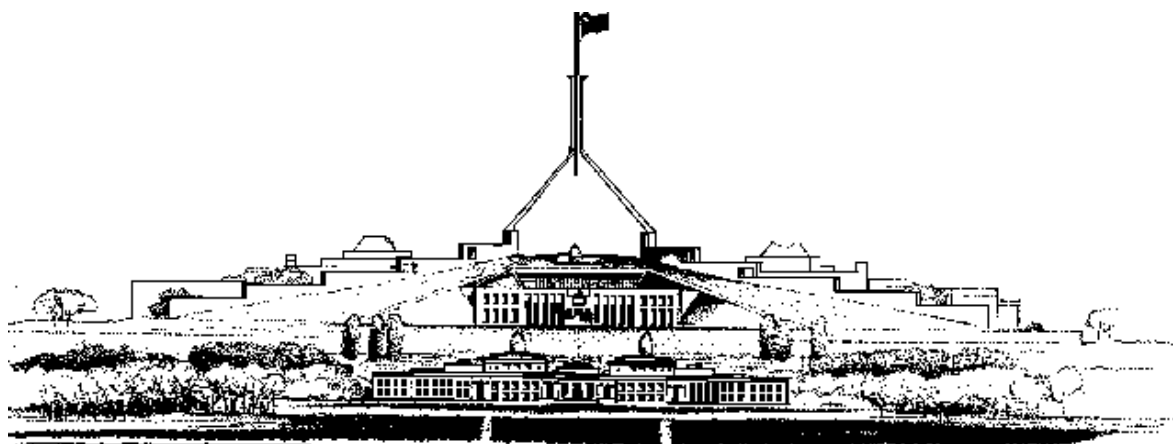




COMMONWEALTH OF AUSTRALIA

**PARLIAMENTARY DEBATES**



**HOUSE OF  
REPRESENTATIVES**

**Official Hansard**

**No. 3, 2002**

**WEDNESDAY, 13 MARCH 2002**

FORTIETH PARLIAMENT  
FIRST SESSION—FIRST PERIOD

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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### SITTING DAYS—2002

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May	14, 15, 16, 27, 28, 29, 30
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<i>BRISBANE</i>	936 AM
<i>MELBOURNE</i>	1026 AM
<i>ADELAIDE</i>	972 AM
<i>PERTH</i>	585 AM
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*Wednesday, 13 March 2002*

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

**MIGRATION LEGISLATION  
AMENDMENT (TRANSITIONAL  
MOVEMENT) BILL 2002**

**First Reading**

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

**Second Reading**

**Mr RUDDOCK** (*Berowra—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation*) (9.31 a.m.)—I move:

That this bill be now read a second time.

This bill amends the Migration Act 1958 to allow for certain non-citizens to be brought to Australia temporarily.

In September 2001, the parliament passed amendments to the Migration Act to provide a stronger statutory basis for the government's strategy to stop persons seeking to enter Australia unlawfully by boat.

The government's actions and those amendments were in response to an increase in people-smuggling activities which led to larger numbers of persons using vessels to seek to enter Australia unlawfully.

That legislation gave support to the government's intention that unauthorised boat arrivals should not be allowed to reach the Australian mainland.

The amendments provided power for unauthorised boat arrivals to be taken to 'declared countries', where their claims, if any, to asylum could be assessed.

The government's strategy is starting to have results. There have been no boats attempting to breach our migration controls for several months. Recent media reports indicate that people-smuggling activity appears to have declined.

The government is also working with other countries to discourage people-smuggling. The recent conference in Bali was a strong and positive indication of the com-

mitment of countries in our region to tackle people-smuggling.

While continuing to be vigilant, the government recognises there are some situations where it may be necessary to bring to Australia some persons who have been taken to a declared country.

This bill proposes amendments which will allow such a person, to be called a 'transitory person', to be brought to Australia from one of the declared countries in exceptional circumstances. The government will not be bringing persons who have been assessed as refugees according to UNHCR guidelines to Australia under the provisions proposed by this bill. To make this clear, I am foreshadowing that the government will be bringing forward an amendment to the bill specifically to exclude these refugees from the ambit of the proposed provision, and we will be making that amendment for more abundant precaution. I do not think there is any doubt that we will make that amendment for that purpose.

The exceptional circumstances that we envisage where a transitory person may be brought to Australia include:

- situations where a person has a medical condition which cannot be adequately treated in the place where the person has been taken;
- transit through Australia either to return to their country of residence or to a third country for resettlement; and
- transfers to Australia in order to give evidence as a witness in a criminal trial, such as a people-smuggling prosecution.

They are the sorts of cases where we envisage that these provisions might be necessary.

In order to maintain the integrity of Australia's border controls it is necessary to ensure that the transitory person's presence in Australia is as short as possible, and that action cannot be taken to delay that person's removal from Australia.

The amendments proposed by this bill will ensure that these persons cannot apply for any visa and thus use our processes to delay their transit through Australia. Details of the

measures are set out in the explanatory memorandum for the bill.

In order to ensure that our international obligations are met, there is a non-compellable power for the minister to allow a person to make an application for a specified class of visa. Where this power is exercised, the minister must report to the parliament. A proposed subsection 46B(5) requires that report to exclude information that could identify the person and thus protect their privacy. This provision is consistent with all of the other non-compellable powers in the Migration Act.

Finally, should a person be brought to Australia prior to completion of their refugee determination process, the government will ensure that the refugee determination process will be completed in like manner to that which it would have been dealt with in one of the countries to which they have been taken.

I commend the bill to the House, and in doing so wish to express the need for urgent passage associated with the legislation. There may be circumstances, particularly of illness or in relation to other unforeseen emergencies, that do require transit. With the parliament likely to rise within the next fortnight, it would be preferable that the bill receive passage during this session. I table the explanatory memorandum.

Debate (on motion by **Ms Ellis**) adjourned.

**MIGRATION LEGISLATION  
AMENDMENT (PROCEDURAL  
FAIRNESS) BILL 2002**

**First Reading**

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

**Second Reading**

**Mr RUDDOCK** (*Berowra—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation*) (9.37 a.m.)—I move:

That this bill be now read a second time.

This bill amends the Migration Act 1958 to provide a clear legislative statement that the 'codes of procedure' in the act are an ex-

haustive statement of the requirements of the natural justice hearing rule.

The bill also makes it clear that the amendments do not in any way limit the scope or operation of the privative clause, which is contained in part 8 of the act.

The Migration Reform Act 1992 introduced codes of procedure for dealing fairly, efficiently and quickly with the processing of visa applications.

It also introduced other detailed codes of procedure for the cancellation of visas and the revocation of the cancellation of visas.

In 1998, the codes of procedure for the Migration Review Tribunal and the Refugee Review Tribunal were enhanced.

