meaning or even a human face? A drop of 12.2 per cent means that constituents of mine such as Kathy and Harold Gibbs have to negotiate with their doctor, since their doctor no longer bulk-bills. Embarrassingly, they have to ask their doctor to charge them less because they simply cannot afford his new fees. 12.2 per cent means that some people are being charged \$110 for a home visit for their sick child to receive attention or that they have to travel far and wide to find a bulk-billing doctor or otherwise do without. 12.2 per cent means the establishment of shady practices where a wealthier patient willing to pay extra for a consultation will see the doctor promptly, relegating the bulk-billing patients further back in the queue. 12.2 per cent means that the elderly woman in my electorate with pneumonia has to find transport to a bulk-billing doctor so that she can afford to see a doctor at all.

How can anyone—and I do not care what your political slant is—punish a child and his or her family, or an elderly person, for getting sick, or for getting sick on a weekend, which is even worse? How can the leader of country as great as ours call this A Fairer Medicare? In the last financial year there were a staggering three million fewer visits to GPs than there were in the previous year, because of the Howard government's treatment of Medicare. Can anyone tell me what new depths the government are plummeting

to when they are encouraging our less than well-off Australians not to go to the doctor? I am not sure there is a reasonable answer to that.

But all is not lost. The Labor Party is intent on, and adamant about, saving Medicare and restoring it to full health. Already we have announced a \$1.9 billion injection to save Medicare. The plan also includes increases in GP rebates of up to 95 per cent and then 100 per cent of the schedule fee. The Labor Party will also offer doctors financial incentives to meet bulk-billing targets as well as providing more GPs in the areas that need them. These measures are not rocket science; they are putting a priority on Medicare and ensuring that it continues to be the backbone of the health care system in Australia.

This is responsible politics and governance. It is not playing with words nor trying to sell the destruction of Medicare as beneficial. It is listening to the vast number of people that signed the 'Save Medicare' petition in my electorate of Chisholm and the many thousands more that have signed it throughout Australia. Their voice is loud and will get even louder as the government introduces more of its draconian measures, crippling the health care of more and more Australians. A fair and reasonable government would save Medicare, especially when it has the means to do so through its \$7.5 billion surplus. Those on the other side of the House need to get their priorities right. The health of the nation is not a game, and it is certainly not negotiable.

#### **Education: Sex Education in Schools**

**Mrs DRAPER** (Makin) (7.35 p.m.)— Briefly, with respect to the previous speaker, I want to say that the only protector and saver of Medicare is the Howard government. The destroyers of Medicare are being

led by the leader of the Labor Party, Simon Crean.

But I rise tonight to speak once again on sex education in South Australia. As you know, Mr Speaker, I have spoken previously in this place about the South Australian Labor government's radical new sex education program, developed by SHine SA, which is causing great angst and consternation among many constituents and parents in my electorate. Criticism of Labor's radical new program is coming from many different sources, including professionals in the field of childhood development and sexual abuse.

Professor Freda Briggs is one of the leading experts in the field of childhood development and the author of *From Victim to Offender: How Child Sexual Abuse Victims Become Offenders*. Professor Briggs is undertaking a critique of the SHine SA program and has already publicly criticised the document entitled 'Teach it like it is', which is the chief resource from which teachers are supposed to prepare lessons for their students, as identified in the curriculum plan. Professor Briggs supports sex education in schools, as I do, but she said that we must ensure that it is a developmentally appropriate curriculum which is sensitive to the individual needs and differences of students, particularly those who may have already suffered sexual abuse.

Wendy Utting is another critic. Wendy is the South Australian state coordinator of the Advocates for Survivors of Child Abuse and has described the program as very dangerous. Her criticism is based on her experience working with victims of child sex abuse. The effect that it might have on young people who are victims of sexual abuse is of great concern to Wendy and to many others in the community. But for expressing her concerns Wendy has been threatened with legal action by SHine SA. I cannot help wondering what the minister, Trish White, or the CEO of the

education department, Steve Marshall, thinks of that. If SHine SA have such a wonderful, appropriate sex education program—as they believe and as they put out to the community they have—why would they feel the need to resort to lawyers and litigation to shut people up who are voicing their very legitimate concerns?

Susie Hanks, representing SHine SA, was guest speaker at a recent meeting of the Tea Tree Gully Community Services Forum in my electorate of Makin. In response to a question, Ms Hanks agreed that more student counsellors would probably be needed as a result of introducing this new sex education program, to counsel students who may be disturbed by the content. That in itself is a very telling point and ought to ring alarm bells in the state education minister's office. Ms Hanks was also forced to clarify statements that had been made by her organisation in relation to the involvement of La Trobe University in the evaluation of her program. Responding to criticism of the limited nature of parental consultation that had been undertaken, Ms Hanks said that they had simply been following the standard protocols. Clearly, those protocols need updating, because parents have been offered nothing more than a sanitised version of what their children are to be taught. At the very least, they should have been provided a copy of the 'Teach it like it is' document and given time to read it for themselves.

Finally, following comments in the media made by a SHine SA spokesperson playing down the importance of the 'Teach it like it is' manual, Ms Hanks agreed that this was 'a misunderstanding'. This document is the chief resource material to be used by teachers and this is clearly apparent from any reading of the program curriculum. Clearly there needs to be greater accountability by those who seek to implement this program in South Australian schools. Parents and the

community need to be told the truth about its content and its real aims before they can make a judgment as to the suitability of it for their son or daughter. It is very sad that even in this House I cannot repeat most of the content that they want to teach to our children aged 11 to 15 because it would be unparliamentary. But that is what the South Australian Labor government wants to dish up to our children. (*Time expired*)

#### **Insurance: Motor Vehicle**

**Mr BYRNE** (Holt) (7.40 p.m.)—I rise tonight to again raise the issue of systematic rorting by major motor vehicle insurance companies in Australia today—rorting which, despite repeated calls to the ACCC and the Howard government, is continuing unchecked. We are well used to hearing Australia's insurance companies cry poor. It is sadly no longer a shock to hear of an insurer denying customer claims on the basis of one spurious pretext or another. But it is shocking that some of Australia's major insurers are systematically and unrepentantly rorting their customers, and in the process even endangering their lives.

The car repair industry itself has approximately 1,500 accident repair centres in Victoria. Seventy per cent of all car repairs are paid for by insurance companies. It is this stranglehold on the industry which many believe has led major car insurance companies, such as the RACV and AAMI, to engage in crooked practices with the sole aim of increasing their profit margin. One such example of this is the case of Brighton resident Maureen Chaplin.

When involved in a vehicle accident Ms Chaplin made a claim through AAMI for repairs. AAMI demanded that she go to one of its selected repairers to have the repairs done. Ms Chaplin reluctantly agreed to do so but the repairs were poor and left much to be desired. In fact, the driver's door was badly

fitted, the glass in the driver's window had not been fitted correctly, cabin lights no longer worked properly, the permanent parking light did not operate and the driving door rear vision mirror would repeatedly drop off when the door was closed. This was after the vehicle had been repaired. Ms Chaplin was forced to twice advise AAMI that she was unhappy with the repairs, and despite two repeated visits to the AAMI-approved repair facility the workshop failed to repair the car to its preaccident condition.

After a drawn-out battle with AAMI, Ms Chaplin won the right to take her car to her own, preferred repairer for a total inspection. Advanced Assessing Services found that the damage initially done to the car was so severe that it would cost \$7,437 to repair, but documents provided to me indicate that AAMI's preferred repairer had valued the repairs at \$2,290. That is somewhat of a discrepancy. This is particularly interesting given that Advanced Assessing Services put the car's pre-accident value at \$5,500. So effectively the cost of the repairs to the car cost more than the car itself.

I cite another example, which concerns the RACV, a company which I have mentioned in this House before, and Brad Kelly of Vermont, who was similarly the victim of unscrupulous practices by this particular insurer. Mr Kelly initially took his vehicle to his own preferred repairer and obtained a quote of \$5,850 for repairs, yet the RACV insisted that the vehicle be taken to its own Accident Repair Centre in Cheltenham. Mr Kelly agreed to this course of action, being under the impression that his vehicle was being repaired by the RACV at this facility. It was not until he had picked up his vehicle that he was advised that the RACV had sublet the repairs to another repairer in Scoresby. This repairer set the cost of the repairs at \$5,408. Mr Kelly was appalled by the poor quality of the repairs. Whilst the

RACV requested that he return the car to the repairer in Scoresby, Mr Kelly had already seen too much of the shoddy workmanship to justify a return visit. He took the vehicle to his original repairer, and the rectification after the initial repairs of his vehicle cost \$6,412.

In another similar situation, repairs by a preferred insurer were found by the Australian automotive inspection centre to be extremely substandard. In this instance, the structural integrity of the motor car did not conform with industry standards. Horrifically, there was clear evidence that the chassis of the car had been lengthened in a way that was clearly in breach of industry standards and that compromised the structural integrity of the car. A spokesman from the inspection group stated:

I believe the vehicle is unroadworthy and unsafe for road use ... the client also informed us that he had broken his neck from the severe impact caused from this collision (yet) the repairer did not quote for the drivers seat belt nor did the assessor authorise any replacement ... to rectify this motor car and reinstate it back to pre-accident condition the cost of repairs would exceed the market value.

So this car that should not have been put back on the road was, in an act of unscrupulousness, put back because the insurer had demanded that the car be repaired by an approved crash repairer. Another issue that is consistently raised is the low payment to crash repairers. The calculating and callous behaviour demonstrated by these insurers is not limited simply to the public. It is levelled at people who stand up to them and indicate that crash repairers who are not approved crash repairers are not being paid enough. (*Time expired*)

#### **Employment: Mature Age Workers**

**Mr BILLSON** (Dunkley) (7.45 p.m.)—I rise tonight to talk about some fantastic work that is being done to assist mature age job

seekers to fully participate in the work force. Last week, Minister Brough and the Treasurer launched Mature Age Month—the month of October—designed not only to raise awareness of this remarkably gifted and very much untapped pool of talent that lies within the Australian community and is not being fully deployed in the Australian economy but also to highlight that many employers and enterprises are doing themselves a disservice by not fully engaging with the recruitment possibilities of mature age job seekers.

This month is Mature Age Month. Some of the information that is being circulated to employers and the broader community was showcased at the breakfast launch with the support of VECCI in Victoria last Wednesday. The ageing of the population, as we know, will have a substantial impact on the nature of the labour market over time. Young workers are becoming increasingly scarce, while a larger proportion of the labour market is known as mature age.

Employers will need to adapt to these new realities. They will need to look at the way they recruit people and the benefits of hiring and retaining the services of mature age workers. They will also need to look at flexibility to ensure that the experience, skill, know-how and contribution of mature age people is embraced within the workplace. This is a win-win-win: it is a win for employers trying to resource their organisations with the best available applicants for job vacancies, many of whom are in the mature age bracket; it is a win for society, because we know that there are going to be increasing demands on a tightening labour market and, if we do not fully engage with mature age job seekers, we are not going to have the productive capability to support an economy that can generate the wealth to support the needs of an ageing community; and it is also

fundamentally important for the mature age job seeker.

Mature age job seekers are likely to be unemployed for twice as long as regular job seekers. They have probably been in paid work for 25 to 30 years—their complete adult life in some cases—and now find themselves out of work, disengaged from the economy and the broader community. The personal impact of that can be very significant, demoralising and demotivating for those mature age job seekers. In embracing the mature age job seeker there is a benefit for the economy and the enterprises participating within it, there is a clear benefit for society and our community and there is a remarkable benefit for the individuals involved.

But there are some challenges that need to be addressed. Sadly, many employers have some poorly justified misconceptions about mature age job seekers. The facts do not back up some of those misconceptions. Sadly, many of those misconceptions are held by employers that are actually of mature age themselves. They look at a mature age applicant and think they are somehow different from themselves—somehow less adaptable, less flexible and less able to accommodate new technology. Why is it that the employer feels that they are innovative, gifted, adaptable and productive and yet feels that some of the people approaching them for work do not have those same skills and capacities? Over the next decade you will see declining labour market growth, which will require employers to revisit those myths about and barriers to recruitment of mature age job seekers.

We need to ensure that mature age workers are retained and fully engaged in the economy, because that is a key part of the business agenda for this country. It is a challenge that we need to tackle today. Smart

businesses like Westpac are making sure that they are able to recruit the best people for their business, many of whom are mature age job seekers. They have a proactive goal of recruiting 900 mature age job seekers as part of their labour market planning for the future.

According to Access Economics, mature age workers stay longer in an organisation after training than younger workers. What is the sense in investing thousands of dollars in training a younger worker when you may not have them in your employ for enough time to recover that investment? A mature age worker attracting training is likely to stay longer in that workplace. They have less absenteeism, take less sick leave, have fewer accidents and provide a steadying influence on younger workers.

In Dunkley we have recently concluded the first mature age employment advantage program, one of the first projects supported by the government's Employment Innovation Fund. We are working with mature age job seekers. The change and transformation in them over the fortnight is fantastic. The program presents the changing nature of the labour market and offers solutions as to how mature age job seekers might adapt their own expectations to that, removes information technology as a barrier to employment and works with the mature age job seeker to canvass a wide range of possibilities that they have the skills and experience for and are capable of embracing as part of their job search. We have got to get behind mature age job seekers. (*Time expired*)

#### **Family Services: Carers**

**Mr MELHAM** (Banks) (7.50 p.m.)—I rise tonight to draw attention to the critical role of carers in our society. Carers are usually family members who provide support for children or adults who have a disability, mental illness, chronic condition or are frail

aged. Carers can be parents, partners, brothers, sisters, friends or children. Carers associations point out that one in five households in Australia provides support to a family member or friend. Estimates show that carers save our economy \$20 billion annually. Recently I conducted an afternoon tea for carers in my electorate. Carers are busy people, in demand up to 24 hours per day. Many of them have given up their independence. Several carers phoned to explain they could not attend because they could not leave their loved one alone.

I want to speak about two carers in my electorate. Jacqueline looks after her husband, who has renal failure and requires peritoneal dialysis four times daily. Each time he showers she must be on hand to disinfect his catheter site and follow a treatment protocol. Warren cannot carry out these functions because he lacks manual dexterity and cannot see the catheter site. Jacqueline monitors Warren's medication. He requires a special diet, so she cooks special food. Both the dialysis and the care cannot be provided by anyone other than a trained renal nurse. Jacqueline has received sufficient training to carry out these duties. Failure to carry out these duties properly would result in infection and peritonitis, leading to hospitalisation.

A few years ago Jacqueline tried to obtain home nursing but was refused, as there is insufficient funding for nurses to attend to a person requiring frequent dialysis. Jacqueline's job has recently become harder. Warren now needs a knee replacement and is confined to a wheelchair. Jacqueline has taken on the few household chores that Warren was able to assist with previously. It is now very difficult for them to get out together and do the things they enjoyed in the past. Jacqueline hopes that the crisis caused by the medical indemnity insurance debacle and the resignations of many orthopaedic

surgeons will not delay Warren's knee replacement.

Another carer is Joan, who has a mentally ill son. The lack of funding for mental health services in Australia and the failure of community based systems to provide adequate service affects Joan deeply. The SANE mental health report states that Australia spends only 6.5 per cent of its health budget on mental health services, which compares poorly with Canada and New Zealand at 11 per cent and the UK at 10 per cent. Mental health services are in disarray around the country. The Mental Health Council of Australia states that only 38 per cent of people with mental disorders access care, and that care is largely provided by general practitioners. The decline in bulk-billing is placing further pressure on even this very limited access to basic primary care services. Proven effective treatments for mental illness are not routinely available under Medicare.

Joan and her son feel frustrated and let down by the system. Joan has had to fight to get the services of a case manager for her son, who can be verbally abusive. She is pleased that she has finally found someone with the skill and patience to understand her son. But Joan worries that the case manager has far too many cases to attend to, and Joan knows that she must continue to provide care and support for her adult son. Joan is aware that there is no respite for the carers of mentally ill people. She knows of people in similar situations who have walked away from their relatives because they have broken down and can no longer provide the care needed. They say that the rest of their family need them too.

The circumstances of Jacqueline and Joan are only two situations, yet they show the results of a failure to spend the health dollar wisely. The carers I spoke to care for their loved ones willingly. But carers become frus-

trated and angry when they know that their situations are worsening because of government indifference. Carers need access to a range of reliable, high-quality support services for themselves and for the person in their care. Labor will continue to hold the government to account. I encourage my parliamentary colleagues to join me in sending their best wishes, moral support and thanks to carers during National Carers Week from 19 to 25 October. I want to express my admiration for the work that carers undertake. We need to recognise it, we need to value it, we need to not forget it and we need to give them every assistance that we can from government.

#### **Flinders Electorate: Community Groups**

**Mr HUNT** (Flinders) (7.55 p.m.)—I rise to record and commend the work of three community groups and three communities in the towns of Hastings, Pearcedale and Blind Bight within my electorate of Flinders. The first group, in Hastings, is the Western Port Oberon Association, which, in conjunction with the Mornington Peninsula Shire Council, has managed to attract Her Royal Highness Princess Anne to view from the air the HMAS *Otama* submarine, which will be part of the Hastings foreshore, and to visit the cenotaph in the town and then unveil a plaque commemorating the Hastings Memorial Park, which has been commissioned and run by the Western Port Oberon Association. This group of volunteers—including people such as Max Bryant, a former commander in the Royal Navy; Roger Turner; and many others—have given countless hours of their time over the last three to four years to win for the town of Hastings the *Otama* submarine, to help build the town, to give the town a sense of pride, to give its children and its students tremendous educational opportunities and to provide a tourist attraction, which means jobs and quality of life and which has

a profound impact upon the town. All of that has been an outstanding achievement.