The purpose of each of these codes is to enable decision makers to deal with visa applications and cancellations fairly, efficiently and quickly.

It was also intended that they would replace the uncertain common law requirements of the natural justice 'hearing rule', in particular, which had previously applied to decision makers.

However, last year in the *Miah* case, the High Court found that the code of procedure relating to visa applications had not clearly and explicitly excluded common law natural justice requirements.

This means that, even where a decision maker has followed the code in every single respect, there could still be a breach of the common law requirements of the natural justice hearing rule.

A further consequence of the High Court's decision is that there is legal uncertainty about the procedures which decision makers are required to follow to make a lawful decision.

The majority of the court emphasised that parliament's intention to exclude natural justice must be made unmistakably clear.

It concluded that this intention was not made apparent in relation to the code of procedure for dealing with visa applications.

Therefore, the purpose of this bill is to make it expressly clear that particular codes in the Migration Act do exhaustively state



the requirements of the natural justice or procedural fairness hearing rule.

This will have the effect that common law requirements relating to the natural justice or procedural fairness hearing rule are effectively excluded, as was originally intended.

The key amendments will affect the codes of procedure contained in the Act relating to:

- visa applications;
- visa cancellations under sections 109 and 116;
- revocations of visa cancellations without notice under section 128; and
- the conduct of reviews by the merits review tribunals.

The Migration Legislation Amendment (Judicial Review) Act 2001 set out a new judicial review scheme to address concerns about the growing cost and incidence of migration litigation and the associated delays in removal of non-citizens with no right to remain in Australia—in other words, it sought to address the point that is made frequently by members opposite about the time that it takes to reach final conclusions in migration and refugee matters, in particular.

The key mechanism in the judicial review scheme is the privative clause provision at section 474. This greatly expands the legal validity of acts done and decisions made by decision makers.

The amendments to the codes of procedure do not affect in any way the operation of the new judicial review scheme.

In conclusion, these amendments are necessary to restore the parliament's original intention that the Migration Act should contain codes of procedure that allow fair, efficient and legally certain decision making processes that do replace the common law requirement of the natural justice hearing rule.

I commend the bill to the chamber and I table the explanatory memorandum.

Debate (on motion by **Ms Ellis**) adjourned.

## MIGRATION LEGISLATION AMENDMENT BILL (No. 1) 2002

### First Reading

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

### Second Reading

**Mr RUDDOCK** (*Berowra—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation*) (9.43 a.m.)—I move:

That this bill be now read a second time.

This bill makes a number of amendments to the Migration Act 1958 to:

- clarify certain visa related matters;
- create a Deputy Principal member position for the Migration Review Tribunal;
- remove ambiguities surrounding certain offence provisions; and
- correct a technical error in the Act.

These amendments will enhance the integrity of the act and ensure that certain provisions in the act operate as originally intended.

Schedule 1 to the bill amends the act to clarify the immigration status of non-citizen children born in Australia.

These children are taken to have entered Australia at their birth.

It expressly provides that these non-citizen children are immigration cleared for the purposes of their 'birth entry'.

It is important to clarify the immigration status of non-citizen children born in Australia because it has significant implications for a person's entitlements under the Migration Act—for example, whether a person is immigration cleared impacts on his or her ability to access bridging visas.

Schedule 1 makes a second amendment relating to non-citizen children born in Australia.

Under the act, the usual way a visa holder must enter Australia is at a port or on a pre-cleared flight—obviously not at birth.

If a visa holder does not enter Australia in a way permitted by the act, his or her visa ceases to be in effect.

This clearly does not take into account non-citizen children who are taken to enter Australia at the time of their birth.

Schedule 1 puts it beyond doubt that any visas taken to have been granted to non-citizen children at birth do not cease to be in effect because of the way in which these children enter Australia.

Schedule 2 to the bill addresses concerns raised by the Federal Court in the case of *Tutugri v. Minister for Immigration and Multicultural Affairs*.

In that case, the Federal Court raised significant doubts about the power of an authorised officer to request and take security for compliance with conditions to be imposed on a visa that is yet to be granted.

The amendments in schedule 2 will clearly authorise the taking of security for compliance with conditions to be imposed on a visa before a visa is granted.

Schedule 3 to the bill makes two amendments to the act relating to special purpose visas. Special purpose visas are granted by operation of law to certain prescribed non-citizens.

The first amendment deals with the cessation of a special purpose visa where the minister has made a declaration that it is undesirable for a person to travel to, enter or remain in Australia.

The amendment will allow the minister to specify a time when such a declaration is to take effect.

The second amendment in schedule 3 to the bill puts it beyond doubt that the rules of natural justice do not apply to the making of such a declaration by the minister.

Schedule 4 to the bill creates a deputy principal member position for the Migration Review Tribunal.

This aligns the management structure of the Migration Review Tribunal with the existing structure of the Refugee Review Tribunal.

It will also ensure that the principal member of the Migration Review Tribunal will be

able to focus on providing leadership to the tribunal, with day-to-day management being the responsibility of the deputy principal member.

Schedule 5 to the bill ensures that certain offence provisions in the act operate as they did prior to the commencement of the Commonwealth Criminal Code.

Schedule 6 to the bill makes several amendments to the act.

Firstly, the amendments will prevent certain non-citizens from evading the intended operation of section 48 by travelling overseas on a bridging visa.

The amendment gives effect to the intended operation of section 48 by ensuring that if a bar preventing further visa applications is in place it cannot be avoided by travel overseas on a bridging visa.

Secondly, schedule 6 to the bill amends the act to clarify that a non-citizen's bridging visa ceases to be in effect the moment his or her substantive visa is cancelled.

Finally, schedule 6 to the bill amends the act to allow a time limit to be imposed on a non-citizen in immigration clearance seeking revocation of the automatic cancellation of his or her student visa.

Schedule 6 also clarifies that a decision not to revoke the automatic cancellation of a non-citizen's student visa, which is made while the person is in immigration clearance, is not merits reviewable.

In summary, the bill implements measures to ensure that the integrity of the act is not compromised. It will provide people with greater certainty in their dealings with the department.

I commend the bill to the chamber and I table the explanatory memorandum.

Debate (on motion by **Ms Ellis**) adjourned.

**ABORIGINAL AND TORRES STRAIT  
ISLANDER COMMISSION  
AMENDMENT BILL 2002**

**First Reading**

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

### Second Reading

**Mr RUDDOCK** (Berowra—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (9.49 a.m.)—I move:

That this bill be now read a second time.

This bill proposes certain amendments to the Aboriginal and Torres Strait Islander Commission Act 1989—the ATSIC Act.

The amendments follow a number of recommendations from the 1997 and 1998 reviews conducted under sections 26 and 141 of the ATSIC Act in relation to the electoral systems and boundaries and the general operation of the ATSIC Act.

The bill was developed in close consultation with ATSIC and has the support of its commissioners.

The amendments contained in the bill relate largely to provisions in the ATSIC Act affecting the elected statutory office holders of ATSIC. ATSIC regional council and office holder elections must take place in the second half of 2002. The amendments that are proposed to the bill will permit greater certainty in regard to the position of current office holders and their eligibility for election.

The amendments include:

- adjustments to the term of office of the commission chair and the regional council chair to provide continuity in these offices throughout an election period;
- a provision for the appointment of an additional regional councillor to a regional council from which a commissioner has been elected;
- a provision to guarantee the appointment of an independent chair of the review panel which is convened after a round of zone elections to conduct a review of the electoral system and electoral rules and the augmented review panel which is convened to review objections to the draft electoral boundaries recommended by the review panel;
- to clarify that the effect of penalties for multiple criminal convictions on eligibility for, and termination of, office

holder positions is the same as penalties for single convictions.

- to allow the outgoing commissioner to stand for election as an incoming regional council chair without having to resign as commissioner;
- to provide for the payment of nomination fees by candidates to be included as matters dealt with in the regional council election rules; and, finally
- to prevent a commissioner or a regional councillor who has been removed from office for misbehaviour from standing for the next round of regional council elections.

In addition, the bill seeks to amend certain provisions of the ATSIC Act relating to financial management within the commission.

Accrual accounting has been introduced in accordance with government policy and a number of amendments are required to make the ATSIC Act consistent with current practice. The bill aligns the terminology in the ATSIC Act with the Commonwealth accrual based outcomes and outputs framework. For example, 'budget estimates' is substituted for the words 'estimates of the receipts and expenditure'. In addition, with the introduction of accrual budgeting each agency is appropriated its own money. As such, the bill removes references to appropriations by ATSIC to Indigenous Business Australia and Aboriginal Hostels Ltd. The bill also repeals certain provisions of the act which are no longer required.

Finally, the bill will allow clarification and enhancement of the internal review process. Amendments will entitle a body corporate or an unincorporated body to request review by the commission and the Administrative Review Tribunal—the AAT—of a decision to refuse a loan or guarantee made under the ATSIC Act. At present the ATSIC Act only allows for review of decisions in relation to an individual.

The bill will enable the commission to delegate its power to review delegates' decisions allowing for a more efficient reconsideration of a refusal to provide a loan or guarantee within ATSIC.

At present the ATSIAC Act provides for a delegate's decision to be reviewed directly by the AAT with the effect of circumventing the existing internal review process. In order to allow a comprehensive internal review process the bill will require internal review processes to be exhausted before access to review by the AAT of the merits of a decision to refuse a loan or guarantee.

There are no financial implications arising from this bill. I commend the bill and present the explanatory memorandum to the bill.

Debate (on motion by Ms Ellis) adjourned.

**CRIMINAL CODE AMENDMENT  
(ESPIONAGE AND RELATED  
OFFENCES) BILL 2002**

**First Reading**

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

**Second Reading**

Mr WILLIAMS (Tangney—Attorney-General) (9.55 a.m.)—I move:

That this bill be now read a second time.

In May 1999 an Australian citizen, Mr Jean-Philippe Wispelaere, was arrested in the United States and charged with a range of offences associated with the unauthorised disclosure of United States intelligence material.

At that time the government affirmed its commitment to protecting Australia's national security.

It announced a range of initiatives designed to further protect sensitive information held by government agencies.

The Inspector-General of Intelligence and Security, Mr Bill Blick, was commissioned by the Prime Minister to undertake a review of security procedures.

In 2000 the inspector-general provided a comprehensive report to the government in which he made more than 50 recommendations.

The recommendations were designed to enhance security arrangements on a public service wide basis and improve security practice in intelligence and security agencies.

The government adopted these measures in principle and then proceeded to give them effect.

The review of Australia's espionage laws had, in fact, begun before the inspector-general made his recommendations.

In 1991, the Committee to Review Commonwealth Criminal Law, headed by the Rt Hon. Sir Harry Gibbs, recommended that espionage offences be rewritten in a simpler form using modern language.

Since then, the inspector-general's report has confirmed the need for this government to strengthen Australia's espionage laws and impose tougher penalties on those who choose to break these laws.

This bill evolved as a result of both the Gibbs and Blick reviews.

We have also conducted a separate review, and extensive consultation, to ensure that the offences in the bill establish an effective legal framework that both deters, and punishes, people who intend to betray Australia's security interests.

As part of our review we have considered such things as technological advances in information management and communication as well as international standards.

As a result, the proposed offences are consistent with equivalent provisions in the United States, the United Kingdom, New Zealand and Canada.

This bill will strengthen Australia's espionage laws in a number of ways.

By referring to conduct that may prejudice Australia's security and defence, rather than safety and defence, and explicitly defining this term, we are affording protection to a range of material that may not be protected under the current laws.

In particular, the term will include the operations, capabilities and technologies of, and methods and sources used by, our intelligence and security agencies.

The type of activity that may constitute espionage has also been expanded.

A person may be guilty of an espionage offence if they disclose information concerning the Commonwealth's security or

defence intending to prejudice the Commonwealth's security or defence.

They may also be guilty of an offence if they disclose information concerning the Commonwealth's security or defence, without authorisation, to advantage the security or defence of another country.

The latter will capture Wispelaere type situations where the information that is compromised does not necessarily prejudice Australia's security or defence.

Instead, the compromise is designed to advantage the security or defence interests of another country.

The new offences will also protect foreign sourced information belonging to Australia.

As a result, we can offer greater assurances to our information exchange partners that, when they provide information to us in confidence, we will protect that information in the same way that we protect our own sensitive information.

The maximum penalty for the most serious cases of espionage will be 25 years imprisonment, a significant increase from the current seven-year penalty.

This government considers seven years imprisonment to be a grossly inadequate punishment for the more serious acts of espionage during peace.

Penalties in comparable countries for equivalent offences range from the death penalty in the United States to 14 years imprisonment in the United Kingdom, Canada and New Zealand.

We should regard espionage as seriously as these countries.

In addition to strengthening the offence provisions, the bill will also further support the process of bringing cases of espionage to trial.

The most important measure in this regard is to guarantee that only a judge of a state or territory Supreme Court decides the question of bail.

In addition, the Australian Federal Police Commissioner will issue an order to all members of the AFP that, as a general policy, bail should be opposed in espionage cases.

The bill also covers a range of matters including initiation of prosecutions, holding hearings in camera and forfeiture of articles.

These provisions were originally enacted in the Crimes Act.

They have been substantially replicated in this bill except to the extent that the provisions have been modernised and repackaged for the purpose of moving them to the Criminal Code.