When Princess Anne visits on 17 October I urge all members of the community to line the path and to fly the flag, from the cenotaph in Anzac Plaza to the Western Port Oberon Association headquarters. My office will be providing 1,000 small flags for children from primary schools and for many members of the community. We make that opportunity available. This really is a celebration of the town of Hastings and of the achievement of the Western Port Oberon Association in dreaming a big dream and bringing the magnificent submarine HMAS *Otama* to Hastings. This will be something for the future of the town.

The second group I wish to thank are all those associated in winning for Pearcedale a new doctor. The town of Pearcedale now has a doctor, Dr Robbie Lovig, after having been without a doctor for many years. In particular, Ron Whitney, the owner and proprietor of Ron Whitney's pharmacy in Pearcedale, has worked tirelessly. The critical element in bringing a doctor to Pearcedale was the government's Outer Metropolitan Doctors Scheme. That scheme, which provides up to \$30,000 for the establishment of a new practice, has been indispensable in helping to bring a new doctor to the town of Pearcedale. That will have a real, profound, significant impact on the quality of life for those people in Pearcedale. We would not have found a doctor without the work of people such as Ron Whitney and those township folk who have gone out and searched and made the case that Pearcedale is a great town—one which is deserving of a doctor and which will reward a doctor who comes to base himself or herself there.

The third group I wish to thank and to congratulate are the residents of the town of Blind Bight. A year ago I attended a meeting

with representatives of Telstra about the possibility of a mobile phone tower for Blind Bight. There was concern about the placement of a tower. Those concerns were addressed. The placement issue was resolved. What we did discover was that only CDMA coverage was intended from the tower. Though discussions with townfolk we realised that the majority were GSM users. In working with townfolk we made the case to Telstra that this should be a dual-use tower. It may sound modest in some respects—and it is—but what is important is that not only will this tower be part of the broad highway system but it will mean a direct and immediate benefit for all of those residents of Blind Bight who do use the GSM system. It is a recognition that, by waging a case, by pushing forward their position, they can be successful. It is a tremendous result for the townfolk who have said, 'We think this is important.' They made their case and they worked with Telstra. I am delighted that this week, on Friday, 10 October, we will be launching the new CDMA and GSM mobile phone tower in Blind Bight. I congratulate all of those communities.

**The SPEAKER**—Order! It being 8 p.m., the debate is interrupted.

**House adjourned at 8.00 p.m.**

#### NOTICES

The following notices were given:

**Mr Baldwin** to move:

That this House:

- (1) notes the efforts of the personnel of the RAAF Contingent Ubon who served in Thailand during the Vietnam War;
- (2) acknowledges that these personnel were assigned to provide support operations in Ubon post-June 1965 by the Joint Planning Committee Report 110/1964;
- (3) acknowledges this directly affected the Vietnam War in that they provided air and ground defence of the Royal Thai Air Force

Base and all assets and installations the United States Air Force (USAF) collocated on the base whilst the USAF 8th Tactical Fighter Wing undertook combat operations into North Vietnam and Laos;

- (4) acknowledges that the RAAF 79(F) Squadron were on "Alert 5" status and provided CAP operations in Ubon;
- (5) acknowledges that whilst the RAAF servicemen were assigned to the command and control of the USAF 7th Air Force in Vietnam, they remained under Australian control; and
- (6) recognises the efforts of those who served in Ubon by way of the award of the Vietnam Logistic and Support Medal (VLSM) to be worn by the amendment of the "Area of Operations" for the Vietnam War effort and by the amendment of the regulations governing the issue of the VLSM.

**Mr Price** to move:

That this House:

- (1) understands that Australians want decisions made on the basis of good policy and what is best for communities, not what suits the electoral pendulum;
- (2) affirms the need for an integrated approach to transport and urban development policy to tackle issues associated with the growth of our major cities;
- (3) recognises that cities need integrated transport and urban development policies involving all tiers of government and the community in the decision making process;
- (4) accepts that Labor has lead the way on these important issues with the announcement of an integrated transport plan for Sydney; and
- (5) recognises that:
  - (a) Labor will not build an airport at Badgery's Creek, nor will Labor sell the Sydney Basin airports in a cash grab that ignores community and aviation industry views;
  - (b) Labor understands that the growth ambitions of Sydney Airport are not acceptable and that a second Sydney airport is required; and
  - (c) Badgery's Creek remains the Coalition's preferred site choice for a second Sydney airport.

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*Wednesday, 8 October 2003*

The **DEPUTY SPEAKER (Hon. I.R. Causley)** took the chair at 9.40 a.m.

**STATEMENTS BY MEMBERS**

**Isaacs Electorate: Football Clubs**

**Ms CORCORAN** (Isaacs) (9.40 a.m.)—I would like to talk today about three extraordinary football clubs in my electorate. The first is Carrum Downs Football Club. I attended the Carrum Downs Football Club presentation night a few weeks ago. This club is not very old and has not yet found its feet on the playing field. It has not won very many games over its few years but, off the field, this is a very impressive club. I was particularly impressed by the commitment every person at the presentation night has to the club and to each other. I am talking about the players, the coaches, the team managers, the partners and, indeed, all of those associated with the club. The presentation night was a very busy night, and the highlight was the best and fairest awards for the reserves and the senior team. The winner of the best and fairest for the reserves was Chris Rodrigues, with Sean O'Toole and Jason Villis coming in second and third. The best and fairest award for the seniors was won by two men—Colin Gough and Brett Kidman. I have known Colin for a long time, and it was really good to be able to present him with his award.

The second extraordinary club I want to talk about is the Seaford Junior Football Club. This club held their presentation ceremony one Sunday morning a few weeks ago. The morning they chose was actually Father's Day, and there were still literally hundreds of people in attendance, which is in itself a tribute to the club. It was a fine demonstration of the place this club holds with all these families. Seaford fields 16 teams and has over 350 players on its books, with ages ranging from seven to 16 years. It was quite moving to watch the older players receiving their last awards as players at this club, knowing that they had to move on next year to a senior club. Some of those players had been with the club since they were six or seven years old. The presentation ceremony was very efficiently run by President Garry Woolard, and I was privileged to be asked to present the award to the player voted most courageous. This award went to a young man, Aaron Miller. I again congratulate Aaron.

The third extraordinary club I want to talk about is the Mordialloc Women's Football Club. This club is very new. It started in 2001 with two young ladies—Natalie Cardamone and Stacey Lovell—who had both played with another club but wanted to start a women's club in the Mordialloc area. After talking to lots of people, Natalie and Stacey found enough women to field a team in 2002. They found two senior players in the club who were prepared to take on the role of coaches and a trainee. Local business Light Alloy Engineering of Mordialloc became the sponsor of the team. The team played in the third division last year and did not lose a game. This year, the team moved up to second division and were runners-up in their first year in this division. Clearly this is a very extraordinary club, and I am looking forward to presenting it with a sport achievement certificate at its presentation night this coming Friday.

**Education: University of Western Sydney**

**Miss JACKIE KELLY** (Lindsay—Parliamentary Secretary to the Prime Minister) (9.43 a.m.)—I congratulate the member for Isaacs on her footy teams, but nothing comes close to the Penrith Panthers' win last Sunday in the NRL grand final. I do hope that, given 40 years,

those clubs that she mentioned may enjoy similar success. It has taken the Panthers a long time to do it twice, and the town is truly celebrating—and will be for this week. But something far more important in the scheme of things in Penrith is the education of our young people. Sport will inspire us, but education is the critical thing which will help our many young people move forward.

I believe that something is terribly wrong in the administration and HR departments of the University of Western Sydney. In recent years we have seen depart from the university Professor C. Duke, Professor J. Falk, Professor G. Bailey, Professor G. White, G. Browne, M. Wilson, K. Freemantle, A. Barlow, S. Rawlings, R. Bowerman, M. Charlton, D. Kelly, J. Dennis, H. Tindall, P. Seers, Professor J. Walker, Professor D. Barr, Professor G. Alcorn, R. Jackson, J. Noak, J. O'Brien, M. Fernandez, L. Ligertwood, Professor J. Clarke, Professor B. Carey, Professor B. Mackenzie, L. Benton, G. Baldwin, L. Gray, M. McCormick, J. Poulson, V. Conrick, S. O'Keefe, S. Randall, Professor C. Ewan, L. Poolman, Professor G. Gray and J. Steele. And that is just the list I have been able to compile. I know that there are many more, and I know that there are confidentiality agreements around a lot of those departures and that there are a number of reasons that, to me, suggest very bad HR management. These people have gone on to extraordinary positions elsewhere, yet the University of Western Sydney could not accommodate them.

A teaching department at UWS Penrith has spent tens of thousands of dollars on casual staff in the 2002-03 financial year. Why was that necessary when there was a full complement of full-time staff in that department? How many days have been claimed on stress leave over the past five years and, in particular, over the last three years? Why is it necessary to have an increase in stress leave in an organisation such as UWS? All of that evidence aside, this is the style of the emails that I am getting in my office:

Dear Jackie,

I read the article in today's *Telegraph* about UWS and can I say a big thankyou for exposing UWS's complete lack of organisational skills in dealing with courses and timetabling. The uni seems to be too busy in fighting the government about funding cuts to focus on their own inefficient use of money and organisational skills.

If these payouts are correct, an enormous amount of money is going astray here. The email continues:

This is my first year at UWS and I am extremely disappointed in how the uni runs, so much so I am considering transferring to another uni next year.

Both semesters have had major problems with timetabling with scheduling a lecture at 8am and having one tutorial at 5-7pm on a Friday! No consideration is taken into account for students travelling.

*(Time expired)*

#### **Chief Executive Officers: Payment**

**Mr SAWFORD** (Port Adelaide) (9.46 a.m.)—Some CEOs have no shame. Jerry Useem, in *Fortune* magazine April 2003, made some valid points about CEOs having no shame. In his novel *Animal Farm*, George Orwell wrote:

But the pigs were so clever they could think a way around every difficulty.

That certainly is an apt quote for failed CEOs. Despite the stink that surrounds the performance of so many CEOs, they continue to be paid more than ever. Take as an example six sweet

deals by failed CEOs in the United States. Dick Brown from EDS served for four years and got a pension valued at \$US19.6 million. Mike Armstrong from AT&T served five years and got a pension worth \$US17.4 million. Gary Wendt from Consecos served for two years and got a pension valued at \$US17.3 million, despite the company going bankrupt in 2002. Interestingly, his pension was paid by a solvent subsidiary. As Orwell said, the pigs are clever!

Stephen Wolf from US Airways served for six years and received \$US15 million in pension at the same time that pilots' pensions were cut. Leo Mullin from Delta served for five years and got \$US11.5 million as pension cuts were applied to workers. Celen Tilton from UAL served for six months and got \$US4.5 million three months before UAL filed for a chapter 11.

What about the situation in Australia? Take as an example two big Australian companies, Telstra and Qantas, which so many Australians have a stake in. Telstra plans to sack 5,000 IT staff, both direct and contracted employees, while outsourcing their work overseas. Taking into account Telstra's profit of \$A3.6 billion in 2002-03 and Ziggy's salary being increased by \$1.5 million to \$7 million, with performance components and options, isn't that a bit rich?

And what about Qantas? Qantas plans to reduce its overall labour force and to bring its percentage of casuals from eight per cent to 25 per cent in 18 months. Some 2,000 staff were laid off in April 2003 at a redundancy cost of \$120 million. Geoff Dixon, on a \$3 million salary package, missed a performance based bonus in April of \$1 million as Qantas's profit fell from \$429 million to \$343 million—poor Geoff!

But One.Tel, with 1,400 employees, really took the pigs' top prize. However, there are other challengers, and in future speeches I will point them out. Investors downgraded One.Tel stock when they found out that \$7.5 million in salary and bonuses paid to each of the two directors had not been disclosed. In addition, 19 executives were paid \$23.6 million, leading to a \$138 million half year loss. The One.Tel employees—the people who actually do the work—were on average paid \$28,000 each a year under contract. That says it all. That says it all about the failed CEO class in this country as well. Other companies worthy of investigation include Franklins, HIH, Impulse, Ansett, BHP, Tabcorp, Lend Lease, Suncorp Metway, AMP, Southcorp, Coles Myer, National Textiles and Oakdale Coal Mines. (*Time expired*)

#### **Telstra: Privatisation**

**Mr JOHN COBB** (Parkes) (9.49 a.m.)—I have spoken several times in this House on the question of the privatisation of Telstra. I guess I have made my feelings very plain, not just in this House but in a previous life with the New South Wales Farmers Association. The one thing that has always come out is that the issue is not really who owns Telstra but what services it provides. My support for the sale is dependent, as is the support of my colleagues and the government, on quite a few things, one of which is the implementation of all 39 recommendations of the Estens report. Until those things have been carried forward, until broadband has been fully laid out and until the service guarantees are utilised, we are not going to sell Telstra.

A Senate inquiry was recently held in Dubbo. I was not informed about it until about four days before it was held. Having a previous engagement with the finance and audit committee looking into security at airports, I could not be there. It was very disappointing to see the Independents in particular not wanting to address the real issues of Telstra but simply beating this up as something to have a go about in the media. I know there are a lot of country people

who have concerns about it, but they listen when you sit them down and explain to them how we can regulate a privatised industry, how we can fine it if it steps outside the guidelines and how the oversight committee for the government looking into Telstra's performance can recommend to government that we may have to tighten parts of the legislation to enable Telstra to be fined \$10 million every time it steps out of line. Those things are happening, and Telstra will not be fully privatised until we are totally satisfied about them.

Future proofing and community service obligations are the things we are trying to deal with to provide a service for New South Wales, for Australia and for country people. We are not simply trying to play cheap politics about it as the Independents are. As I have said before in this House, I am more concerned about looking after country people, whether they are my direct constituents or not. I have previously made an offer to the Independents that they can bring any of the concerns they have before the oversight committee, and I make it again: if they want to bring those concerns to me, I will endeavour to make sure they are dealt with. And that is the issue—thus far they have not come near me once on them, which must lead you to believe they are far more interested in politics than in trying to serve their constituents. *(Time expired)*

#### **Electorate of Capricornia: Yeppoon**

**Ms LIVERMORE** (Capricornia) (9.52 a.m.)—This morning I would like to speak about the town of Yeppoon in my electorate. Yeppoon is a very special part of the electorate of Capricornia. It is a beautiful little seaside town on the Capricorn Coast, and at the moment there is a battle for the heart and soul of that town. There is a southern developer who has found a loophole in the Livingstone Shire Council's planning by-laws, and that southern developer is taking advantage of that loophole to seek to go ahead with plans to build a 12-storey unit complex on the esplanade running across the front of the beach at Yeppoon.

As those people who have been to Yeppoon will know—and I know the shadow minister for regional development was there recently—it is a very traditional Australian seaside town. That is something the local residents are very proud of and something they are very keen to preserve because, as you hear from many people in Yeppoon, we do not want Yeppoon to become another Gold Coast. We want to preserve its special character, and the building right on the beachfront of a 12-storey unit complex, completely unlike the buildings around it, will destroy that special character that Yeppoon now has.

The community are really up in arms about this, as you would expect. This is their town, and they do not want some southern developer coming in and telling them how their town is going to look and progress in the future. There was a strong statement about how the community feels about this project a couple of months ago. About 2,000 people marched through the main street of Yeppoon for a rally to send to the Livingstone Shire Council and the developer—the proponent of this project—a very clear message: 'We don't want this. This is our town. We like it the way it is. We see the value in how it is right now and we don't want this 12-storey development imposed on us, as it will potentially spoil the special character of our town.'

I congratulate the Livingstone Shire Council for listening to the residents. The Livingstone Shire Council is taking up the fight against the developer in the planning and development court, and a decision is pending on that action. The Livingstone Shire Council has also undertaken extensive community consultation on the issue of building heights and the issue of

where the residents want to take the town of Yeppoon, and development in Yeppoon, in the future. I am firmly on the side of the local residents in this, and I hope that the character of Yeppoon is preserved. (*Time expired*)

**Farrer Electorate: Latipsoh Day**

**Ms LEY** (Farrer) (9.55 a.m.)—Today I stand here to speak about an extremely worthwhile local fundraiser for hospitals in my area called Latipsoh Day. ‘Latipsoh’ is ‘hospital’ spelt backwards. The total amount of funds raised in 2003 was over \$120,000, which was an enormous effort for a local initiative. This year I was privileged to open the day officially. It is a day that gives people a real opportunity to contribute in a tangible way to their own local hospital. Latipsoh Day was launched on 10 July 2003. This day highlights the importance of community support to keep services viable. The day has a Mexican theme, with hospital and WAW Credit Union staff decked out in colourful T-shirts and sombreros. It is an initiative of WAW Credit Union and also Telstra Country Wide, which jointly sponsor the appeal. One hundred per cent of donations go to 11 hospitals. Each hospital undertakes many fundraising activities, such as raffles, bike rides, dances, dinners, cake stalls et cetera to help keep the fundraising going. WAW has weekly meetings in the lead-up to Latipsoh Day to allow for a coordination of fundraising efforts. Latipsoh Day provides a wonderful vehicle for them to raise money. The community recognises that these individual hospital activities are good opportunities for them, and the hospitals use the proceeds to directly pay for much-needed equipment in their particular facility. It may not be essential equipment, but it is the sort of equipment that makes staff and patients’ lives a lot easier.