Unlike the bill I introduced in September last year, this bill does not amend the official secrets provisions currently contained in section 79 of the Crimes Act.

Recently concerns have been raised about the official secrets provisions in that bill. These provisions were intended to replicate the substance of the official secrets provisions currently contained in section 79 of the Crimes Act. There has been considerable media attention focused on the perceived impact that the official secrets provisions in the earlier bill were alleged to have on the freedom of speech and on the reporting of government activities.

The original bill did not alter the substance of the official secrets offences; it simply modernised the language of the offences consistent with the Criminal Code. The government's legal advice confirms that there was in substance no difference between the current provisions of the Crimes Act and the proposed provisions of the Criminal Code. The allegations ignore the fact that the existing law has not prevented the reporting of such stories in the past. Despite this, to avoid delay in the reintroduction of the important espionage provisions, the government decided to excise the official secrets provisions from the bill so only those relating to espionage have been included in the bill introduced today.

The government is committed to protecting Australia's national security and punishing those who threaten Australia's interests. That is the purpose of the bill. It is not aimed at hampering or preventing public discussion. The espionage provisions send a clear message to those who choose to betray Australia's security that this government regards espionage very seriously. I commend the bill

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

Debate (on motion by Ms Ellis) adjourned.

## PROCEEDS OF CRIME BILL 2002

### First Reading

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

### Second Reading

Mr WILLIAMS (Tangney—Attorney-General) (10.02 a.m.)—I move:

That this bill be now read a second time.

The purpose of the *Proceeds of Crime Bill 2002* is to greatly strengthen and improve Commonwealth laws for the confiscation of proceeds of crime. The bill also makes special provision for the confiscation of property used in, intended to be used in, or derived from terrorist offences which are a form of organised crime of particular focus since the tragic events in the United States on September 11.

The primary motive for organised crime is profit. Each year in Australia, drug trafficking, money laundering, fraud, people-smuggling and other forms of serious crime generate billions of dollars.

This money is derived at the expense of the rest of the community. It is earned through the harm, suffering, and human misery of others. It is used to finance future criminal activity including terrorism. It is tax free. Criminals have no legal or moral entitlement to the proceeds of their crimes.

The need for strong and effective laws for the confiscation of proceeds of crime is self-evident. The purpose of such laws is to discourage and deter crime by reducing profits; to prevent crime by diminishing the capacity of offenders to finance future criminal activities and to remedy the unjust enrichment of criminals who profit at society's expense. The provisions of the bill relating to freezing and confiscating property associated with terrorism implement relevant parts of the International Convention for the Suppression of the Financing of Terrorism and United Nations Security Council Resolution 1373.

For a number of years, the Commonwealth and all states have had laws enabling

proceeds of crime to be confiscated after a conviction has been obtained—conviction based laws. However, these laws have not been fully effective. In particular they have failed to impact upon those at the pinnacle of criminal organisations. With advancements in technology and globalisation, such persons can distance themselves from the individual criminal acts, thereby evading conviction and placing their profits beyond the reach of conviction based laws. In its 1999 report entitled *Confiscation that counts*, the Australian Law Reform Commission concluded that Commonwealth conviction based laws were inadequate.

Several states and some other countries have now enacted more effective laws enabling proceeds of crime to be frozen and confiscated through civil proceedings, without the need to obtain a conviction. The Commonwealth's confiscation regime is in need of improvement and strengthening.

The Proceeds of Crime Bill 2002, which proposes major changes to our existing conviction based system for confiscating proceeds of serious crime, represents a concrete demonstration of the government's tough stance against organised crime. I am also bringing forward a further bill which not only contains the consequential amendments flowing from this bill and proposes more effective money laundering offences but sets out the arrangements for the phasing out of the existing Proceeds of Crime Act 1987.

The Proceeds of Crime Bill will, if enacted, eventually replace the Proceeds of Crime Act 1987, which will continue to apply to proceedings commenced under that act. For this reason, this bill not only deals with a new civil forfeiture regime broadly similar to that which has been operating in New South Wales since 1997 but includes improved provisions for conviction based confiscation. Although all confiscation proceedings, including those under the Proceeds of Crime Act 1987, are civil proceedings, the term 'civil forfeiture' has become widely recognised as a term to describe forfeiture which does not require conviction of a criminal offence as a condition precedent. Civil forfeiture can occur where a court is satisfied that it is more probable than not that

a serious offence has been committed. Such a finding by a court does not constitute a conviction and no criminal consequences can flow from it. The provisions are all about accounting for unlawful enrichment in civil proceedings, not the imposition of criminal sanctions. The object or focus of the proceeding is the recovery of assets and profits, not putting people in jail.

This bill also proposes the introduction into Commonwealth legislation of a regime to prevent criminals exploiting their notoriety for commercial purposes. The bill includes provision for literary proceeds orders that can be made—for example, where criminals sell their stories to the media.

The bill re-enacts the existing information gathering powers, including monitoring orders, with some modifications. Such orders provide law enforcement with a real time window in accounts suspected of being used for money laundering. The information obtained under these orders is protected both by the Privacy Act and offences of unlawful disclosure created under the bill which carry penalties of five years imprisonment.

The bill is underpinned by a comprehensive scheme of legal assistance for people whose assets are restrained. Legal assistance in confiscation proceedings will be made a Commonwealth priority under the Commonwealth legal aid guidelines and priorities. Restrained assets are to be ignored for the purposes of the means test. The bill enables legal aid commissions to be reimbursed for the provision of such legal assistance from the restrained assets of the person and, to the extent of any deficiency, from the confiscated assets account. In this way all persons the subject of proceedings under the bill will be able to seek assistance from commissions without impacting adversely on other legal aid priorities.

This bill represents a major overhaul of the Commonwealth's confiscation regime and demonstrates the government's commitment to combating organised crime within Australia and deterring transnational criminals from using Australia as a staging post for their activities. This is particularly important in the Australian and international fight against terrorism.

The bill was released for public comment on 20 July 2001 and the comments received indicate broad support. I am confident that the civil forfeiture regime will have the full support of the opposition given that two bills on this subject were introduced in the last parliament by the then shadow minister for justice and customs. The government has gone further than these opposition bills and enhanced the existing law enforcement powers and confiscation regime, which, together with the initiatives in the Measures to Combat Serious and Organised Crime Act 2001 and the [Suppression of the Financing of Terrorism Bill 2002](#) will provide state-of-the-art tools for the fight against serious crime.

A detailed explanation of the contents of the bill is contained in the explanatory memorandum.

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

Debate (on motion by **Ms Ellis**) adjourned.

**PROCEEDS OF CRIME  
(CONSEQUENTIAL AMENDMENTS  
AND TRANSITIONAL PROVISIONS)  
BILL 2002**

**First Reading**

Bill presented by **Mr Williams**, and read a first time.

**Second Reading**

**Mr WILLIAMS** ([Tangney—Attorney-General](#)) (10.10 a.m.)—I move:

That this bill be now read a second time.

This is a companion bill to the [Proceeds of Crime Bill 2002](#) and contains transitional and consequential provisions.

The bill will amend the Criminal Code to insert new money laundering offences replacing those in the Proceeds of Crime Act 1987 with updated provisions based on the recommendations of the Australian Law Reform Commission. The bill proposes a series of new offences graded according both to the level of knowledge required of the offender and the value of the property involved in the dealing constituting the laundering. These new offences will permit prosecutors to more accurately reflect the level of culpability of the offender in the charges they prefer and

courts will be provided with a greater degree of guidance in their sentencing. The regime includes alternative verdict provisions so that where a court is satisfied that the person is not guilty of the offence charged but is guilty of another money laundering offence which carries a lesser penalty the person can be convicted of that lesser offence consistent with the rules of procedural fairness. The upper limit of the penalties will be increased from 20 to 25 years imprisonment. The scope of the offence has been expanded to include exports as well as imports of money and other property, money laundering in relation to some state and territory offences which have relevance to the Commonwealth, and where the money or property is an instrument of crime used to facilitate criminal activity, such as occurred in the lead-up to the recent terrorist attacks.

The bill also amends the Mutual Assistance in Criminal Matters Act 1987 which provides the mechanism for international cooperation in criminal cases, including in the tracing, freezing and confiscation of proceeds of crime. Currently, many of the provisions dealing with enforcement of foreign orders are scattered throughout the Proceeds of Crime Act 1987. This bill will place most of these provisions in the Mutual Assistance in Criminal Matters Act 1987 and in the course of doing so has brought them into line with the provisions of the Proceeds of Crime Bill applicable to Australian offences. The bill will also enable prescribed countries to enforce civil forfeiture orders in Australia. Only countries which have a sound justice system and whose civil forfeiture regime incorporates adequate safeguards for innocent third parties as well as persons suspected of engaging in criminal activities will be prescribed. This is also of importance in efforts to combat those who finance terrorism.

The Financial Transaction Reports Act 1988 is amended to incorporate the record retention requirements placed on financial institutions by the Proceeds of Crime Act 1987. The provisions relating to the transfer of records between authorised deposit-taking institutions are also relocated.

The bill amends the Bankruptcy Act, as recommended by the Australian Law Reform Commission, to ensure that bankruptcy is not used as a means of thwarting confiscation of the proceeds of crime by using them to satisfy creditors in a bankruptcy. Although this may be seen by some as restricting the funds available to satisfy creditors, the property in question is not derived from lawful activity and the bankrupt has no legal or moral entitlement to that property. It is therefore not appropriate that an offender be able to use proceeds of crime to settle debts. Legitimate creditors can continue to apply to a court to have property excluded from restraining orders to satisfy the liability. These amendments will take effect for bankruptcies occurring after the commencement of the relevant part of this bill.

Similarly the bill amends the Family Law Act to ensure that property settlements and spousal maintenance cannot be used to defeat confiscation proceedings. The bill will require family law proceedings dealing with property affected by a restraining order to be stayed pending the outcome of confiscation proceedings. This is consistent with the current practice of the Family Court. Dependents can continue to seek release of property from restraint to prevent hardship. The provisions will have no impact on child maintenance.

Decisions of the DPP and an approved examiner in relation to compulsory examinations about the financial affairs of people under the Proceeds of Crime Act have been included in schedule 1 of the Administrative Decisions (Judicial Review) Act as decisions to which that act does not apply. Decisions would still be reviewable under the prerogative writs and section 39B of the Judiciary Act 1903.

To ensure that there is no doubt that the AFP has the function of enforcing the Proceeds of Crime Act, the Australian Federal Police Act 1979 is amended to specifically confer that function.

Under the Telecommunications (Interception) Act 1979, intercepting agencies may only communicate intercepted information for defined permitted purposes. In the case of the National Crime Authority, relevant per-



mitted purposes are limited to purposes connected with a relevant proceeding in relation to the authority, which is in turn limited to proceedings by way of prosecution for a prescribed offence.

The amendment in this bill will include forfeiture proceedings within the meaning of relevant proceedings as the term relates to the NCA. This will permit the NCA to communicate relevant intercepted information in connection with a proceeding for the confiscation or forfeiture of property. This will bring the NCA's powers into line with those of the AFP and state police services. The amendments to other legislation affected by this bill are consequential on the Proceeds of Crime Bill.

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

Debate (on motion by Ms Ellis) adjourned.

**COPYRIGHT AMENDMENT  
(PARALLEL IMPORTATION)**

**BILL 2002**

**First Reading**

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

**Second Reading**

Mr WILLIAMS (Tangney—Attorney-General) (10.16 a.m.)—I move:

That this bill be now read a second time.

The Copyright Amendment (Parallel Importation) Bill 2002 further demonstrates the coalition government's willingness to act in the best interests of consumers, the education sector and business.

The central aim of the bill is to improve access to a wide range of software products and printed material on a fair, competitive basis by permitting the parallel importation of such goods.

'Parallel importation' is the commercial importation of non-pirate copyright material without the permission of the Australian copyright holder.

At present, software products and printed material—books, periodical publications and printed music—are not subject to open and genuine competition.

This is because copyright law allows local rights holders to control importation of these products.

This has significant implications for Australian consumers and businesses as Australia is a net importer of copyright material.

The bill offers the prospect of cheaper prices and increased availability of products for all Australians but especially for small businesses, parents and the education sector.

Unlike the Labor Party's 'use it or lose it' policy, the government's policy is not about benefiting foreign rights holders and maintaining import restrictions and monopoly distributions at the expense of Australian businesses and consumers.

Many argued in 1998 that the relaxation of parallel importation restrictions for sound recordings would devastate the Australian music industry.

But the industry is in good shape and there is no evidence of the claimed 50,000 job losses.

The recording industry grew after the 1998 reforms, with reports of around 2.9 per cent growth in 1999 alone.

Many top selling CDs are over 30 per cent cheaper—and sometimes less than half-price—than prior to parallel importation.

This is despite the impact of the GST and unfavourable exchange rates.

Claims were also made that piracy rates would soar as a result of the CD reforms, and similar claims are likely in relation to software.

In a report in January 2000 the Australian Institute of Criminology, on the available data, could find 'little evidence of the increase in CD piracy predicted by opponents of liberalisation'.

According to published industry statistics, Australia has comparatively low software and sound recording piracy rates.

Industry data on software piracy rates in New Zealand has recorded a decrease in the piracy rate since the introduction of parallel importation there.