Local businesses have really warmed to the event and this year contributed close to \$28,000. The coordination of the day is undertaken internally at WAW Credit Union, Telstra and the hospitals. The concept of Latipsoh Day has the structure and attractiveness to be a long-term hospital fundraiser—based on the Good Friday Appeal, which of course has an 80-year history—and we look forward to it continuing to gain community support and continuing to send a positive message about sustaining health services in the area. To the thousands of groups, individuals and businesses that contributed go our sincere thanks. A special thank you goes to WAW Credit Union and Telstra Country Wide members, who made such an unprecedented contribution.

In a year of major bushfires and drought, the local communities around Albury Wodonga have managed to find another \$21,152 on top of last year’s effort to take the tally for the second year of Latipsoh Day to over \$120,000. In what we thought would be a tough year, the concept of Latipsoh Day seems to be working, as the communities continue to support their local health services. Last year we collected just short of \$100,000 and this year we increased that by 20 per cent. If we can continue to build this fundraising effort, we will go a long way in raising awareness and sustaining crucial services. Last year, hospitals used the funds collected to purchase electric beds, a mobility scooter, new computers and a reverse cycle heating unit plus new equipment for a paediatrics ward. The idea of the day was born from the staff focus group in WAW. The Telstra Country Wide and WAW teams are passionate about helping regional hospitals. Again, I congratulate all those involved.

**The DEPUTY SPEAKER (Hon. I.R. Causley)**—Order! In accordance with standing order 275A the time for members’ statements has concluded.

**CIVIL AVIATION AMENDMENT BILL 2003****Second Reading**

Debate resumed from 27 March, on motion by **Mr Anderson**:

That this bill be now read a second time.

**Mr MARTIN FERGUSON** (Batman) (9.59 a.m.)—This morning I rise to express the opposition's support for the Civil Aviation Amendment Bill 2003 in its amended form. In doing so, however, I intend to move an amendment to the second reading to identify the Minister for Transport and Regional Services' failings with respect to aviation policy in Australia generally. The minister does not have an aviation policy; instead, he is running this portfolio through a disjointed series of decisions and directions, leaving the industry always second-guessing the next step. There is no integrated approach to aviation policy in Australia, be it with the regulation of the industry or, importantly, the need to ensure with the provision of airport facilities that we have an integrated approach to transport policy in Australia.

It is important to note that, without opposition intervention, this bill would have been unacceptable and would have been opposed in the Senate by the opposition. I remind the House that the minister has argued that this legislation would overcome the industry perception that CASA operates as judge, jury and executioner. However, without significant change to the operation of regulation 269(1)(a) of the Civil Aviation Regulations 1988, that would not be the case. Without the amendment that the government has now agreed to, following detailed consultations with the opposition, the power to cancel a licence or authority without a proven charge would have been retained. So far as we are concerned, that would have been unacceptable. We believe that that power was unnecessary and would have sat like a black cloud over the industry. It was also important that regulation 268 be deleted. That was delivered not on a promise that it would be deleted but as a result of this bill. To be fair, the minister listened to the opposition in the industry, and he agreed to amendments that would address our joint concerns.

The new government amendments are not the only reflection that the minister has listened and learned from the opposition with respect to sound aviation policy reforms. In this respect, I point to the fact that this bill picks up and implements a commitment made by the opposition, in the lead-up to the 2001 election, to remove the CASA board and, in doing so, to make the Minister for Transport and Regional Services more directly accountable for aviation safety. Over too many parliaments, the relevant minister has had the capacity to hide behind the CASA board when things went wrong or when CASA was being criticised in the media. There was, to be fair, a school of thought that suggested that the minister was therefore capable of hiding from his or her responsibilities. I always adopted the view that if there was ever a major accident, regardless of the reasons or the nature of the accident or the structure of the CASA board, the minister would be held accountable by the parliament and the Australian community. In this context, the opposition believed that the minister might as well have the responsibility and the authority that goes with that inevitable accountability. In this way, the minister at least has some control over his or her—I dare say that, at some point in the future, we might get a female minister for transport—destiny.

As I have indicated to the House, the opposition have long held the view that the CASA board is an unnecessary level of bureaucracy. All too often it has been used as an opportunity

to appoint mates—for the purpose of additional remuneration rather than being based on expertise with respect to the aviation industry. The board has the capacity to get between what the community expects and what should be delivered by CASA operating in accordance with the requirements and expectations of the aviation industry and the travelling public.

The opposition have held the view that, whilst CASA must consult in a proper way with and involve the aviation industry in its operations and in forming its strategic directions, CASA must not be run or managed by the industry or be perceived to be run and managed by the industry. We must remember always that CASA is a safety regulator. It performs a critical role for the Australian public and for the travelling public; if it is not doing that job effectively, the government of the day will pay.

The minister acknowledged in his second reading speech to this bill that, whilst he remains publicly accountable for CASA's performance, he lacks the necessary direct authority to improve its performance as he has general powers of direction only. This bill very clearly changes that. While CASA quite correctly will remain an independent regulator, the minister will now clearly and transparently be more responsible for its actions. We believe that the transparency issue is important because it is, if anything, the check and balance to ensure that the minister is influencing CASA's performance in an appropriate way and for the right reasons. It is necessary to ensure that the minister's involvement and direction relate to improved safety outcomes and not to looking after mates, as we have seen in recent times in other policy areas such as fuel and ethanol policy.

The record shows that the coalition government did not advocate the policy to improve CASA's governance arrangements at the 2001 election. Labor did, and we are pleased that this governance reform has now been adopted and will become law with the passage of this bill. I would also like to acknowledge, for the record, that Labor's support for the removal of the board is not an indictment on board members past or present, although I have correctly reflected on the fact that, in some instances, I have questioned whether or not some people were the best persons for appointment to that board, based on a proper understanding of the aviation industry.

It is also important that we do not forget that it was the last federal Labor government that initiated the current structure when CASA was formed in July 1995. It was right to establish CASA, as the regulator, separate—and we should never forget this—from the service provider functions such as air traffic control, the construction and maintenance of the national airway systems in aviation, and fire and rescue services. The structure was an appropriate one at the time for the new organisation, but I believe that time and experience have shown that further improvement could be made by these government changes. On behalf of the opposition, I express my appreciation to all those who have served on the CASA board for their time and commitment.

With regard to the government's instructional arrangements for CASA, there is also a question about whether these reforms go far enough. CASA remains, unfortunately, both the writer of the aviation safety laws and regulations, and the enforcer. The investigator role is quite correctly separate from CASA. There remains an active policy question—one that we must all give some consideration to—about the efficacy of one organisation both writing and enforcing the rules. The same question remains alive with respect to aviation and maritime security. In that case, we have the Department of Transport and Regional Services writing the rules, en-

forcing the rules and investigating breakdowns in the rules with no transparency at all. In essence, the department presents itself as the jack-of-all-trades on aviation security but unfortunately, I believe, it is the master of none. These are important debates for another day, but they must not be ignored by the minister. This bill must not be the start and finish of aviation regulation reform, especially as it relates to governance issues for aviation security policy and its enforcement and delivery.

The bill also implements far-reaching changes to CASA's aviation safety enforcement and compliance role and responsibilities. A new automatic stay of CASA decisions that do not involve a serious and imminent air safety risk will be a breath of fresh air for the industry. It is something that is welcomed generally. If the industry operator applies for a review of the decision, then the stay will remain in place for either 90 days or until the Administrative Appeals Tribunal decision comes into operation. There are, quite correctly, avenues to extend the stay in certain circumstances. If the operator does not seek a review of the decision, the stay lapses at the end of the fifth business day.

The bill also introduces stronger and fairer provisions in cases that involve a serious and imminent risk to air safety. The law as proposed will prohibit an operator from engaging in conduct that constitutes, contributes to or results in a serious or imminent risk to air safety. The act will therefore provide for the immediate suspension of all authorisations under the act and regulations. This is different from the status quo: when an air operator's certificate is suspended under the act, all other authorisations are suspended under regulation 268. In fact, regulation 268 is now not required and, as I said earlier, the minister has now agreed to amend the bill to delete this regulation.

When CASA suspends an authorisation because of serious or imminent risk to air safety, it must seek an exclusion order from the Federal Court within five business days of the decision, or the suspension lapses. The Federal Court will be required to hear both parties and issue the exclusion order if it is satisfied there are reasonable grounds to believe the operator is breaching or likely to breach the new prohibition on activities that pose a serious or imminent risk to air safety. The effect of the exclusion order is to restrain the authorisation holder from engaging in conduct that without authorisation would be harmful.

The bill contains appropriate time limits and rights to apply for extensions for the parties, while keeping—correctly so—the pressure on CASA to demonstrate its allegation or leave it alone. When CASA takes the next step to issue the show cause notice, again specific time limits apply. The system proposed will, *prima facie*, apply more clarity, transparency and natural justice to CASA's operations and decision making. It is about transparency and accountability. If it applies as planned and as agreed, this is a change that is fully welcomed by the industry.

I also note that the bill introduces a demerit points scheme that is based on the New South Wales system that applies to car-driving licences. In general, it will also apply to offences against the regulations. The penalty for each offence will also be specified in the regulations, and each operator's status will be monitored in a demerit points register. At the end of the day, in accordance with the rules applying to this system, an authorisation holder can therefore have their licence suspended.

To be honest, whilst it might appear at first glance to be a fairly convoluted system and its benefits might seem questionable, I am hopeful that this will actually be of tremendous assistance to the industry. It is welcomed by some in the industry, especially small operators and

private pilots, and therefore the opposition is prepared to give it a go. It is now the responsibility of the industry and the regulator to prove that this is the best way forward. If it is proven that it is not appropriate then we are back to the drawing board to try to work out what weaknesses might come into play as a result of its application.

I also note that there are still issues to be resolved, such as the industrial relations impact if, for example, a small-aircraft maintenance engineer loses all their points and has their licence suspended. There will be, rightly, questions about their future and the extent to which any violation of the regulation has been as a result of employer demands. I am also interested to see how it will apply in practice to the larger operators. The explanatory memorandum says that the scheme is largely non-discriminatory and non-discretionary—a self-executing system of dealing with repeat offenders. In my view the simplicity of the system will be believed when it is seen and proven to be capable of being operative in the industry. As I said, the opposition will not oppose the scheme. However, we will be interested to see if it can be effective in improving compliance. I hope so.

The other two changes to CASA's enforcement and compliance relate to a scheme of protection from action for voluntary reporting and a system of enforceable voluntary undertakings. The latter was first mooted in an earlier bill and was rejected by the opposition. I can confirm today that the necessary changes have been made to remove our earlier concerns and those of the aviation industry, whom we consult with regularly on these matters. The opposition, therefore, now supports the revised system of voluntary enforceable undertakings to help ensure more compliance with the aviation safety regime.

The system of protection from administrative action for voluntary reporting protects an authorisation holder if they voluntarily disclose to a reporting body separate from CASA that they have committed a minor offence. It must be notified within 10 days of the misdemeanour and before receipt of any CASA communication on the matter. More information on this scheme will be forthcoming in the regulations, including the nature of the reporting body and the reportable contraventions. It is noted that the scheme is not intended to be a whistleblowing scheme and that the protection will only apply to the person who reports the contravention. That may be so, but perhaps it is some government acknowledgment of the need for, and it is at least a first step towards, proper whistleblowing provisions and protections to now be put in place.

This scheme may also have significant use in furthering a 'no blame' approach to improving aviation safety outcomes. I think it is fair to note that, while some in the industry are sceptical that this proposed scheme is as good as the American system, the opposition will support the scheme and consider any changes to improve it if they emerge during the commencement and operation of the scheme.

I now go to a second reading amendment, which I propose to move this morning. In doing so, I think it is exceptionally important that I remind the House that the government's performance on aviation airport policy since 1996 has not been appropriate; if anything, it has been a disgrace. There are a litany of examples to demonstrate this—some of which I intend dealing with this morning.

I believe that the Howard government does not have a national aviation policy or plan. Decisions are made in a disjointed, piecemeal way, with no overall constructive and comprehensive approach to aviation regulation and reform in Australia. That is unacceptable to the in-

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dustry, unacceptable to the Australian community and unacceptable to Australia as a nation. We need a safe and efficient aviation plan, a safe and efficient aviation system, because we as a nation need an aviation industry. We need an aviation policy setting that instils confidence, that says the government knows where it is going, that relies on a regulator that can be trusted and that has the confidence of the community, government and industry. The record shows that the minister has sat back and allowed this to not be the case for almost seven years.

Today's bill is the only genuine sign that the government has listened to the issues and concerns being raised by the industry, the opposition and the community. But that is not enough. Now the minister has decided, for today at least, that he will stay in the job. He must start listening to other calls for change with respect to aviation regulation and reform in Australia. Rather than playing politics, he must also listen to the opposition's announcement that Badgerys Creek is no longer a suitable site for Sydney's second airport. Instead of sniping from the side, he should use the resources of government to join with the opposition and the state government in a bipartisan way to identify a suitable second airport site in Sydney. In that way, he would put both the member for Lindsay and the member for North Sydney out of their misery.

We have the member for Lindsay saying the airport will not be built at Badgerys whilst the party policy is that it will be built at Badgerys. The member for North Sydney is loudly reminding everyone that will listen—when he is not playing football—that it is current coalition policy to build the airport at Badgerys Creek, but quietly he also knows that the site is no longer suitable. It just suits his North Shore political representation duties. The minister for transport must do the right thing by Sydney and Australia and front up to the need for an integrated transport and urban development plan for Sydney. The minister cannot continue to mislead the public and he cannot continue to ignore the needs of our largest city. Part of that planning process must include the important future needs for general aviation in the Sydney region.

I commend the Victorian government, as it did not wait for the federal government to do the job; it developed its own aviation plan for the Port Phillip region. Sydney, in a joint effort between the New South Wales government and the Commonwealth government, should follow the lead of the Victorian Labor government with respect to its response to the need for a proper aviation plan for the Port Phillip region. Instead of facing up to his responsibility for Sydney airports, the minister's only plan for airports and urban aviation is to sell the general aviation airports. With no plan for its aviation heritage or future aviation uses, I also note, with respect to Port Phillip, that the Howard government is hocking Point Cook Airport. The Howard government does not have an aviation and airport plan or strategy for our major cities; it only has a strategy which is about a fire sale of assets without any consideration of the consequences of that sale on the operation of airports in our capital cities. These are important issues that the minister should take responsibility for.

As we all appreciate, general aviation is important to Sydney and the aviation industry, but we have a minister who is not willing to work out an integrated general aviation plan for Sydney. He merely wants to hock Camden Park, Hoxton Park and Bankstown airports in a cash grab with no plan for their future operations. It is also interesting to note that, with respect to these sales, the minister has allowed the operators to avoid their responsibilities to develop master plans, as required by the act, in the lead-up to the sale of those airports. He has said that these plans will flow from the sale process rather than requiring the master plans to be

undertaken prior to the sales so that local communities know what is intended with regard to the operation of these airports.

These important airports in Sydney and Melbourne and their future role will be in the hands of private sector buyers, not the government, the local communities or the affected aviation industry. I do not believe this is good enough, and I think it is about time the minister started listening and acting rather than merely being engaged in a cash grab with the Minister for Finance and Administration and the Treasurer and, more importantly, walking away from his responsibilities for aviation and airport policy in Australia.

In the same way the minister must also bring forward his planned review of Sydney's aviation needs. He must have independent, rigorous and current data and advice to hand when he considers the draft Sydney airport master plan, which will probably be handed to him on or about 31 December this year. The Minister for Transport and Regional Services will then have three months from 1 January 2004 to decide whether he supports or opposes the Macquarie Bank's ambitions to double aircraft movements over Sydney over the next 20 years. Let us be plain about this: the master plan for Sydney is driven by the needs of Macquarie Bank, not the needs of the aviation industry and the Sydney community. If this review is not brought forward, I pose this question: how is the minister's decision to have any credibility? Already the minister and the Prime Minister are close to the line in reported public comments expressing their support for the master plan before any independent, accountable and transparent government assessment has been made. I regard those comments as unacceptable in terms of accountability and independence of government decision making with regard to these matters.

I suggest to the House that, with regard to the Sydney master plan, the government has gone very close to already expressing a predetermined view. That potentially raises questions about the master plan process in Sydney being challenged legally. The government can only redeem credibility by now bringing forward the 2005 review as part of this process. The Minister for Transport and Regional Services must also start listening on other important safety and security issues if he is to revive any credibility in this portfolio.

The Airservices board have decided to close the terminal control units in Perth, Adelaide, Cairns and Sydney. They have ignored the Prime Minister's announcement to spare Cairns and they have ignored the concerns about this action expressed by members on both sides of the chamber. The Airservices board made a decision to close the units and only gave ground on the time frame for electoral purposes. The minister should take these issues up and keep the control units open in all of those operating centres.

I also do not accept the manner in which the minister is wiping his hands of responsibility on airspace reform. The record shows that the minister does not trust his own department and agencies charged with the legislative responsibility to design airspace to do their job. Instead, it has been outsourced to enthusiastic amateurs, for political reasons. The press in recent times has been full of industry concerns about the national airspace system reforms championed by an enthusiastic amateur, Mr Dick Smith, but the minister has sat idle and let it go.

I believe the minister is ignoring the concerns of pilots, air traffic controllers and the airport owners, who are saying that the NAS has warts. Instead, we have a minister who is merely prepared to go along with what his mate Dick Smith tells him. This bill gets rid of the board of CASA to ensure more direct ministerial responsibility for aviation safety. It is time the min-

ister considered, for the same reasons, getting rid of the Airspace Reform Group and making Airservices and CASA directly accountable to him for any changes he wants.