**Books**

To enable maximum community access to competitively priced products, the bill per-

mits parallel importation of all major forms of printed material.

A 1999 review by the Australian Competition and Consumer Commission—the ACCC—found that for best-selling paperback fiction, the price difference between Australia and the USA had exceeded 30 per cent on average over the previous four years.

As recommended by the Intellectual Property and Competition Review Committee, the printed material provisions will be delayed for 12 months to allow the book industry to undertake contractual adjustments.

The committee noted that it had not been provided with any evidence to substantiate printing industry claims in relation to the beneficial effects of keeping the current restrictions.

#### **Software products**

The bill allows parallel importation of all software products including business, education and home software and pay-per-play video arcade machines.

A 1999 ACCC report recorded that, over the past 10 years, Australian businesses and consumers have had to pay an average of 27 per cent more for packaged business software than their US counterparts.

#### **Coverage**

Some Australian rights holders have attempted to prevent parallel importation of sound recordings by relying on the copyright in secondary material included on the music CD.

This bill will close this loophole by allowing parallel importation of copyright protected ‘accessories’ other than feature films.

As the government has not fully assessed the impacts of allowing the full parallel importation of ‘cinematograph film’ on the Australian industry or consumers, the bill does not allow the parallel importation of ‘feature film’.

#### **Enforcement provisions**

To assist copyright owners to enforce their rights under the changed arrangements the bill gives them substantial procedural assistance.

It provides amendments so that, as for sound recordings, in civil importation action involving software or printed material, the defendant will bear the onus of establishing that a parallel imported copy is not an infringing copy.

In addition, criminal penalties for infringement of copyright are severe, including up to five years imprisonment for each offence.

#### **Conclusion**

This bill will open up new business opportunities and allow easier fulfilment of specialist needs.

It balances the needs of copyright owners and copyright users.

Copyright owners will continue to be fairly remunerated but in the context of a global marketplace.

Australian consumers and businesses will be able to get the best deal on legitimate printed material and software products.

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

Debate (on motion by Ms Ellis) adjourned.

#### **FAMILY LAW AMENDMENT (CHILD PROTECTION CONVENTION) BILL 2002**

##### **First Reading**

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

##### **Second Reading**

Mr WILLIAMS (Tangney—Attorney-General) (10.22 a.m.)—I move:

That this bill be now read a second time.

This bill was first introduced on 20 September last year.

I am pleased to reintroduce the bill which will amend the Family Law Act to enable Australia to ratify the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children 1996.

As I said when introducing the bill last year, ratification of the convention would be of significant benefit to Australian families, and in particular to children who are the

subject of international family law or child protection litigation. While the consistent theme in the government's reform agenda in family law has been to shift the focus away from litigation as the most appropriate choice for the resolution of family law disputes, it remains a fact that litigation is the final resort for a minority of parents. In these cases, jurisdictional certainty and finality of court orders are important and will be aided by Australia becoming a party to the convention.

Existing family law litigation across international boundaries is subject to uncertainty as to jurisdiction and unpredictability in relation to the enforcement of orders abroad. The convention attempts to overcome these uncertainties by providing clear jurisdictional rules and by encouraging cooperation between authorities in different countries to protect the best interests of children affected by disputes over parental responsibility.

The complexity of international litigation necessarily leads to complex conflicts of law rules. In examining the provisions of the bill, it is important to keep in mind that Australian courts and authorities already apply highly technical conflict of law rules, most of which have been developed piecemeal over time by the courts as part of the common law. The convention is largely consistent with those existing rules but has the advantage of codifying the rules in a form which is expected to be adopted in many countries.

#### **International jurisdiction**

Conflict in jurisdiction between Australian courts and overseas courts in children's matters has been a longstanding area of difficulty. Australian and overseas courts sometimes make conflicting parenting orders in relation to the same children. The jurisdictional rules laid down in the child protection convention are designed to remove uncertainty for parents and the courts in determining the appropriate forum to hear disputes as to parental responsibility.

#### **Applicable law**

The Family Law Act provides that each of the parents of a child has parental responsibility in relation to the child. However, in

other countries, like New Zealand and the United Kingdom, a father who is not married to the child's mother has no rights of custody by operation of law. Under the convention, the parental responsibility of an unmarried Australian father will be automatically recognised in those countries.

#### **Recognition and enforcement abroad of parenting orders**

Under the convention a parent will be able to send a parenting order made by an Australian court to another convention country for enforcement.

#### **International cooperation**

For the purpose of protecting the best interest of children, the convention also includes a range of procedures to encourage cooperation between courts and child protection authorities in different countries.

#### **Child protection**

Another major objective of the convention is to address the problem of international cases involving protection of children from abuse and neglect. It is in the best interests of children that there be internationally agreed rules determining which child protection authorities have jurisdiction in relation to a child.

Commonwealth and state officials have been cooperating in the development of an appropriate legislative scheme to implement the convention in Australia. This bill gives effect to the Commonwealth aspects of the scheme.

#### **Treaty making process**

In accordance with reforms to the treaty making process introduced by this government, the convention will be tabled and subject to scrutiny by the Joint Standing Committee on Treaties. A copy of the bill will be provided to the committee to assist it in fully considering the implications of Australian ratification of the convention.

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

Debate (on motion by Ms Ellis) adjourned.

**JURISDICTION OF COURTS  
LEGISLATION AMENDMENT  
BILL 2002**

**First Reading**

Bill presented by **Mr Williams**, and read a first time.

**Second Reading**

**Mr WILLIAMS** (*Tangney—Attorney-General*) (10.27 a.m.)—I move:

That this bill be now read a second time.

The Jurisdiction of Courts Legislation Amendment Bill 2002 is the same in substance as the Jurisdiction of Courts Legislation Amendment Bill 2001, which was introduced on 27 September 2001.

That bill lapsed when the parliament was prorogued.

This bill amends the Federal Court of Australia Act 1976 and the Judiciary Act 1903 to allow the Australian Capital Territory to establish an ACT Court of Appeal.

The bill also amends the Federal Court of Australia Act 1976 to abolish the redundant office of judicial registrar and to make some changes to the practices and procedures of the Federal Court.

Following self-government for the Australian Capital Territory, responsibility for the ACT Supreme Court was transferred to the territory on 1 July 1992.

However, the Federal Court continued to exercise appellate jurisdiction for the ACT Supreme Court.

It is now appropriate for the ACT to establish its own appeal court with the consequent removal of the appellate jurisdiction from the Federal Court.

The ACT Legislative Assembly has passed the Supreme Court Amendment Act 2001 which provides for an ACT Court of Appeal to hear appeals from the ACT Supreme Court.

The provisions in this bill complement the ACT legislation.