I have sought to raise a number of serious issues today. I could go to a further range of issues going to the failure of the department to correctly act on previous Audit Office advice in terms of aviation security in Australia. There are also issues going to the need to make sure that proper security operates with regard to the operation of the Department of Transport and Regional Services—issues that I have raised in the House previously on a range of occasions.

In conclusion, I simply say that, as a result of the amendments, the opposition is able to give support to the bill, as amended, today. This bill represents the outcome of a detailed endeavour by both sides of the House in close cooperation with the industry to get CASA right. On that basis we give our support. I will also move a second reading amendment which puts on the record our ongoing concerns as an opposition about the failure of the Minister for Transport and Regional Services to take seriously his responsibilities for aviation reform and regulation in Australia. I only hope that, now he has decided to remain in the job as Minister for Transport and Regional Services, National Party leader and Deputy Prime Minister, he applies his mind to the job before him. I commend the second reading amendment to the House, and 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 its failure to match its promises in respect of air safety with comparable decisions, as demonstrated by its:

- (1) refusal to overturn a decision to close the air traffic control terminal control units in Perth, Adelaide, Cairns and Sydney;
- (2) failure to deliver an effective and rigorous aviation security regime for the travelling public and those living under flight paths, especially in regional Australia;
- (3) taking a great risk with the lives of the travelling public by outsourcing the design of Australian airspace to enthusiastic amateurs; and
- (4) approach to airservices which demonstrate, in the case of Bankstown, Hoxton Park, Camden and Point Cook airports, an approach which reveals a grab for cash, rather than a priority to aviation safety”.

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

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

**Mr SOMLYAY (Fairfax) (10.29 a.m.)**—This government recognises that the civil aviation industry is important, both to our national economy and to our work force. Because of the physical size and geographic make-up of Australia, air transport is an essential factor not just to our business interests and our tourism industry but also to the very existence of regional Australia. Furthermore, our safety record is critical to the sense of security and confidence that Australians in general, and overseas visitors in particular, have in using aircraft in this country. Not only does the industry’s good safety record have to be apparent to the public, it also has to be perceived as an integral element of Australian air travel. Therefore, we need to ensure not only a safe industry but also that confidence in the mechanisms for guaranteeing safety is ongoing. The Howard government is committed not just to Australian air safety but also to having a world-class aviation regulator to ensure continuity of that safety.

As Minister Anderson said in his second reading speech on the Civil Aviation Amendment Bill 2003: 'This bill represents a significant milestone in the implementation of the government's aviation reform agenda.' It reinforces the role of the Civil Aviation Safety Authority—CASA—as Australia's aviation safety regulator and introduces enforcement tools that better match the regulatory action to the seriousness of breaches of those regulations. The bill has two main purposes: firstly, to abolish the CASA board, retaining CASA itself as a statutory authority but under more direct ministerial control; and, secondly, to revise some of CASA's investigatory and enforcement powers, providing it with a more effective range of tools so that the regulatory action can better match the seriousness of the breach—that is, to try to make the system better and fairer.

Let us look at the Civil Aviation Safety Authority. It was established in July 1995 as an independent statutory authority under the Civil Aviation Act 1988 with responsibilities that included the operation and safety of civil aviation in Australia and the promotion of high safety standards within the industry. CASA is currently governed by a board of seven directors appointed by the Minister for Transport and Regional Services. The board is responsible for strategic decision making but, unfortunately, over the years there have been a number of very public management controversies and personality conflicts within its membership. The Director of Aviation Safety, who is both chief executive officer and also a member of the board, has overall administrative and operational responsibility. This bill abolishes the CASA board and makes the Director of Aviation Safety directly accountable—

*A division having been called in the House of Representatives—*

**Sitting suspended from 10.33 a.m. to 10.46 a.m.**

**Mr SOMLYAY**—As I was saying before the division, this bill abolishes the CASA board and makes the Director of Aviation Safety directly accountable to the minister for CASA's performance. The director will continue to be the CEO responsible for safety regulatory functions, but he or she will also have the added responsibility for matters such as the corporate plan and terms and conditions for staff.

Currently, while the minister is publicly accountable for CASA's performance, he only has general powers of direction. He has no direct authority for strategic planning or performance improvement. Under section 12 of the act, the minister may only give general directions to CASA regarding its performance of a regulatory function. Let me repeat that: currently, the minister, who is publicly accountable for CASA, can only give general directions to CASA regarding its regulatory functions.

At least CASA must comply with such a section 12 direction. That is not the case under the current section 12A. Under section 12A, the minister may notify CASA of his or her views regarding an appropriate strategic direction, but CASA need only 'take into account' such notification. It need not heed it. So currently the board sets strategic directions. The minister, who is publicly accountable, can notify CASA of his views regarding those strategies, but CASA can decide to ignore his views if it wishes. Item 12 of this bill eliminates that discretion by CASA and requires it to 'act in accordance' with such a notification from the minister.

The two new sections inserted into the act by item 13 of this bill give the minister stronger, more direct powers over CASA's governance and accountability. Section 12C allows the minister to enter into a binding agreement with the director regarding the performance of CASA's

powers and the execution of its functions. While such an agreement is likely to cover policy directions, priorities and performance standards, this section also carries a safeguard specifying that the minister cannot interfere or direct CASA in particular cases or with regard to an individual authorisation holder. That is an important point. On one hand, this bill empowers the minister to actually have input into strategies and policy directions for a statutory authority for which he is responsible; but, on the other hand, in the interests of fairness and justice, it also specifically forbids the minister from interfering in individual cases. This is yet another example of the Howard government working towards enhancing responsibility and justice in our legislative system.

Section 12D provides the minister with a new and explicit power to direct CASA to report specified matters either to the minister or to the departmental secretary. This will ensure that the minister is informed of potential problems or sensitive issues so that action can be taken to deal with a matter before it escalates. It is hard to believe that currently the responsible minister cannot direct CASA to alert him or her to particular issues. In the interests of good administration and of good government, we seek to rectify this omission.

The remainder of the bill introduces new enforcement measures and tools to assist CASA to enforce its regulations fairly and allow it to match the regulatory action to the seriousness of the breach. It is a risk based approach to safety management which gives CASA a range of options. These options include varying, suspending or cancelling aviation authorisations such as licences and air operator certificates. I note from the speech by the member for Batman, the shadow minister, that the opposition supports this bill and I thank the House.

**Mr HATTON** (Blaxland) (10.50 a.m.)—I am happy to have seconded the amendment before the House, which was moved by the shadow minister. It runs to four specific provisions, two of which I seek to speak to in particular: they are the third and fourth matters dealt with in our amendment, and they go to the questions of the safety of those people in the area surrounding Bankstown Airport and the regimes of airspace management and usage that this government would seek to bring in at the behest of Mr Dick Smith, who made a one-time donation of \$1 million to the Liberal Party in 1996. I think he has finally got the access which I think he originally sought to get from the minister. As the shadow minister pointed out, having an enthusiastic amateur determine the airspace requirements and regulations for general aviation throughout the whole of Australia is not the best approach.

I would have thought that, in a case where there is an open declaration of support for the government and where there is a significant donation of \$1 million, the government would have been wise, which they have not been of course, and would have been without gall, which they have not been of course, not to directly give over effective responsibility in the civil aviation area to just one man—albeit that he is very good at marketing himself, albeit that he is very good at cloaking himself in the Australian flag to flog all sorts of different products. The safety of Australian citizens should not be bought for what is, effectively, the cheap price of a \$1 million donation made to the then opposition; it should not be bought at the cost of all of those people who are affected by general and civil aviation in this country.

Ask any of the professional pilots flying for Qantas or Virgin—or those who used to fly for Ansett—and I think you will get a pretty quick response about their attitude towards having civil aviation safety in this country determined by just one man, a man outside the formal structures of responsibility. They knew what the situation was when he was put into a position

of responsibility. They know the enormous problems that occurred for the industry and for the government when just one man was put above all others and his obsessions were allowed to run government policy.

Where is the minister for transport and aviation with regard to these matters? He is relaxed about it. He is not particularly concerned about it. He takes into account the representations made by significant people in the general aviation community but thinks that they are going on a bit too much about it. These are matters of ultimate concern to those people, whose lives could be affected because just one man outside the normal course of government responsibility can have his particular approach imposed on everyone else. I think it is completely and utterly reprehensible that the safety and security of our flying passengers, on regular services and also on our GA services in the Sydney basin in particular, are being put at risk because there is a government that is so weak-kneed and so determined to give in to people who are close to them—people who have, effectively, bought their way in by donation—that we end up with the kind of propositions we have in this Civil Aviation Amendment Bill 2003.

Given the disasters there have been over the years, you would think that—just possibly—some things might have been worse, but they have not been. Hence, the third part of the amendment we have put forward, in which the House condemns the government for:

- (3) taking a great risk with the lives of the travelling public by outsourcing the design of Australian airspace to enthusiastic amateurs ...

As the shadow minister was happy to name him, I am happy and willing to name him as well. It is irresponsible to do this. Any government charged with aviation safety and security in Australia should not have taken this course. People can have their whims, their desires and their drives and, normally, they can be listened to—a bit of a nod, ‘That’s interesting’, ‘We are taking that into account’, and all that sort of stuff. Normally, you would not see it sanctified as government policy. It is just not good enough to effectively genuflect to the power of a person’s capacity to market themselves as someone who is all about Australia and Australia’s interests. I think it is reprehensible, it should not have been done and it is about time this government stopped doing it. The fourth part of the amendment we have put forward reads:

... the House condemns the Government for its failure to match its promises in respect of air safety with comparable decisions, as demonstrated by its:

... ..

- (4) approach to aerservices which demonstrate, in the case of Bankstown, Hoxton Park, Camden and Point Cook airports, an approach which reveals a grab for cash, rather than a priority to aviation safety”.

What is at the core of this? Bankstown Airport is at the geographical centre of Sydney. I know because it is in my electorate, which is in the geographical centre of Sydney. Bankstown Airport has had up to 400,000 movements a year. Over the last few years, that number has declined; we went back to about 350,000 and at one point back to about 280,000.

All things being equal, if the government had had its way, as of 13 December 2000 the very safety, security and certainty of all of the 180,000 people who live in Bankstown, including the 83,000 constituents that I have in Blaxland, in the top half of the city of Bankstown, and the 83,000 constituents in the electorate of Banks, in the bottom half of the city of Bankstown—and the member for Banks will be following me in this debate—and the people in electorates bounding ours, such as the electorate of Fowler, would have been put at risk be-

cause this government was determined to bring regular passenger services to Bankstown Airport. It wanted to make Bankstown Airport Sydney's second airport.

This is a government that put Max Moore-Wilton in charge of the Sydney Airport Corporation—the person who rode shotgun with the Prime Minister in Prime Minister and Cabinet. Maybe Max got the job himself—who knows?—but he is running it in his own inimitable way. The Sydney Airport Corporation advise, 'We don't think much needs to happen here until 2010, 2015 or maybe 2020. We don't think the demand is so great. Just because the numbers that'll use Sydney airport will triple in the coming years, we don't think all that much needs to be changed; we can accommodate a bit more. There are more wide-bodied aircraft—the A300s and A380s are being bought from Europe. We'll expand the runways a bit, we'll deepen them a bit and we'll make sure that General Holmes Drive is covered off. We can take all that capacity. Don't worry about it. If we need to do a bit more, we'll do it here and there.'

This government is determined to follow through on what we started with the Airports Act 1996, leasing airports Australia wide. The Australian Labor Party have gone full circle on that: the shadow minister has announced that, if we come to government and it is still possible for us not to, we will not sell Bankstown, Hoxton Park or Camden airports as a job lot, as this government seeks to do before the end of this year. There is no fundamental, structured, government-endorsed business and management plan for this airport.

As the shadow minister has put forward in argument, there is no general transport plan for the whole of Sydney. This is a government that is clueless when it comes to the transport demands of the four-million-plus people who are in the Sydney basin. Those people's demands in terms of road, rail and air traffic have been left to whatever state responsibilities are there. Apart from a few flicks here and there from the transport minister about what might happen with improving the rail corridor for freight, there has been no concerted effort, no concerted plan, no determination whatsoever.

On 13 December 2000 this government said it wanted Bankstown Airport to effectively become Sydney's second airport. It considered that Bankstown Airport could become the overflow airport. It considered that aircraft of up to 737 capacity or maybe more—767s or possibly even higher than that—should run into Bankstown Airport and use an airport where they had mandated that the runways had to be lengthened, deepened and strengthened. The effect of that was that, instead of having three runways, as we have now for general aviation, we would have had to have one jetway at Bankstown Airport.

In 1949 a committee was charged with working out what the international airport and major domestic airport for Sydney would be. It had the sense to realise that Bankstown was not the place to put an international airport. Years later the minister for territories, I think it was, made the announcement last year that they had given up on the idea that Bankstown Airport should be the overflow airport and given up on the idea that there should be any specific provisions demanded of the people who buy this airport.

There is no safety and no security whatsoever for the people of Bankstown in how the government have handled aviation safety or aviation planning and provision. We do not know what they will rule in and rule out for the future. I do know that Bankstown is right in the centre of Sydney—at its geographical heart. It is 22 kilometres, or 13 miles in the old measurement, to the general post office, but it is only nine kilometres to Kingsford Smith airport.

What I do know is that, if it had not been geographically impossible, they would have put regular traffic transport into Bankstown Airport, and damn the consequences.

They wanted to pump it up with capacity, move the regionals to there and, laughably, thought that when the M5 was finished people could motor from Bankstown into KSA to interconnect in a quick 20-minute trip. If you do it at 3 a.m. it is possible, but if you go at peak hour from Bankstown Airport to KSA you have to allow an hour and a half. I know, I drive it. It is a longer journey now than it has ever been. The alternative is that, when you have to do it, you go the old way. You miss the total congestion that the M5 is—the road that was supposed to fix the transport problems of south-west Sydney.

The motorway is a complete joke. It should have had an extra lane. It certainly should have a regulated single speed, and you need some psychological distance so that people will treat it as a normal road. We probably should also prohibit trucks coming from, in particular, east to west, because they slow the whole process down. That is an artery that does not work. That makes it unlikely that any government, even one as dumb as this government is, might actually reconsider the whole process of trying to lump a second airport at Bankstown. There is safety and security in that.

The other element of safety and security is provided by geographical proximity. We are too close to Kingsford Smith. There is a stub of an east-west runway at Kingsford Smith that stops any government—even a government as full of gall and guile as this government is—from imposing regular passenger transport out of Bankstown. The simple reality is that there might be two parallel runways running north and south but, as long as that east-west stub is there and has to be kept in operation to be used in difficult wind and weather conditions, that means safety for the people of Bankstown.

There have been arguments that the people of Bankstown could be wiped out by jet passenger transport. I said on 13 December 2000, when this idiotic government presented this proposal to effectively turn Bankstown into the second airport for Sydney, that it was a dumb and crazy scheme that was incapable of operation. I said that they would put through the hoops more than 500,000 people in the area while they attempted to put it into place. They used every means possible. It was faulty and it was failing and, even after they said they had no real intention at all of doing what they proposed in December 2000, they still will not show proper regard to residents and sign out any future possibility of regular passenger transport out of Bankstown.

There is a direct correlation though between the proximity of Bankstown to Kingsford Smith and the proximity of Bankstown to the central business district of Sydney with regard to the question of airport security—not only perimeter security but security in the airport itself—and the situation we have faced since September 2001. There have been concerns voiced before the Joint Public Accounts and Audit Committee by a number of different agencies about the proper regulation of security at Bankstown Airport. The Commonwealth government says: 'It's not up to us; doesn't have anything to do with us. We're flogging it off and, even so, because it doesn't have regular passenger transport then it's not under the same aegis as Kingsford Smith airport. So it's under a different general aviation aegis and, therefore, it's got nothing to do with us. It's not our responsibility; let a new owner work out what they're going to do.'

On 23 September 2003, the current general manager of Bankstown Airport Ltd, Kim Ellis, wrote to me that evidence would be given by the Bankstown Airport Ltd to the government committee. He mentioned that difference in security because the airport does not currently handle regular passenger transport operations. What we need to do is wipe that out for the future, to give certainty to general aviation in Sydney and to country people who think that a government in the future might rope them into that. Mr Ellis is dealing with what the reality is. This government has not wiped out any of that.

Mr Ellis also said that, despite not having to have that higher security classification, Bankstown Airport has itself taken a series of measures to beef up security. They include: (1) a 2.1 metre protective man-proof fence surrounding all aviation areas; (2) keypad and electronic access gates; (3) regular updates for customers and the community on security matters; (4) seven-day-a-week security and perimeter controls; and (5) photographic ID access cards and licences. They are a series of specific provisions. There have been a number of situations in the past where people have just walked onto the perimeter and gained access. These were not people of evil intent choosing to use the helicopters or the general aviation aircraft or the Dakota DC3s, which are pretty large aircraft, or the 'Connie', which is not only a very large but also a very loud aircraft. There are also in the vicinity of 16 executive jets based at Bankstown that are used by a number of people who operate Australia wide out of the CBD.

All of those are flying bombs in the heart of the biggest city in this country. All of those have not been regulated effectively enough in security terms. It is time for this federal government to properly take responsibility for national security—not to just give us words, rhetoric or propaganda but to do the fundamental things that need to be done; not to leave it to Bankstown Airport Ltd to take this up. It is not only a very big and active airport but also one of a string of airports where there are no future plans to deal with their needs or demands.