The ACT legislation provides that the ACT Court of Appeal comprises all the ACT Supreme Court judges, resident, additional and acting.

The legislation also provides for the appointment of a President of the Court of Appeal.

The ACT government has announced the appointment of Justice Crispin as President of the Court of Appeal.

Since the establishment of the Federal Court in 1977, it has been the usual practice for a resident ACT Supreme Court judge to sit on the full Federal Court in an appeal from the ACT Supreme Court.

Judges of the Federal Court have made a significant contribution to the appellate work from the ACT and that work has been of the highest quality.

It is expected that the current system of Federal Court judges being appointed as additional judges to the ACT Supreme Court will continue.

These judges will also be eligible to sit on the Court of Appeal.

There are transitional provisions in the bill which provide that where the substantive hearing in an appeal from the ACT Supreme Court has already commenced in the Federal Court it will continue to be heard in the Federal Court.

The bill will make a number of other amendments to the Federal Court Act.

One amendment will provide for the abolition of the office of judicial registrar. There are no longer any judicial registrars appointed to the Federal Court.

With the establishment of the Federal Magistrates Service it is no longer necessary to retain the position of judicial registrar as the Federal Magistrates Service would now handle less complex work that previously was considered suitable for judicial registrars.

Other amendments to the Federal Court Act make some changes to the practices and procedures of the Federal Court.

These amendments are of a minor policy nature.

The bill amends the Federal Court Act to allow the Registrar to appoint as a marshal a person who is not engaged under the Public Service Act 1999.

The court has experienced difficulty when a person who is not engaged under the Public Service Act needs to be appointed as a marshal.

This can arise in a remote area where there are no staff of the Federal Court or other appropriate Commonwealth employees.

This amendment would allow a person not engaged under the Public Service Act to be appointed as a marshal.

The bill will also allow the chief justice to refer part of a matter to the full court.

This amendment makes it clear that the court has jurisdiction to refer part of a matter, as well as a whole matter, to the full court.

The bill will amend the Federal Court's interlocutory jurisdiction where a matter is referred by a tribunal or authority.

Subsection 20(2) of the act provides for the full court to exercise jurisdiction in a matter from a tribunal or authority constituted by a judge.

The amendments provide that certain interlocutory matters may be heard or determined by a judge or a full court.

The act provides that an appeal shall not be brought from an interlocutory judgment unless the court gives leave to appeal.

The bill amends the act to provide that the rules will prescribe the types of interlocutory judgment covered by this provision.

The amendment is designed to remove any uncertainty about what is an interlocutory matter by providing for the rules to specify such matters.

Section 25 of the act provides for the exercise of appellate jurisdiction.

The bill will amend section 25 to allow a single judge in an appeal to order that an appeal be dismissed for want of prosecution or failure to comply with a direction of the court.

Another amendment will allow locally engaged diplomatic staff in Australian embassies to witness affidavits.

This amendment will bring the provisions of the Federal Court Act into line with amendments made to various other acts re-

garding the witnessing of documents, by allowing locally engaged staff at Australian consular offices to undertake such tasks.

Importantly the amendments will provide clearer provision for the use of video and audio links in Federal Court proceedings.

Section 47 of the act currently provides some guidance for the use of video and audio links.

The court requested that the act be amended to provide detailed provisions for the use of video or audio links or other appropriate means.

The new provisions are based on those in the Federal Magistrates Act 1999.

In order to facilitate the processing of matters electronically, the bill amends the act to allow a writ, commission or process to be signed by affixing an electronic signature.

Although these amendments do not represent major policy changes, they will improve the efficiency of the Federal Court and its delivery of services to the community.

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

Debate (on motion by **Mr Zahra**) adjourned.

#### **TAXATION LAWS AMENDMENT (SUPERANNUATION) BILL (No. 1) 2002**

Cognate bill:

#### **INCOME TAX (SUPERANNUATION PAYMENTS WITHHOLDING TAX) BILL 2002**

#### **Second Reading**

Debate resumed from 14 February, on motion by **Mr Slipper**:

That this bill be now read a second time.

**Mr LATHAM (Werriwa)** (10.34 a.m.)—The measures in the **Taxation Laws Amendment (Superannuation) Bill (No. 1) 2002** and the **Income Tax (Superannuation Payments Withholding Tax) Bill 2002** will allow persons who have entered Australia on certain classes of visa and who then permanently depart Australia to have access to their superannuation benefits. The opposition is prepared to support these measures.

The explanatory memorandum to these bills states that the policy objective of this

legislation is to reduce the administrative and compliance costs that superannuation funds incur and pass on to all fund members in preserving the superannuation benefits of temporary residents who have permanently departed Australia. I note that this contrasts with the government's second reading speech which emphasises that temporary residents who leave Australia will not be retiring here and suggests that the government's intention is to fulfil the desire of those residents to take their superannuation with them. I am sure the significant revenue to be gained from these measures also factors into the government's policy decision in this case.

Having said that, Labor is prepared to support these bills. I think it is necessary to observe that the government's approach differs from the undertakings it made before the election in two important respects. The first is this: the benefits accessed under this new regime will be subject to withholding arrangements—that is, a new tax—to return the tax concessions already provided for the superannuation benefit. The government is introducing a new tax with this legislation. This particular measure is in breach of the Prime Minister's promise before the last federal election that he would not introduce any new taxes. This was a promise given on the Neil Mitchell radio program in Melbourne on 1 November 2001. I will quote from the transcript:

MITCHELL: Will you agree, or will you promise not to introduce any new taxes?

PRIME MINISTER: That is our commitment and that remains our commitment.

MITCHELL: That's a promise?

PRIME MINISTER: Yes.

MITCHELL: And increase no taxes?

PRIME MINISTER: We have no plans to increase taxes.

MITCHELL: Is that as solid a commitment ...?

PRIME MINISTER: Yes.

MITCHELL: Is it a promise?

PRIME MINISTER: Well a commitment, I thought a commitment was a promise.

That was fairly clear cut, one would have thought, from the language and repetition used by the Prime Minister. But we subsequently found out the only promise from that

extensive list of commitments and promises was a verbal promise; it was not in writing. This falls into the same category as the 'kids overboard' arrangements and deceit and that the Prime Minister is only bound by things that are given and provided in writing, not by matters and advice that are provided orally. So the Prime Minister can put this one in the same category as 'kids overboard' and, of course, his famous fistful of dollars broken promise in 1977. It is unfortunate that this government has taken just four months since the last election to break its first promise on tax.

**Mr Entsch**—'L-a-w' law.

**Mr LATHAM**—Well, you should try 't-r-u-t-h' truth; you ought to try truth in politics instead of deceit. That might be a better policy for the coalition, including the parliamentary secretary at the front table.