Mr Ellis points out that there are a whole series of other airports, including Hoxton Park and Camden, of course, where there are no security provisions; but there is also Albion Park, Wedderburn, Warnervale, Newcastle and Wilton, where there are significantly higher security demands. In terms of proximity, use and ease of access, Bankstown needs to be locked up in a secure fashion, but it needs to be locked up with a key that has 'Commonwealth of Australia' attached to it, not just Bankstown Airport Ltd or whoever chooses to buy a privatised, leased airport and would have responsibility for it for the next 99 years.

I totally, completely and utterly endorse the amendment put forward by the shadow minister; in particular, I endorse paragraph (3) with regard to the reprehensible way in which this government has sold whatever soul it had to Dick Smith in terms of air safety and air safety provision. Lastly, to drive this message home: Bankstown Airport needs to be Commonwealth owned and controlled—

*A division having been called in the House of Representatives—*

**Sitting suspended from 11.11 a.m. to 11.22 a.m.**

**Mr MELHAM** (Banks) (11.22 a.m.)—The purpose of the Civil Aviation Amendment Bill 2003 is to abolish the CASA board and bring the governance of CASA under the control of the transport minister to a greater extent. Secondly, it will revise various CASA investigatory and enforcement powers, particularly regarding suspension and/or cancellation of licences. Reform of CASA governance and enforcement arrangements is long overdue, as the opposi-

tion identified in its policy statements prior to the 2001 election. In this respect, the government has adopted Labor policy. CASA is the safety regulator protecting the interests of the travelling public and it must be held accountable for that role. This bill will provide the appropriate accountability.

For those of us living near airports, and for our constituents, civil aviation safety is vital. We have recently seen this government present a Sydney airport master plan. In terms of safety matters, it is incumbent on me to make some comments on that master plan and its potential ramifications for my constituents living near Bankstown Airport. The residents of East Hills, Milperra, Panania and Revesby have lived next to the airport and have been closely involved with its operation for over 50 years. The residents of Padstow, Peakhurst, Lugarno, Penshurst, Mortdale, Narwee and Oatley have been affected by flight movements from Kingsford Smith airport. The master plan for Sydney airport closely affects my constituents and their lifestyles. Matters to do with airport and aircraft safety are intertwined with the future of both Kingsford Smith and Bankstown airports. My colleague the member for Batman has previously spoken to this House on Labor's position on the master plan, specifically in terms of Kingsford Smith airport. I will not reiterate his comments, except to say that I welcome the fact that the plan includes the retention of the cap of 80 movements per hour, the curfew, access for regional airlines and noise-sharing measures. However, the master plan also predicts an intensification of air activities at Sydney airport, and that in turn raises concerns to do with noise amelioration.

The government must make clear whether it is its intention to continue the noise amelioration program. This will become urgent if the plan is implemented. The plan does not seem to envisage a second airport during the planning period of 20 years. This assumes that the projected growth of aircraft activity will be acceptable to the Sydney community—by that I mean the entire community not just those in coalition-held seats. Frankly, I doubt that.

The opposition believes that a second airport is needed and that the type and location of that airport must be determined through a transparent process. In the same vein, the government should bring forward the planned review of Sydney's aviation needs. In the absence of any current and independent data, there is a risk that the master plan will be supported without proper government assessment. We require a second airport to be part of an integrated transport approach that involves all tiers of government—local, state and federal. The opposition does not accept that the projected growth will be acceptable to the people of Sydney.

Labor has articulated its position in its integrated Sydney transport plan. This not only provides a strategy for a coordinated approach to transport but is an important part of federal Labor's interest in sustainable growth and development. Specifically, on the issue of the future of Bankstown Airport, Labor advocates that Bankstown should not become the overflow airport for Kingsford Smith. There should be no large jets at Bankstown, and the airport should not be sold. Labor's position on Bankstown has been in place since prior to the last federal election and was reaffirmed by the Leader of the Opposition on 27 July 2003. The leader also committed Labor to exploring options to reduce the impact of training operations at Bankstown Airport.

Certain commitments were made to the Bankstown community in 2001, and Labor has no intention of backing away from them. Unfortunately, there have been some misrepresentations in recent months about Labor's policy on Bankstown Airport. I want to reassure the people of

the Banks electorate that I will honour my commitment to them, as will the Labor Party. The community deserves not only honesty over the future of the airport but also some certainty about its future. A key objective of Labor's airport master plan will be to reduce the impact of aviation training operations on our community and to involve the community in decisions about appropriate industry and operations at the airport.

In the interests of aviation safety, thorough and objective analyses of airspace management issues for Sydney airport will be undertaken where these arise from any changes to Bankstown's operations proposed in the master plan process. This study will be available for a community consultation process, to enable informed discussions and decisions. Federal Labor will involve local families in the Bankstown area in decisions about their airport. Labor's master plan development process will canvass cessation of aviation operations at Oxford Park airport; rule out large-jet traffic and explore options to reduce the impact of training operations at Bankstown Airport; assess the capacity to increase general aviation operations at Camden Airport; and explore with the Department of Defence and the local community options to introduce civilian general aviation operations at Richmond airport.

This government is selling off Bankstown Airport, together with Hoxton Park and Camden airports, simply as a cash grab. Local communities are left out and their needs ignored. The Labor Party take air traffic safety seriously, and therefore the opposition intend to support this bill despite its limitations. We note, however, that there are limitations and we promise the Australian community that we will continue to consult. We are developing policies which will maintain high safety standards as well as ensuring that the interests of the community are heard.

**Mr KATTER** (Kennedy) (11.28 a.m.)—P.J. O'Rourke, the American humorist, constantly refers to the 'safety Nazis'. Since September 11, they have really been running amok. They have had their Kristallnacht—their night of broken glass—and now they are exercising powers that could not have been dreamed of previously. But, in the name of safety, the executive arm of government believes that it can do virtually anything that it cares to. This Civil Aviation Amendment Bill 2003 contains the most extraordinary powers. Legislative proposals before the House, read in conjunction with existing legislation, deliver really quite incredible powers to the executive arm. I think we were all taught at school about the Magna Carta—habeas corpus being one of its central themes—that the king or, if you like, the executive arm of government could not simply take a person into custody without due process of law. There can be no more fundamental violation of your freedom, your rights and your privileges than when executive government can act without any proper process of law.

This bill, upon the advice that has been offered to me, completely obliterates that concept. One is curious to know what is lacking in the education of the people at CASA and the minister in that they have been able to get through primary, secondary and tertiary education in Australia and still not understand the most basic principle upon which all of our rights and freedoms are built: the executive arm cannot simply seize a person off the street with no recourse to due process of law. But that is what is occurring here.

Let me quote from a case that I think all of us have been provided with. Others may have written it into the public record, and I most certainly intend to. A pilot wrote:

To my Federal Member of Parliament. I am a pilot, and so is Denis Grosser. I am most concerned by what has happened to Denis because the same could happen to me.

I am equally concerned by what appears to me to be unconstitutional—and not just unconstitutional but cutting at the very basis of the building blocks of freedom upon which our society stands—and exceptionally unjust legislation. The letter continues:

Broadly speaking, Denis had a difference of opinion with a CASA officer.

I have been in politics long enough to know that it probably was not quite as simple as that. He goes on:

His pilot license was summarily cancelled without Denis having the opportunity to go to Court—but not suspended pending a court case, but permanently cancelled.

That is the fundamental difference here and why this transgresses the most basic freedoms upon which all of our institutions in a democracy are built. He continues:

Civil aviation regulation 269 empowers CASA to do that, and I want you to amend CAR 269.

There is no process by which a cancelled license can be re-instated, so Denis took out a new Student License. There was no trickery in that, he even wrote to Mick Toller (boss of CASA) telling him about it. Denis then embarked on the processes necessary to obtain a new license.

Long after his licence was cancelled, Denis was prosecuted in respect of the same events. He was fined. This is absolutely just because it happened in Open Court. The Magistrate was told about Denis's new Student Licence and specifically declined to cancel it. However when Denis walked out of the courtroom he was hit with a demand that his license be surrendered under CAR 301. CAR 301 does not require that CASA have any reason to demand the surrender of a license, so no reason was given. CAR 139 forbids a person from acting as a pilot, even a student pilot, unless he has his license with him. Thus CASA was able, quite legally, to do the very thing that the Court only moments before had specifically decided not to do.

It cannot be any more specific than that. I do not want an explanation saying that Mr Grosser was an unfit person. We want an explanation as to how and why a person can be summarily tried by a jury of his prosecutors—an absolute contradiction in terms and a denigration of the most basic building block of freedom. If in this place we do not make every single diminution of those rights and freedoms a battleground then we are grossly treating our forebears with contempt.

For those who like reading books, I always suggest that they read Winston Churchill's *History of the English Speaking People*—which probably contributed as much to his fame as anything else he ever did, with the possible exception of his stand in the Second World War. From that book, you will realise that every one of those freedoms that you enjoy was bought with the blood of hundreds of thousands of martyrs who gave their lives to deliver those freedoms and rights to you. If we in this place in a cavalier manner walk away from those principles, we are most certainly betraying those people and returning to the jungle from where we emerged many thousands of years ago. I am deeply troubled by this bill.

There are two other things that I want to say about CASA. I will not beat around the bush again; I will simply read from this Air Safety Australia's document because it is a really excellent document. It says:

AIR SAFETY AUSTRALIA does not call for leniency in the enforcement of the law. Far from it—for example we say that there should NOT be a discretion to relax the penalty provisions of the new demerit scheme. If a person commits offences that have foreseeable consequences, we say that the person should bear those consequences.

AIR SAFETY AUSTRALIA calls for a system of enforcement that is firm, predictable and transparent. Criminological studies have shown that consistent moderate enforcement is far more effective than occasional ferocious enforcement.

I will return to that theme a little later. CASA does in fact have that attitude. It is not an acceptable attitude; it is a very foolish and dangerous attitude. The document continues:

As an example, the Melbourne-Geelong road is very smooth and very wide and is an invitation to travel at 120kph. But drivers do not—not because of ferocious penalties but because of the CERTAINTY of being penalised. Ferocious penalties which are rarely applied are ineffective because of the human's belief that "it will not happen to me".

In the days of my youth when selling insurance, you never ever sold an insurance policy on the basis that a person was going to die—because 'it's never me that is going to die; it's always going to be him that is going to die'. My living depended on understanding how people think in that respect. Air Safety Australia goes on to say:

When the occasion arises, AIR SAFETY AUSTRALIA calls for an open, independent trial of any of its members accused of an aviation offence. It never calls for charges to be withdrawn. Nor does it seek to influence the outcome of a trial. Nor does it call for mercy. All that AIR SAFETY AUSTRALIA ever seeks is an open independent trial. And the very cornerstone of a civilised and orderly society is that the members of that society be confident of an open independent trial when accused of wrongdoing.

For those of us who like reading history books, it is habeas corpus, it is Magna Carta and is the most basic principle of freedom and protection that you have—a proper jury trial or a proper judicial process at the very least. There is no judicial process here. The prosecutor appoints himself as the judge, jury and executioner.

That a minister and a department of senior public servants could come forward with such a proposal is quite extraordinary to me. As I have mentioned on previous occasions, we make allowances because there is a very small gene pool here—there are only 300,000 people here. As a long-serving minister in the Queensland government, numerous approaches were made to senior public servants in Queensland but they simply would not move to Canberra. I understand that that is exactly the same in Sydney and Melbourne. So you have to get along here with a very, very small gene pool. But, even allowing for that, there is no excuse for the colossal ignorance and trammelling of basic freedoms that is proposed in this bill.

I will go to one other matter. We had the prosecution of a little, privately owned helicopter mustering company in Queensland. This company was singled out. They may have been excessively naughty boys. I do not know whether they were or were not, but the thing that intrigued me greatly was that everybody knew—CASA knew; I knew; every cattleman in Queensland knew—that the logbooks were not being kept in a proper manner. There were excess hours being done and the logbooks were not giving a true and accurate presentation of the hours that were being flown. The letter of the law was applied and brutal aggression, as referred to by Air Safety Australia, was shown to that one person.

It was quite clear what CASA were doing: they were making an example of him. But you cannot treat one person like that—throw the book away and destroy him completely—leave everybody else in the industry unassailed and then be regarded as a responsible body; that is not possible. I had considerable difficulty in pointing out to CASA that they could not do this. You cannot single out one person. Another thing I thought was a considerable manifestation of their stupidity was that, if they prosecuted one single very bright and successful operator,

they would look like they were doing the bidding of some of his competitors and it would raise the ugly spectre of corruption. I do not for one minute think that CASA was motivated by thoughts like, 'I will help that bloke by damaging this bloke.' But what they did not realise is that they were acting under pressure from his competitors and that, by its very nature, is a corrupt arrangement. I had enormous difficulty in pointing this out to CASA.

Let me give you an example of a similar situation. In Queensland we had livestock hauliers, all of whom had rigs that were too long—they were all breaking the law. They submitted paperwork that would indicate that they were not breaking the law, but I would say that there would not have been a single rig in Queensland that was not. They had to do it because the Northern Territory rigs were coming across the border and taking all of their business. In that case, the Queensland Department of Main Roads, which was run by very intelligent and sensible people, realised they could not single anyone out, even though some of the bigger operators wanted some of the smaller operators, who were making a bigger welter of it, to be singled out. They realised they could not do that. It was either everybody got prosecuted or they changed the law.

So in their wisdom they changed the law. They did not refuse to listen to people pointing out that they were going to prosecute on a discriminatory basis; rather, no-one had to point it out to them, because they did not even think of doing that. Singling out a person and hitting him with ferocious penalties to make an example of him to everybody else never occurred to them. Doing that is not acceptable conduct, by this or any other government. Compare that to Queensland, where they left the rigs that were on the road at their current length and gave them a four- or five-year phasing out period, which was quite reasonable, and introduced a longer rig, which was still considerably shorter than a lot of the rigs that were on the road at that time.

We got through a very difficult and dangerous situation on the Queensland roads without anyone having to go forward and argue about discrimination, possible corrupt influences or the most basic elimination of our freedoms. I cannot think of any government department in Queensland that would have cast themselves in that role. I should not say that, because there have been a number of occasions where public servants have got a bit carried away with themselves. No matter how stupid this sounds, their argument is invariably, 'Trust me, I am from the government. I am here to ensure that you act in a safe manner.' Of course, people laugh at that and it is a standard joke, but these people are not joking when they say it—and that is what CASA are saying to us here. They are saying, 'I can choose to act as prosecutor, judge, jury and executioner. Trust me because I am a good bloke, I really would not do the wrong thing.'

John Quiggan, the famous economist, has a great saying which comes up in a lot of his books. He said, 'It is my experience of human nature that when people are allowed to do the wrong thing sooner or later they end up doing the wrong thing.' If we allow CASA to do these things, even though they may start with good intentions, then I would agree with John Quiggan that if one has the ability to act with excessive power then some time in the future one will act with excessive power.

I have seen people enjoy the exercise of power. CASA has the power to completely destroy the lives of an awful lot of people in Australia. It has the ability to completely extinguish the communications system and to reimpose the tyranny of distance on Australia. I received a

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letter from a member of one of the most famous aviation families in Queensland—the Fysh family were the founders of Qantas Airlines and are great people—Duncan Fysh. He is a very decent person and thinks highly of CASA, but he does not think highly of these laws. He has great respect for CASA. He himself is at the moment pioneering another venture which is of very great value to the Australian economy.

He makes a very good point that, if safety impositions reach such a level, we will simply not be able to afford aeroplanes anymore. I would say that the number of light aircraft between Charters Towers and Mount Isa has gone from about 100—I want to put on the record that I am only guessing here—to no more than 20. The reason for that is excessive cost. I nearly die when I see my accounts and find out how much it costs me to do a charter from Charters Towers to Townsville, which is only about a 25-minute trip in a light aircraft. I cannot believe the prices that we are now paying. A very large part of those prices has come from CASA—

*A division having been called in the House of Representatives—*

**Sitting suspended from 11.47 a.m. to 11.57 a.m.**

**Mr KATTER**—Continuing on the subject of the mustering of cattle by helicopter, which is probably the predominant form of mustering these days, there is an unacceptably high level of deaths in this industry. In the Queensland court case involving the prosecution over logbooks, CASA maintained that there was a fatigue factor involved in helicopter mustering. I examined the details of the last seven deaths in North Queensland relating to helicopter mustering and found that not a single one of them could even remotely be attributed to fatigue. There was no fatigue factor, so CASA was addressing a problem that was not about safety insofar as there were no deaths attributable to it.

I am not saying that CASA should not keep an eye on these things—far from it—but five of those seven deaths were caused by powerlines. Helicopters can be fitted with a device that will warn a chopper pilot when powerlines are nearby. I have to admit that the industry itself has been reluctant to provide these warning devices. They are on the market for about \$5,000 to \$7,000, but a bulk purchase arrangement via the government would probably reduce that to about \$3,000. That is not a great deal of money when you consider that the helicopters used for mustering purposes cost \$200,000 or more. *(Time expired)*

**Mr BAIRD** (Cook) (11.59 a.m.)—I would firstly like to thank the members opposite for allowing me to speak early. The Civil Aviation Amendment Bill 2003 puts into effect a commitment by the governments of Australia and New Zealand to mutually recognise each other's safety standards and certificates in aviation. It makes an allowance whereby safety certificates issued in one country will be recognised for use in another.

The relationship between Australia and New Zealand has always been very close. Some people would suggest that, in 1901, New Zealand should have become another state. It was not to be, but the bonds that we established as part of ANZAC obviously bring the two countries together in a very significant way. This year is also the 20th anniversary of the CER, which is the free trade agreement between Australia and New Zealand. We also have an open skies agreement with New Zealand in relation to aviation. This legislation is a natural progression from the free trade agreement, the CER, and the open skies agreement between the two countries. It is important that we recognise each other's safety standards.

There is also the importance and growing nature of tourism between the two countries. I am glad to see the member for Petrie with me in the House, because she has a strong interest in tourism. The No. 1 source of tourists in Australia is New Zealand and vice versa—in terms of the number of Australians who go to New Zealand. In fact about one-third of all the tourists who go to New Zealand are from Australia.

This bill has been developed concurrently with New Zealand legislation, whereby their regulations and privileges will be compliant with ours and vice versa. It has been designed to take out the duplication and complexity that currently exists for airline operators. It has been designed because current rules and regulations are not consistent with the intention of the open skies air services agreement to promote competition between Australian and New Zealand operators.

The CER, which is so important between the two countries, has over its life proved to be one of the most wide ranging and successful free trade agreements in the world. In the last year, the New Zealanders did a review of the CER and had wide discussions with their industry, with people in government and with Australians. Their conclusions about the success of the free trade agreement were very positive. We are hoping that in the next 12 months we might do a similar review of the CER and its relationship with Australian trade. This bill goes to the very heart of what we are trying to do in terms of expanding free trade by eliminating barriers to trade and promoting fair competition. This lies at the very heart of the bill.

I mentioned the importance of tourism between the two countries. One-third of the total number of visitors going to New Zealand are Australians, and 17 per cent of the total number of visitors to Australia come from New Zealand. Last year 700,000 New Zealanders visited Australia; by 2012 this figure is expected to be approximately one million. It is also important to recognise that approximately 10 per cent of visitors to Australia also visit New Zealand. All members would be aware that tourism is an important contributor to the national economy and represents 10.4 per cent of total employment. Safety is of paramount importance to the aviation industry and it has taken on heightened importance since September 11.

It is important that our friends across the Tasman have very similar safety standards to us. The mutual recognition terms are therefore going to allow for eligible aircraft operators to carry out aviation activity in either Australia or New Zealand, whether international or domestic, passenger or cargo, based on an air operators certificate, the AOC, issued by their home country. The terms state:

... an operator that is the holder of an air operator certificate ... and other associated certificates and permissions, issued in one country will not be required to hold an AOC, or other certificate or permission, to conduct air transport operations in that country.

This program is going to be phased in. Initially, only AOCs held by eligible operators will be mutually recognised, and then consideration will be given to other certificates not already covered by other recognition arrangements. It has also been agreed that priority should and will be given for operations of aircraft with more than 30 seats or equivalent. Currently the bill makes allowances for the recognition of AOCs. There are provisions in the act, however, to allow for the mutual recognition of more certificates in the future

The issue of safety by way of an added guarantee is categorically put to rest through the fact that the host regulator has the power to issue a temporary stop notice to an aircraft operator issued with a certificate by the other safety regulator if that operator is perceived to present

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a serious risk to aviation safety. Operators will still have to comply with rules of the air and certain laws of the country in which they are operating. That particularly relates to security, the environment, curfew and the carrier's liability, to name but a few.

It is widely regarded that both Australia and New Zealand have world's best practice airline operations with similar standards and consistencies. Of course, as two independent nations there are going to be discrepancies over the harmonisation of safety standards; however, whilst the overall safety of each system is recognised and achieved, the differences can be accepted. These changes to mutual recognition are going to promote aviation and competition in Australia and New Zealand by reducing the regulatory burden on aviation operators from having to hold dual AOCs while maintaining the safety standards and records we currently have.

It is more than feasible to foresee that the changes announced in this bill could result in lower airline costs through fewer administration issues and less bureaucracy and, therefore, lower ticket prices. Pacific Blue, which is part of the operations of Virgin Blue, are planning to start operations between Christchurch and Brisbane and then expand their network. I am sure they will be looking for this type of arrangement, particularly as some of their aircraft will be based in New Zealand and a lot of their crewing will take place in New Zealand.

There have been concerns about staffing levels. Currently, Australian cabin crew operate on a ratio of one to 36, compared with one to 50 for New Zealand cabin crews. Obviously this has been a basis of contention. CASA has stated that this level of service is going to remain. New Zealand staffing ratios have support mechanisms and administrations which are geared towards crew-to-customer staffing levels.

This bill is about mutual recognition of safety standards between the two countries, as part of the air services agreement between Australia and New Zealand. In November 2000, when this agreement was initially negotiated, it was suggested that a single aviation market between Australia and New Zealand was worth \$6.8 billion. Mutual recognition will undoubtedly create significant opportunities which will add further to the relationship between our two countries. It is only through the joint understanding and commitment of CASA and CAANZ that mutual recognition is feasible and possible. The force of law given to CASA and CAANZ under the provisions of the act underpins mutual recognition. Without acceptance, commitment and communication, mutual recognition would not be achievable.

This bill is further evidence of the shared background of our two countries on this 60th anniversary of the ANZAC agreement and the 20th anniversary of the CER trade agreement. This bill will coordinate safety arrangements between the two countries. This is an area in which we see a growing aviation market and continued growth in terms of tourism, the No. 1 markets in both countries. We have new participants in the market, such as Pacific Blue and Emirates Airline, which is flying Sydney-Auckland; and there are plans for Air New Zealand to have a low-cost operator which will venture onto the market quoting new prices which undoubtedly will stimulate travel between the two countries.

There is a great tradition between Australia and New Zealand. We come up against each other each year in the Bledisloe Cup, with varying degrees of success. We should note the success of the Wallabies in past competitions. This year I witnessed the All Blacks win. We hope that is turned around when we have the World Cup in Sydney. Most importantly, the CER agreement between the two countries means that free trade is an absolute imperative.

Arrangements ensuring that we have appropriate safety standards in terms of the operation of aircraft within the two countries are also significant. This is a step forward in the arrangements between the countries. If we allow aircraft to operate so freely between the two countries—for Australian airlines to establish in New Zealand and vice versa—then it is appropriate that we take this further step. We will undoubtedly argue about the ratios of staff to passengers. It works well in other countries with these types of ratios and arrangements. Safety is predominant in both countries; both countries have excellent standards. I believe this is a significant step forward which will do much to coordinate the two countries' aviation systems, and I commend the bill to the House.

**Mr MOSSFIELD** (Greenway) (12.10 p.m.)—I rise to speak on the Civil Aviation Amendment Bill 2003. There are two main purposes to this bill: firstly, to abolish the board of the Civil Aviation Safety Authority—CASA—and bring CASA more under the control of the Minister for Transport and Regional Services; and, secondly, to revise various CASA investigatory and enforcement powers, particularly regarding suspension and cancellation of licences.

CASA's previous role as a dual regulator and law enforcer had a possible conflict of interest. It must be acknowledged that, while the maintenance of safety is its main aim, CASA also has a responsibility to the viability of the airline industry as a whole. CASA's grounding of Ansett's entire fleet of 767 aircraft during the Easter 2001 period was seen as a significant factor in that airline's collapse. It is recognised in the industry that, while Ansett suffered as a result of bad management decisions by several previous owners and managers, management at the time of the grounding was getting its house in order. As the editorial in the *Canberra Times* on 22 November 2002 said:

CASA's actions were seen as heavy handed, despite the fact that it was merely moving to force an airline to address a maintenance schedule that was not being met. Whether CASA can carry the blame for Ansett's demise and subsequent loss of 17,000 jobs will long be debated. What is clear however, is that CASA's responsibility placed it as judge, jury and executioner.

CASA is responsible for the safety regulation of civil air operations within the Australian territory, the operation of Australian registered aircraft and the promotion of high standards of aviation safety. CASA regulates some 16,000 aircraft and 34,000 pilots and flight engineers. It is hard to see how these responsibilities can be carried out effectively, considering CASA management's controversies, personal conflict, resignations and general lack of continuity of board membership and unfavourable reports over the past several years. To list some of these impediments to effective decision making, I refer to information provided in the *Bills Digest* on this legislation.

Following the election of the Howard government and after wide criticism of the board, the then Minister for Transport and Regional Development introduced changes to the board's membership. In May 1997, after new legislation expanding the CASA board to seven positions, Mr Dick Smith was appointed CASA deputy chairman under the chairman, Justice William Fischer. In June there were two further replacements of retired board members.

In August 1997 the Broderick-Willoughby report into the relationship between the Director of Aviation Safety and the CASA board made recommendations on corporate governance. In September CASA director Mr Keith left after the board passed a no-confidence motion in his management strategies, and he was replaced by Mr John Pike. Chairman Justice Fischer and

member Dr Pollock both resigned in protest at the board's handling of the former director. In January 1997 Mr Smith was appointed chairman and Dr Paul Scully-Power, the first Australian to travel into space, was appointed as deputy chairman. On 1 August 1998 Mr Mick Toller became the new Director of Aviation Safety. In all, there were some eight resignations or retirements over the period, including those of chairmen Justice Fischer and Dick Smith.

These controversies and lack of continuity of board membership were not conducive to sound management decisions. It is surprising that the government did not act sooner, although it has been argued by some that many of the problems have resulted from government and ministerial interference and that the problems with CASA really started when the Howard government came into office. What is necessary in this legislation is that Australia continues to maintain our low record of aviation fatalities in both civil and private aviation.

I would also like to address some remarks on an issue outlined in the second reading amendment moved by the member for Batman. This is of concern to the constituents of Greenway and, indeed, of all Western Sydney. That issue is the government's proposed second airport site at Badgerys Creek. Since the Leader of the Opposition emphatically ruled out Badgerys Creek as an option under Labor, the government have been silent on their policy for a second airport. However, they have had a lot to say about Labor's decision to abandon Badgerys Creek.

I was, quite frankly, disappointed that government members had a field day rubbishing Simon Crean's decision to abandon Badgerys Creek as an airport option. For what reasons? Most of them had opposed Badgerys Creek airport anyway. Here was the Leader of the Opposition saying that that was going to be Labor's policy. So the only reason why they made an issue of that decision was political opportunism. We had dorothy dix questions, private members' motions and adjournment debates all rubbishing the decision of the Labor Party.

I now want to respond to that barrage of criticism of Labor's decision by members on the government side. The language used by government members since the announcement has been very curious indeed. The members for Mitchell, Macquarie and Macarthur all spoke on the private member's motion regarding Labor's policy. The member for Macquarie also spoke in an adjournment debate and asked two dorothy dixers on the subject. The member for Dobell also asked a dorothy dix question of Mr Anderson—the Deputy Prime Minister and Minister for Transport and Regional Services. Despite all these opportunities, nobody on the government side spelt out what the government's policy was. They all took the opportunity to ridicule Labor for taking Badgerys off the table once and for all, but not one of them outlined what their own policy was.

Even given the opportunity of three dorothy dix questions, the minister for transport did not definitely rule out Badgerys as an option, nor did the Prime Minister. Certainly, the minister for transport said that there may not be a need for a second airport any time soon, but he did not rule out the need for one eventually and he certainly did not rule out Badgerys Creek as the site for an airport which presumably he would build if the need arises. Indeed, the minister devoted some time to rubbishing all other alternative sites as an option, thereby leaving only Badgerys Creek as a viable site.

At the last election the member for Lindsay campaigned hard on Badgerys Creek, as well as on issues like the 'children overboard'. It is surprising that she has had absolutely nothing to say on this issue this time around. The government members who have spoken on this issue

have been very careful with their language—too careful, one might say. They have taken great pains not to outline their own policy on the issue. Not once did any of these speakers say, ‘Our policy is to rule out Badgerys as an option for the second airport,’ and it appears to be for a good reason.

All we have to go on with regard to the government’s intentions is what the Minister for Small Business and Tourism, the member for North Sydney, said in this House on Wednesday, 20 August:

... this government is committed to a second airport in Sydney. Existing government policy is to commit to a second airport in Sydney at Badgerys Creek ... That is the policy that we have had for the last two elections. That is the commitment that we have made, and that is our existing policy. It is a commitment to a second airport in the Sydney basin at Badgerys Creek ...

There you have it: an unequivocal statement that the government intends to proceed with Badgerys Creek at some time in the future. The minister let the cat out of the bag. He went on to say, *inter alia*:

While some members of the government may have different views about the matter ... our policy has not changed.

I think the member for North Sydney was upbraided for his announcement on government policy by people saying that he was only a junior minister. With his statement, the member for North Sydney was telling the people of Australia: ‘Forget what the member for Macquarie has told you. Forget what the member for Lindsay or the member for Mitchell said at election time. They might say that they are opposed to Badgerys but we are going to build it anyway, according to government policy.’

The government are keeping the land. They are not selling it off like they are selling off everything else. They are keeping the land for a possible airport and saying that they are going to build an airport at Badgerys. Quite clearly, the Labor Party is recognising that that land cannot remain unused, and there is now a proposal, which the party is discussing internally, that has been drawn up by the Greater Western Sydney Economic Development Board to turn the land at Badgerys Creek into an employment, technology and education precinct. That is a project which I certainly strongly believe in.

Members of the Labor Party have in the past supported the Badgerys Creek proposal but have since been convinced by arguments against it. One of the major reasons that the general public in Western Sydney opposes the building of an airport at Badgerys Creek is due to the massive protest campaigns organised in the inner city against aircraft noise. This, quite frankly, scared the residents of Western Sydney, who said, ‘If these are the problems caused by having a major international airport in our backyards, then we don’t want it either.’ I believe that any attempt to build a second airport anywhere in the Sydney basin will be met with the same strong public opposition.

The fact is that Mascot is ideally suited for an international airport. Overseas travellers arriving in Australia want to land close to the CBD, not miles away, as would be the case with an airport at Badgerys Creek or Wilton. The Labor Party have examined the issues and we are convinced that an airport at Badgerys Creek would be a bad idea, and we have said so.

It is interesting to note the differences between what Minister Hockey claimed was the government’s policy and what the member for Lindsay campaigned on at the last election. I

would like to refer to a campaign pamphlet distributed widely in Lindsay during the election. Some households received it at least three times and it again highlights the tricky language that has been used recently by government members. The pamphlet read: 'Jackie Kelly asked the Prime Minister to ditch Badgerys Creek airport—and he did.' The sentence should have ended with the words 'just for now' but the intention is obviously clear. The government's policy was not to make a decision just yet and then the member for Lindsay has run around and told her constituents that the Prime Minister was ditching Badgerys. The Prime Minister ditched Badgerys—for now. The Minister for Small Business and Tourism has rescued the policy from the ditch, dusted it off and put it back on the agenda.

But deciding not to make a decision allows members like those for Lindsay, Macquarie and Mitchell to phrase their own propaganda in such a way that it leaves their constituents totally confused—and confused they would be if they were aware of all that has been said about Badgerys in this House. For example, in 1993 the member for Mitchell moved a private member's motion which read in part:

That ... this House ... endorses the immediate construction of a private/public airport at Badgerys Creek with a full international capacity including a 2900 metre runway.

That motion related to the upcoming Olympic Games and the member might suggest that he moved it to take account of the influx of visitors at the games, but I do not think he was suggesting that the airport should be built for just a one-off event and then become a white elephant. In fact, in his speech he refers to the increase in aviation over the previous four years and to the FAC, which claimed that the fact that the growth in aviation would continue until the turn of the century meant that there would be a need for a second airport not, as originally predicted, in 2002 or 2003 but by the year 2000. That is understandable—that may have been an appropriate motion for the time. However, according to an article in the *Penrith Press* on 22 August, the member for Mitchell was quoted as saying that he 'always opposed' and 'never supported' a second airport at Badgerys Creek. It seems that history has been rewritten and the *Hansard* ignored.

The truth is that only Simon Crean and Labor have stood up, looked the public in the eye and said, 'We will not build an airport at Badgerys Creek.' The coalition fiddles around the edges, uses misleading language and never comes out and says what its policy really is—all except the minister for tourism, of course. Only Labor has listened to the people of Western Sydney. Labor members have argued the case at every opportunity and only Labor has taken Badgerys Creek off the table as an option for the second airport. All the while the coalition members hide behind barricades built of half-truths and illusions. The only one with any honour on this issue is the member for North Sydney—the tourism minister—who at least had the guts to put on the public record the government's real policy: to build a second airport at Badgerys Creek.

Labor's position regarding Badgerys Creek is crystal clear; the government's decision is as clear as mud. I have argued for a second airport, when it is needed, to be built outside the Sydney basin. Regional New South Wales centres would benefit enormously from such a project. In any case, there would always have to be strong commercial, community and local government support for such a project, wherever it would be built. The regions that have already been mentioned are Goulburn, Williamstown and Canberra. In each case, a very fast train link with the Sydney CBD would be of benefit but not essential. I have argued that an

integrated rail and aviation network is a better social and environmental option for New South Wales than expanding our aviation industry at the expense of rail would be.

Canberra airport has put in a bid to become Sydney's second airport. In an article in the *Canberra Times* last month, the airport's Managing Director, Stephen Byron, put in a bid for Canberra to be the long-term solution to the second airport controversy. Mr Byron's argument was that a large number of people fly to Sydney from regional centres to go somewhere else and that Canberra would be an excellent place to take over as a regional hub because it has capital city connections with more than 100 flights a day.

Mr Byron's vision is, first, to see Canberra as a regional hub and then to see it develop into a domestic hub for the south of Australia, with increased numbers of international flights. He sees New Zealand as an international destination within three years and Singapore within seven, with direct flights to the United States further into the future. Mr Byron's argument is that, with Badgerys Creek being rejected as Sydney's second airport site by the Labor Party and a ban on jet flights out of Bankstown as a condition of sale, the dynamics of the airport debate have changed and have now swung in Canberra's favour over the long term. I support the amendment moved by the member for Batman.

**Mrs IRWIN** (Fowler) (12.27 p.m.)—With Bankstown Airport at one end of the Fowler electorate and Hoxton Park Airport at the other, I have a special interest in aviation safety. With flight paths from both airports crossing densely populated areas of the electorate that I represent and with both airports being among the busiest in Australia, you will appreciate that any compromises in air safety can cause alarm. But my main concern in this debate is the effect of the sale of Bankstown and Hoxton Park airports and what those sales mean for aviation and urban development in the Sydney basin.

To begin with I will talk about Bankstown Airport, the busiest airport in Australia. While it is largely used for general aviation, it should be noted that Bankstown Airport is completely surrounded by urban development. As far back as the 1940s, Bankstown was rejected as a site for a major airport for Sydney because of limitations of the site. Since then, urban development has completely surrounded the airport. Whilst some of that development has been industrial, areas such as Lansvale East in the Fowler electorate lie less than one kilometre from the main runway at Bankstown Airport.

Whilst the majority of movement involve light aircraft, the frequency of those flights is a factor in the impact of movements on surrounding industrial and residential areas. Bankstown also carries a significant number of helicopter operations, and in terms of noise problems arising from operations it has been said that helicopter operations are among the most intrusive.

My concern with the impact of operations at Bankstown, however, is that whilst the Minister for Transport and Regional Services now rejects the idea of regional services operating from Bankstown it should be noted that already a large number of movements into Bankstown involve charter flights to and from regional centres in New South Wales. My concern is that charter operations involving larger aircraft will be just as intrusive as scheduled regional services would be.

I have already mentioned Lansvale East, which is under the flight path and less than a kilometre from the western end of the main runway at Bankstown. Another kilometre west and again directly beneath the flight path is the business centre of Cabramatta. I know that

because my electorate office is under the flight path. What is more noticeable is the heavier charter aircraft that are operating out of Bankstown and their impact on residential areas. I mention this because at the present time Fairfield council is looking at development and planning in areas close to railway stations and commercial centres.

In Fairfield the council is looking at developments of up to 12 storeys, and Liverpool is looking at 14 storeys. Both town centres and Cabramatta could have developments of up to 14 storeys in the next few years. So in the case of Liverpool and Cabramatta we face the prospect of high-density residential developments directly beneath the flight paths of Bankstown Airport. With the airport in private hands, we can expect little by way of cooperation between the airport operator and councils to minimise the impact of airport operations on residents. I am not aware of flight paths being considered in assessing the suitability of developments, but they certainly should be. This leaves us all asking why Sydney's aviation needs have not been planned in a way that suits urban development.

I can remember driving past Bankstown Airport in the 1950s, when I was a very wee lass, when there was very little development in the areas around the flight paths. Faced with the potential problems caused by further development at Bankstown, I can only wonder what would have happened if governments had given greater attention to planning for Sydney's aviation and development needs. So today we are left with a situation where the demands for greater access by larger and noisier aircraft at Bankstown will come up against the development of high-density, tall residential buildings in areas of high demand.

We need to carefully plan any developments at airports which can sterilise development sites and we need to make the hard decisions about the future of airport operations near high-density developments, aircraft operations around the clock at airports surrounded by residential development and the development of new facilities planned to be out of the way of future residential growth. If we do not take the hard decisions now, we will continue to be faced with these same problems over the next decades.

When Bankstown was first developed and during its heyday in the Second World War it was miles from the nearest urban development. But Sydney's urban sprawl has long since caught up with Bankstown. The cries of 'we were here first' may seem understandable, but we need to ask if we can continue to allow airports to sterilise large areas of scarce urban land. The same can be said of Hoxton Park—although, in recognition of the change to the urban environment surrounding Hoxton Park, the sale proposal considers that its closure in the medium term is accepted by most people. It was of some concern to me that in a recent *Stateline* program Hoxton Park was presented as a sparsely settled area. That may have been the case 60 years ago during the Second World War when Hoxton Park was an emergency strip for aircraft operating from Bankstown—and even 20 years ago Hoxton Park was surrounded by small farms—but for the past decade or more Hoxton Park has been gradually surrounded by urban residential development. Today operations at Hoxton Park consist mainly of training flights, with circuit practice of take-offs and landings being most common. This form of training is now carried out over fully developed residential areas and the danger posed to homes and schools in the area is not remote.

Over the past five years we have seen at least one serious accident each year—two involving fatalities. Hoxton Park is no longer the place for L-plated pilots to be flying over homes and schools. I would also mention again the noise of helicopter operations. While these are

mostly light helicopters, occasionally heavier types use Hoxton Park and, when performing tight turns, can be very noisy. While Hoxton Park is limited to light aircraft, its impact on the urban environment is mainly that it sterilises more than 100 hectares of land. I should point out that Hoxton Park airport is adjacent to the Western Sydney Orbital, which is under construction at present. In fact, the route of the orbital runs parallel to the runway. The environment impact statement for the orbital noted that modifications to the lighting on the Cowpasture Road overbridge would need to be made to allow for the flight path of aircraft using Hoxton Park.

So here we have an airport surrounded by residential development, a valuable site for commercial or industrial development which would provide a much-needed employment opportunity in the area. But the 'we were here first' claim is still being made. It is long overdue to fully consider the needs of urban planning and balance the needs of general aviation operations with the demands for scarce development sites. But, because responsibility for urban planning is held by state governments and responsibility for aviation needs is held by the federal government, there seems to be little or no coordination. That means that we will continue to face the problems of the impact of existing airports and the march of urban development; the meeting between the two appears to be over the question of land value.

As a training airport, 89 hectares of land at Hoxton Park would not even meet the cost of operations. But as a development site Hoxton Park would net many millions of dollars for the Commonwealth government—and obviously this government finds the opportunity to sell Hoxton Park hard to pass up. But, as I have noticed with the development of Bankstown airport, there is opportunity for commercial and industrial development on areas of the airport not needed for operations. I do not think this kind of development is suitable for Hoxton Park. As I have said, Hoxton Park is surrounded by residential development and to develop the site while continuing operations of even light aircraft would not allow for appropriate development on such a sensitive site.

That leads me to ask the question: just where do the present 100,000 movements at Hoxton Park go? Clearly no-one in this government is prepared to answer that. Planning for the proposed Badgerys Creek airport envisaged the closure of Hoxton Park—not the least because of interference in flight paths. As far as Labor is concerned, Badgerys Creek is off the agenda; it is definitely off the agenda. But Labor is in the process of suggesting alternative sites. That is the type of planning that this government should be engaged in. When I have placed questions on notice concerning airports in Sydney's south west, the answers all seem to suggest that air traffic would simply be shuffled to Bankstown, Hoxton Park or even Camden. The government keeps ducking the question: if Hoxton Park is closed or there are changes to the operations of Bankstown, just where will the overflow go? The government will not answer the question.

At least Labor is prepared to come clean on airport planning. Having decided not to go ahead with Badgerys Creek, Labor will be proposing an alternative site—but this government will not face up to the need to make a decision. In the meantime aviation growth goes ahead and urban development encroaches on every existing site. The government just keeps putting airport planning into the too-hard basket. The Liberals have a long history of putting airport decisions off. They are all looking for an alternative to Kingsford-Smith and have been since the 1940s. It was Labor that took the original decision to build Badgerys Creek and it was

Labor that built the third runway at Mascot. But this government seems to think that it can sit on its hands and do nothing about aviation planning and the problems will take care of themselves.

State and local governments need to make decisions about urban planning, and they cannot do that in a climate of uncertainty. They need the Commonwealth to take the lead and plan for aviation developments to allow urban development planning to take place with some degree of certainty. Unless the government takes the lead with aviation planning, we will continue to see the planning disasters that have left hundreds of thousands of Sydney residents affected by aircraft noise, we will continue to run the risk of high loss of life from an air crash in the approaches to our main and general aviation airports and we will finish up with a patchwork of transport and aviation links that cannot serve the demands of the community. Airports are the most intrusive of all public facilities. Their siting needs to be planned well in advance of urban development—that should be the lesson of Badgerys Creek. We need to be planning now for our airport needs half a century from now. If we had done that properly 50 years ago, we would not be in the mess we find ourselves in today.

**Mr PRICE** (Chifley) (12.41 p.m.)—I rise to speak on the Civil Aviation Amendment Bill 2003. I was moved to speak on the bill by the contributions of a couple of my colleagues from Western Sydney: the honourable member for Fowler, who has just finished her contribution, and the honourable member for Greenway. I just want to try to get a few things on the public record. Badgerys Creek has been raised as an issue in the debate on this bill—in particular, on 20 August 2003 by Mr Hockey, the Minister for Small Business and Tourism and also acting cabinet minister. I thought he made a very significant contribution to the debate and I would like to quote his words. He said:

The second point in relation to Sydney airport is that this government is committed to a second airport in Sydney. Existing government policy is to commit to a second airport in Sydney at Badgerys Creek, with a review in 2005. That is the policy that we have had for the last two elections. That is the commitment that we have made, and that is our existing policy. It is a commitment to a second airport in the Sydney basin at Badgerys Creek, with a review of the need for it in 2005. That is the policy that we have had since the 1996 election, and it is entirely consistent with the fact that we legislated the cap of 80 movements per hour at Sydney airport ...

He goes on to talk about Sydney airport. This is a highly significant contribution by an acting cabinet minister, a senior minister in the Howard government and someone who has lived and breathed airport issues because he is also the member for North Sydney. He is saying, quite clearly, that the government is committed to building Sydney's second airport at Badgerys Creek. I would be misinforming the House if I did not say it has been a long struggle to overturn the Labor Party policy in favour of building Sydney's second airport at Badgerys Creek. I have made many contributions in this place and in the forums of the party on that issue. But, to his eternal credit, the Leader of the Opposition, Simon Crean, came out to the Mount Druitt Workers Club and said: 'Badgerys Creek as Sydney's second airport is dead. It will not be built under Labor.'

What Joe Hockey, the member for North Sydney, is saying quite clearly is that under the Liberal government, and subject to that review, they will be doing it. If a second airport for Sydney is to be built, under the coalition it will be, without a doubt, at Badgerys Creek. The review in 2005 is not to look at other issues or other sites; it is to determine when the green light will be given. I say to my parliamentary colleagues from Western Sydney who are mem-

bers of the Liberal Party—people like Jackie Kelly, the member for Lindsay; Kerry Bartlett, the member for Macquarie; Pat Farmer, the member for Macarthur; Ross Cameron, the member for Parramatta—please have the integrity and honesty about this issue that your ministerial colleague Mr Hockey has shown. He has said it unambiguously.

We can have differences in Western Sydney. We often agree about things in Western Sydney, even though we might come from different political parties. But let us not get into games, let us not dissemble; let us tell the people of Western Sydney the truth. The truth is that under the coalition there will be a review in 2005 but that will be a review not to determine whether Badgerys Creek is an appropriate site anymore—and, after all, it is located in the middle of Western Sydney; in 2016, more than half of Sydney's population will live in Western Sydney—but to determine whether or not the green button gets pushed in 2005, 2006 or whenever.

The coalition is committed to the Badgerys Creek site. That is the default site for the second airport. There is now quite a clear distinction between the Labor Party in Western Sydney and the Liberal Party in Western Sydney on this issue. Mr Hockey has belled the cat. I must say that from time to time I have been told, 'We can say one thing in one part of Sydney and say another thing in another part of Sydney.' That just does not work, Mr Deputy Speaker, as you well know, with modern communications, with faxes, with the Internet, with emails. Political parties cannot play those sorts of games anymore. You have to have a policy that is integrated, that suits all parts of Western Sydney.

Labor are committed, through a cabinet subcommittee, to identify what looks like an appropriate site. Of course, there will have to be due process. No-one from Western Sydney would be arguing that politicians should be selecting the site. There will be due process. But we can stand up in this parliament or in any part of Western Sydney and say that Badgerys Creek is dead as far as the Labor Party is concerned. Simon Crean has come specifically to Western Sydney to rule it out. We will not be building at Badgerys Creek.

If voters want an airport in Western Sydney, it is very clear what they need to do. They need to support Jackie Kelly, the member for Lindsay. They need to vote for the member for Lindsay, they need to vote for the member for Macquarie, they need to vote for the member for Macarthur and they need to vote for the member for Parramatta, because they belong to a political party that is committed at some point in time to building Sydney's second airport at Badgerys Creek. It is no good the Prime Minister weaselling away and saying, 'Maybe it will be needed, maybe it won't be needed.' This is what the Liberal Party policy is.

I have no better authority for that than Mr Hockey in his contribution—a very honest contribution. I admire him for his honesty and his forthrightness. I might say he delivered that speech with a great deal of vehemence, if not anger. You could see that he was deeply committed to the subject matter that he was making a contribution about. Thank you, Minister Hockey. But now you have belled the cat. It is up to those members that I have previously named, who represent Western Sydney, to come out and to be consistent, to be honest and to be open with the people of Western Sydney on this issue. They certainly deserve it.

I have three more things to put on the record, and I am grateful for the opportunity to speak on this. First, the member for Cook raised the collapse of Ansett and in particular pointed out that the changed arrangements in this bill effectively would give the minister a greater direction and say. Let me say that there have been many reforms in civil aviation—much like tele-

communications. It is a heavily regulated industry and, yes, you may wish to blame CASA, or CASA may need to step up to the mark and take some responsibility, as should the management of Ansett—I do not try to whitewash them—but let me make the point that, if Ansett had collapsed under a Labor government, there would have been utter outrage at the collapse. We would have been pilloried for our inaction, for failing to prop it up.

The aviation market in Australia is not huge; it is not like the American market or the European market. We are a huge continent with great needs. It is important for the constituents in your electorate, Mr Deputy Speaker Causley, to have access to aviation services, just as it is important for the constituents in my electorate and in the electorate of my colleague the member for Oxley. We should not be deprived, but I am amazed at the way the coalition have been able to get away with this utter catastrophe in civil aviation—by allowing a duopoly and then letting one operator collapse. I am not saying that they are totally to blame. Like any incident, there are always a number of issues involved.

Second, because there will be greater ministerial responsibility under these new arrangements I must express my concern that the Deputy Prime Minister himself now will have a measure of responsibility for aviation safety that he might have otherwise argued he did not have. We have got a marvellous record in this country, and we really need to work hard to preserve and maintain it. But should something catastrophic happen in the future—and I certainly do not wish that—we ought to be clear that the Deputy Prime Minister will accept a greater measure of responsibility than he might have otherwise.

Last but not least, I am a member of the Joint Standing Committee on Foreign Affairs, Defence and Trade, and we have had a watching brief on terrorism. I regret to say that all of the witnesses who have appeared at a Commonwealth level have given evidence in camera. Interestingly, the state witnesses have not appeared in camera. The shadow minister, Martin Ferguson, has moved a second reading amendment to this bill that raises serious issues about aviation security. I am not at liberty to divulge the details of the evidence given before the committee because it was in camera—and it is unfortunate that it was in camera, because I think it could have been on the public record—but I must say that as a result of a number of witnesses appearing before us I, for one—and I cannot speak on behalf of the committee—had some serious concerns about aviation security. I certainly hope that the Parliamentary Secretary to the Minister for Transport and Regional Services will be able to assure us that aviation security is being addressed at a rapid rate and that those who fly in Australia can be confident of the absolute security of those aviation services. I support the bill and I support the second reading amendment moved by the honourable member for Batman.

**Mrs DE-ANNE KELLY** (Dawson—Parliamentary Secretary to the Minister for Transport and Regional Services and Parliamentary Secretary to the Minister for Trade) (12.55 p.m.)—The Civil Aviation Amendment Bill 2003 will amend the Civil Aviation Act 1988 to revise CASA's governance arrangements and introduce a package of new enforcement measures that will ensure that regulatory action can be more appropriately matched with the seriousness of the breach. Abolishing the board will create the necessary direct line of authority between the minister and the director of aviation safety over CASA's policy directions and priorities, performance standards, reporting and consultation processes. This will make it clear who is responsible for CASA's performance and accountability. The new enforcement measures will provide CASA with a more effective range of tools designed to encourage a culture of com-

pliance and to reduce the incidence of unsafe behaviour. The new measures will strike the appropriate balance between retaining CASA's powers and providing prompt review and redress of its decisions without jeopardising Australia's high standard of aviation safety.

The government amendments being moved today are necessary, firstly, to alter the commencement of the revised governance arrangements in table items 2, 4, 6, 8 and 10 in clause 2 from 1 July 2003 to the date on which the act receives royal assent and, secondly, to omit sub-clauses (3) and (4) in the application and savings provisions in clause 4. These provisions were included in the bill on the basis that the board would be abolished on 1 July 2003, making the director responsible for the preparation of the CASA annual report for the financial year ending 30 June 2003. Thirdly, the amendments are necessary to correct an omission from the bill. Fourthly, they insert schedule 2, which will amend the Civil Aviation Regulations 1988 by repealing regulation 268—relating to CASA's power to immediately suspend an authorisation in cases of serious and imminent risk to air safety—as a new provision dealing with this power has been created in the act and amending regulation 269 to insert new subregulation 1A.

At present, paragraph 269(1)(a) allows CASA to vary, suspend or cancel an authorisation where it is satisfied that the authorisation holder has contravened a provision of the act or the regulations. Proposed subregulation 1A provides that CASA may exercise a power to cancel an authorisation under paragraph 269(1)(a) only if the authorisation holder has actually been convicted or found guilty by a court of an offence against the act or the regulations in respect of the contravention. Where CASA cancels an authorisation under subregulation 1A the decision will be reviewable by the Administrative Appeals Tribunal. However, CASA's decision will not be subject to an automatic stay under the proposed automatic stay scheme as it would be unwarranted and inappropriate given a court would have found the authorisation holder guilty of the offence. The authorisation holder would have already had the opportunity to put a case to, and be heard by, an independent arbiter. The amendments to the governance and application and savings provisions are necessary as the bill was not enacted in time for the new governance arrangements to take effect from 1 January 2003. The amendment that inserts schedule 2 takes on board representations from the aviation industry.

I would like to refer to points raised by two speakers. The member for Batman made the point that repealing regulation 268 under the bill was of concern. The government acknowledges the opposition's involvement in the amendment to repeal the regulation. It was originally to be repealed by regulation amendment because a new provision was introduced under the bill that replaces the current power under regulation 268. I would also like to acknowledge points made by the honourable member for Kennedy. He was concerned that everyone should have the right to due process. The bill does enhance procedural fairness. For example, Federal Court adjudication of decisions to immediately suspend an authorisation, as well as the automatic stay of decisions on non-serious and imminent breaches, allows operators to continue operating. The regulation 269 amendment will also only allow CASA to cancel an authorisation if the holder has been found guilty or convicted of an offence.

In closing, I would like to acknowledge the opposition's cooperation and constructive input to the development of these amendments. Passage of this bill will ensure that the already excellent aviation safety outcomes in this country are maintained and further improved.

**The DEPUTY SPEAKER (Hon. I.R. Causley)**—The original question was that this bill be now read a second time. To this the honourable member for Batman has moved 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.

Question agreed to.

Original question agreed to.

Bill read a second time.

### Consideration in Detail

Bill—by leave—taken as a whole.

**Mrs DE-ANNE KELLY** (Dawson—Parliamentary Secretary to the Minister for Transport and Regional Services and Parliamentary Secretary to the Minister for Trade) (1.01 p.m.)—by leave—I present a supplementary explanatory memorandum to the bill and move government amendments (1) to (13):

- (1) Clause 2, page 2 (table item 2, column 2), omit “1 July 2003”, substitute “The day on which this Act receives the Royal Assent”.
- (2) Clause 2, page 2 (table item 4, column 2), omit “1 July 2003”, substitute “The day on which this Act receives the Royal Assent”.
- (3) Clause 2, page 2 (table item 6, column 2), omit “1 July 2003”, substitute “The day on which this Act receives the Royal Assent”.
- (4) Clause 2, page 2 (table item 8, column 2), omit “1 July 2003”, substitute “The day on which this Act receives the Royal Assent”.
- (5) Clause 2, page 2 (table item 10, column 2), omit “1 July 2003”, substitute “The day on which this Act receives the Royal Assent”.
- (6) Clause 2, page 2 (at the end of the table), add:
  11. Schedule 2, item 1 At the end of the period of 4 months beginning on the day on which this Act receives the Royal Assent
  12. Schedule 2, item 2 The day on which this Act receives the Royal Assent
- (7) Clause 3, page 3 (line 2), after “Each Act”, insert “, and each regulation.”.
- (8) Clause 3, page 3 (after line 5), at the end of the clause, add:
  - (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) To avoid doubt, regulations amended under subsection (1) are taken to still be regulations.
- (9) Clause 4, page 3 (lines 14 to 20), omit subclauses (3) and (4).
- (10) Clause 4, page 4 (after line 6), after subclause (9), insert:
  - (9A) The repeal of regulation 268 of the *Civil Aviation Regulations 1988* by this Act does not apply to notices served by CASA before the repeal happened.
- (11) Schedule 1, item 15, page 9 (line 10), after “the holder”, insert “has engaged in.”.
- (12) Schedule 1, item 17, page 24 (line 28), at the end of subsection (2), add “or a decision under the regulations to cancel a licence, certificate or authority on the ground that the holder of that licence, certificate or authority has contravened a provision of this Act or the regulations (including the regulations as in force by virtue of a law of a State)”.

(13) Page 30, after line 2, at the end of the Bill, add:

***Schedule 2—Amendment of regulations***

**Civil Aviation Regulations 1988**

**1 Regulation 268**

Repeal the regulation.

**2 After subregulation 269(1)**

Insert:

- (1A) CASA must not cancel a licence, certificate or authority under subregulation (1) because of a contravention mentioned in paragraph (1)(a) unless:
- (a) the holder of the licence, certificate or authority has been convicted by a court of an offence against a provision of the Act or these Regulations (including these Regulations as in force by virtue of a law of a State) in respect of the contravention; or
  - (b) the person was charged before a court with an offence against a provision of the Act or these Regulations (including these Regulations as in force by virtue of a law of a State) in respect of the contravention and was found by the court to have committed the offence, but the court did not proceed to convict the person of the offence.

Question agreed to.

Bill, as amended, agreed to.

Ordered that the bill be reported to the House with amendments.

**Main Committee adjourned at 1.02 p.m.**

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**QUESTIONS ON NOTICE**

The following answers to questions were circulated:

**Defence: Common Law Damages**  
**(Questions Nos 2222, 2223, 2224 and 2225)**

**Mr Danby** asked the Minister representing the Minister for Defence, upon notice, on 12 August 2003:

- (1) Is the Minister aware of the case of Sqn Ldr Anthony Short and his widow, Dr Short.
- (2) Can the Minister confirm that the Commonwealth agreed to pay Dr Short common law damages if she stopped requesting a coronial inquest; if so, (a) when was this agreement made, (b) who made the agreement, and (c) what is the content of the agreement.
- (3) Has common law compensation been paid to Dr Short, if not, when will common law compensation be paid; if so, how much was paid.
- (4) Can the Minister confirm that under the former Government, there was a policy about the Commonwealth being a 'model litigant'; if so, (a) what were the details of that policy, (b) is it still in place, and (c) what statements has the Minister or other members of the Government made about this policy.
- (5) Does a 'model litigant' policy still apply to government litigation; if so, what are the details of the policy and to which areas of the Government does it apply.
- (6) Has the policy been changed since 1996; if so, in what manner.
- (7) Can the Minister confirm that the Government supported the Commonwealth being bound by 'model litigant' rules before the administrative tribunals.
- (8) Was the Department of Defence operating under these 'model litigant' rules when dealing with Dr Short; if not, why not; if so, how are the Government's actions in respect of Dr Short in compliance with the 'model litigant' rules.

**Mrs Vale**—The answer to the honourable member's question is as follows:

- (1) Yes.
- (2) There has been no such agreement.
- (3) Any amounts paid by way of common law compensation to Dr Short are subject to the confidentiality agreement signed by the parties.
- (4) Yes.
  - (a) The policy was set out in the Attorney-General's Department Legal Practice Manual. The major principles were:

the Commonwealth must not act dishonestly or oppressively, for example, by declining to pay a legitimate claim, by engaging in delaying tactics, by taking advantage of the fact that a claimant does not have the resources to pursue legal proceedings or by instituting vexatious appeals;

being a model litigant means being fair but firm; and

the requirement of fairness does not mean the Commonwealth is precluded from taking all legitimate steps to pursue claims by it and to test/defend claims against it.
  - (b) Yes. The model litigant obligation is contained in Appendix B to the Legal Services Directions issued by the Attorney-General under the Judiciary Act 1903 (available at [www.law.gov.au/agh/legpol/olsc/](http://www.law.gov.au/agh/legpol/olsc/))

- (c) I have spoken about the Commonwealth's obligation to act as a model litigant in its handling of claims and litigation on numerous occasions, including to emphasise the importance of the obligation. It would not be practicable to identify each of those occasions.
- (5) Yes. Appendix B to the Legal Services Directions sets out the Commonwealth's obligation to act as a model litigant. The obligation requires that the Commonwealth and its agencies act honestly and fairly in handling claims and litigation brought by or against the Commonwealth or an agency by:
- dealing with claims promptly and not causing unnecessary delay in the handling of claims and litigation;
  - paying legitimate claims without litigation, including making partial settlements of claims or interim payments, where it is clear that liability is at least as much as the amount to be paid;
  - acting consistently in the handling of claims and litigation;
  - endeavouring to avoid litigation, wherever possible;
  - where it is not possible to avoid litigation, keeping the costs of litigation to a minimum, including by not requiring the other party to prove a matter which the Commonwealth or the agency knows to be true, and not contesting liability if the Commonwealth or the agency knows that the dispute is really about quantum;
  - not taking advantage of a claimant who lacks the resources to litigate a legitimate claim;
  - not relying on technical defences unless the Commonwealth's or the agency's interests would be prejudiced by the failure to comply with a particular requirement;
  - not undertaking and pursuing appeals unless the Commonwealth or the agency believes that it has reasonable prospects for success or the appeal is otherwise justified in the public interest; and
  - apologising where the Commonwealth or the agency is aware that it or its lawyers have acted wrongfully or improperly.
- The obligation applies to Commonwealth departments, other FMA agencies and CAC agencies (excluding government business enterprises and Corporations Law companies controlled by the Commonwealth).
- (6) In 1999, the model litigant policy was incorporated into the Legal Services Directions, making the obligation to act as a model litigant legally binding on all agencies to which the Directions apply.
- (7) Yes. The notes to the model litigant policy in the Legal Services Direction expressly state that the policy applies to litigation in tribunals as well as in courts.
- (8) Yes. In responding to Dr Short's claim for compensation the Department of Defence at all times complied with the obligations described in Appendix B to the Legal Services Directions.

### **Education: Socioeconomic Status Index**

#### **(Question No. 2267)**

**Mr Murphy** asked the Minister for Education, Science and Training, upon notice, on 14 August 2003:

- (1) Is the Government's supplementary funding for private schools based on the postcode indicator of parental socio-economic status (SES); if not, can he explain on what basis the supplementary funding is determined.
- (2) What is the total cost of SES index-based funding.
- (3) Does this funding ensure that the beneficiary schools reduce their fees to parents; if so, by how much; if not, why not.

- (4) How many private schools have (a) significantly reduced, (b) increased, and (c) not changed the level of their fees since the introduction of SES index-based supplementary funding and what is the average change in private school fees since the introduction of SES index based funding.
- (5) Which private schools in Sydney have (a) significantly reduced, (b) increased, and (c) not changed the level of their fees since the introduction of SES index-based funding.
- (6) Does the Government intend to withhold SES index-based funding from private schools that do not pass on the benefit of this funding to parents in the form of lower school fees; if so, when; if not, why not.

**Dr Nelson**—The answer to the honourable member's question is as follows:

- (1) The SES funding model involves linking student residential addresses to Australian Bureau of Statistics (ABS) national Census data to obtain a socioeconomic profile of the school community and measure its capacity to support the school. Student residential addresses are mapped to Census Collection Districts (CDs) and each school's community is defined in terms of the CDs from which it draws its students. The school's SES score is calculated on the basis of the average socioeconomic status of these CDs.

The SES Index that is used to calculate schools' SES scores measures the income, education and occupation levels of residents within a CD. The CD is the smallest spatial unit in the Australian Standard Geographical Classification. In urban areas CDs average about 220 dwellings. In rural areas the number of dwellings per CD reduces as population densities decrease.

- (2) Total general recurrent funding under the SES funding arrangements for non-government schools in 2003 is estimated at \$3.7 billion.
- (3) to (6) Schools are accountable to their parent bodies. It is the parents who will decide what level of private investment they will make towards their children's education and whether they are receiving value for their money. Fee levels are not solely affected by changes in Federal funding arrangements or the SES arrangements more generally. Decisions taken by State Governments with regard to non-government schools may also have an impact on fee levels.

While some preliminary analysis indicates a downward pressure on the rate of increase of non-government school fees in some sectors, this is based on only one year's data for the partially implemented SES funding model. The SES funding model was introduced in 2001 and is being phased-in over the 2001 to 2004 quadrennium with full implementation in 2004.

Financial data from non-government schools are collected annually, and are generally available in the second half of the following calendar year. For example, data for 2002 are expected to be available in September/October 2003. Data for the first year of the fully implemented SES funding model should be available in late 2005. Definitive analysis of the effect of the SES funding model will not be possible therefore until several years of data for the fully implemented model are available.

Non-government schools are independent organisations and their governing bodies are responsible for setting fee levels. Fees are determined separately by each independent school on the basis of their cost structures. The Government is not in a position to set or limit school fees. To do so would be to interfere in the operation of independent entities.

#### **Defence: Vietnam National Order Awards**

##### **(Question No. 2322)**

**Ms King** asked the Minister Assisting the Minister for Defence, upon notice, on 8 September 2003:

Is she aware of any correspondence between the Holt Australian Government and the South Vietnamese Government indicating that the South Vietnamese Government intended to bestow Vietnam National

Order awards to members of D Company for their brave service at the Battle of Long Tan at a parade that was to be held at Nui Dat on 2 September 1966; if so, (a) what are the details and (b) where is the correspondence.

**Mrs Vale**—The answer to the honourable member's question is as follows:

Immediately following the Battle of Long Tan, South Vietnamese Generals Thieu and Khang (Commander III Corps) planned a surprise visit to the Task Force to make individual awards to Australians involved in the Battle of Long Tan. After seeking advice from the Australian Ambassador concerning the foreign awards policy as it existed at the time, the South Vietnamese Government, through General Thieu's office, was informed that Australians could receive awards, but the permission of Her Majesty The Queen was required for them to be officially accepted. In view of this advice, General Thieu decided against making awards but to mark his visit to the Task Force by the presentation of a plaque and gifts of souvenirs. There is no evidence that an award of a South Vietnamese Unit Citation was ever intended to be awarded. This is highlighted in the Defence Principal Administrative Officer's Committee meeting minutes of the time in which it states that no comparable South Vietnamese Unit Award to the United States Presidential Unit Citation had been offered in connection with the action at Long Tan.

#### **Defence: Honours and Awards**

##### **(Question No. 2323)**

**Ms King** asked the Minister Assisting the Minister for Defence, upon notice, on 8 September 2003:

- (1) Can she explain why the Department of Defence Directorate of Honours and Awards was moved from Melbourne to Canberra and then to Cooma.
- (2) Can she confirm that systems are now in place in the Directorate of Honours and Awards to alleviate any further delay in the issuing of National Service Medals.
- (3) Can she explain why, when my constituents have requested in writing that their medals be forwarded to my office, this year the medals have been posted directly to the applicants.

**Mrs Vale**—The answer to the honourable member's question is as follows:

- (1) When the Directorate of Honours and Awards (DHA) was first created in 1997, it consisted of a number of disparate elements; the headquarters element was located in Canberra, ACT; Navy and Air Force Medals Sections in Queanbeyan NSW; and the Army Medals Section in Melbourne, VIC. Co-location in order to achieve more cohesive management of the functions and to improve the internal processes had been under consideration for some time. Suitable accommodation became available in Canberra and all the elements were finally brought together in February 2003. DHA has not moved to Cooma. DHA utilise the services provided by the Defence Service Centre at Cooma to deal with incoming correspondence, and the mailing address has changed to facilitate that process.
- (2) Yes. The new establishment in Canberra has enabled DHA to restructure and implement many new initiatives. Recruitment and training to replace those Melbourne staff who elected not to relocate to Canberra has been a priority. In regard to the Anniversary of National Service Medal (ANSM), all outstanding applications transferred to Canberra have now been acknowledged. A dedicated ANSM section was re-established in May 2003 and over 13,000 medals have been processed since that time.
- (3) Unfortunately, it appears that prior to the move of the ANSM Section to Canberra, the processes in place to capture the requirement for medals to be sent directly to them, rather than the applicants' home address were not adequate. With the establishment of the ANSM section in Canberra, new processes have been put in place to ensure this does not occur in the future.

**Defence: National Service Medal****(Question No. 2363)**

**Mrs Crosio** asked the Minister Assisting the Minister for Defence, upon notice, on 10 September 2003:

- (1) Does the Government intend to introduce a Defence Force Service Medal for all people who served in the Australian Defence Force; if so, what is the implementation timetable that the Government has decided upon.

**Mrs Vale**—The answer to the honourable member's question is as follows:

- (1) The Defence Force Service Medal (DFSM) may be awarded to a member of the Australian Defence Force who has, on or after 14 February 1975, completed 15 years efficient service, either continuous or aggregated, as a member of the Australian Defence Force.

The Government was mindful that the 1993/94 Committee of Inquiry into Defence and Defence Related Awards (CIDA) had investigated the possibility of reducing the 15 year qualification period for the DFSM. After much deliberation, CIDA considered that 15 years was now fully entrenched in the Australian System of Honours and Awards and did not support any variation of this time. In its 1996 election policy statement, this Government stated its acceptance of the CIDA report.

At this time, there is no intention to change the criteria for the DFSM.

**Fuel: Diesel Shortage****(Question No. 2482)**

**Mr Murphy** asked the Minister for Industry, Tourism and Resources, upon notice, on 18 September 2003:

Further to the answer to question No. 2112 (*Hansard*, 12 August 2003, page 18190), is he prepared to support the funding of a study to ascertain what would be the effect on the demand for diesel fuel if (a) 10% of road freight movements, (b) 25% of road freight movements, and (c) 40% of road freight movements were transferred to rail; if not, why not.

**Mr Ian Macfarlane**—The answer to the honourable member's question is as follows:

This information is not held by the Government. The Member for Lowe could approach the Minister for Transport and Regional Services with a request that this analysis be added to the work programme of the Bureau of Transport and Regional Economics.