The second breach of promise in this legislation is the date of effect of these measures, which is 1 July 2002. The government promised before the election that these measures would commence on 1 January 2002, but straight after the election they announced a deferral of six months. Again it must have been a verbal promise. Senator Coonan, the minister responsible for superannuation, stated that the deferral was required because legislation needed to be passed and the superannuation industry had to be given time to implement the changes.

Why the government were not aware of these basic requirements back in November when the promise was made is not at all clear. It does not ring true that they suddenly realised that changes such as these require legislation and some form of consultation—although, given their lack of attention to such matters during the process of tax reform, it may be true. I think it is fair to say that the golden rule of Australian politics is: never underestimate the incompetence and duplicity of this government. That is the golden rule of politics in this nation: never underestimate the incompetence and duplicity of this administration. The failure to introduce these measures by 1 January this year, plus the introduction of the new tax, is not a great start to the government's third term, but it also has to be said that it is not the worst

breach of promise that we have seen this year.

Under the new arrangements, a person who receives a departing Australian superannuation payment is liable to pay tax on that payment at a rate decided by the parliament. Under the bills it is proposed that the rates be as follows: for so much of the payment as represents an undeducted contribution or post-June 1994 invalidity component, the rate is nil; for so much of the payment as represents an untaxed element of the post-June 1983 component, the rate is 40 per cent; and, for the remainder of the payment, the rate is 30 per cent. It appears that most payments will be taxed at the 30 per cent rate. Many of the temporary visa holders affected by these measures are higher income earners and consequently pay the surcharge/tax of 15 per cent in addition to the 15 per cent contributions tax, leaving the remaining 70 per cent of their money to earn interest in the superannuation fund.

On departure from Australia they will, under this new system, generally pay another 30 per cent in tax. As a consequence, the effective tax rate for these taxpayers will be 51 per cent. This is the highest personal income tax rate since Labor reduced the top marginal tax rate of 60 per cent in the 1980s. This tax rate of 51 per cent is far higher than the tax concessions currently allowed on superannuation, which generally provide for \$106,000 tax-free on retirement and the balance, up to a reasonable benefit limit, is taxed at 15 per cent. It is a tax rate, unhappily enough, consistent with this government's record as the highest taxing and highest spending administration in the history of the Commonwealth.

So there are not only broken promises, not only acts of duplicity, but also an exceptionally high tax rate of 51 per cent that matches the government's record as the highest taxing and highest spending administration in the history of the Commonwealth. So much for small government, so much for honest government, so much for fair government in the interests of the Australian nation.

Treasury argued during Senate estimates in February that, because there is a timing

benefit that accrues to the superannuation contributions made at relatively lower rates of taxation, this 51 per cent tax rate is appropriate. However, due to this high tax rate and the process involved in actually getting the money, it is possible that some of the people eligible to access their benefits may be deterred from doing so. That may mean the government will not realise the projected revenue, which is estimated at \$255 million over three years, but, given that the data on which the estimate is based is theirs, we will have to take them at their word. This is the situation facing the House.

Superannuation fund trustees will have to ensure that the correct tax is withheld from the payments. They will also have to do considerable work to pay out the benefits as the regulations, at least in the draft form released by the government last Friday, require a significant amount of paperwork to be completed.

The classes of people who are eligible to access their superannuation under these provisions are not spelt out in the legislation but will be left up to the regulations to prescribe. The draft regulations currently provide for a substantial number of classes of eligible temporary resident visas—everything from the predictable inclusions, such as 'Subclass 413 (Executive)' to the more unusual, such as 'Subclass 499 (Olympic (Support))'.

It is worth noting that classes of eligible visas also extend to those who do not carry with them the right to work and, hence, it should be highly unusual for these people to have Australian superannuation funds. It will be interesting to see how many tourists apply for their superannuation under such circumstances, given that in most cases it would require an admission that they had been illegally working in Australia. I do not think the parliament can have high expectations in this regard.

This new process for obtaining superannuation benefits differs significantly from the existing regime. Currently, individuals departing Australia, regardless of whether they have been Australian residents or temporary visa holders on a permanent basis, generally only have access to their superannuation en-

titlements at or after the preservation age. The preservation age is a minimum of 55 years, but for those born after 1 July 1960, such as the youthful member for McMillan and me—I do not think it applies to many others in the House at the moment—there is a phased increase in the preservation age of up to 60 years.

It should be noted that it was the government that tightened up the release provisions in 1998 for people permanently departing Australia. At that time, the Labor senators on the superannuation committee charged with examining the government's proposed changes, including the shadow minister for retirement income, Senator Sherry, strongly argued that temporary visa holders who permanently depart Australia should be given access to their superannuation, but the government insisted that this should not be permitted. It seems they now concede the wisdom of our advice; they now concede the wisdom of the arguments presented to the committee by Senator Sherry.

These measures represent yet another backflip in government superannuation policy. Others announced in the government's election package include the reduction in the rate of the government's own superannuation surcharge, the introduction of co-contributions—which they promised to deliver before the 1996 election but then scrapped; it will now be provided for in a very limited way for low income earners— and, finally, the introduction of a requirement upon employers to make quarterly payments of superannuation guarantee contributions, a matter for which I introduced a private member's bill in the House on Monday.

Yet again, this is a half-hearted change from the government, following their repeated refusal to pass our legislation over the past few years that would have ensured contributions were made quarterly or much sooner. The government's attempt at this policy will not see mandatory quarterly contributions until July 2002. It was on this matter that the private member's bill was introduced, to try to overcome this particular problem. It is yet to be seen whether the government will support this significant improvement on their proposal.

While Labor believe that these measures highlight the inconsistency of the government's approach to superannuation and include a significant number of broken promises, we are prepared to support the bills in the House. In effect, we support the content of the legislation, but not so much the process by which it has arrived in the House of Representatives today.

**Mr TOLLNER (Solomon)** (10.45 a.m.)— I rise to support the [Taxation Laws Amendment \(Superannuation\) Bill \(No. 1\) 2002](#) and the [Income Tax \(Superannuation Payments Withholding Tax\) Bill 2002](#). I do so because they make good sense. I worked for over a decade in the superannuation industry. I worked for a very large industry superannuation fund that was the retirement vehicle for the majority of the Northern Territory private sector work force. I worked both at a senior management level and at the grassroots level. During that time, I saw many hundreds of people who had visited Australia on working holidays and were then planning to depart, but they first needed to put their financial affairs into order. From my first-hand experience, I know that they left the country feeling ripped off. A component of their earnings, their superannuation, was not available to them. Typically, the superannuation component was not a great deal of money. However, as most saw it, it was rightfully theirs and the fact that it was a relatively modest sum only increased the sense that they would never see it again. They were mostly young people who would hardly be bothered, let alone remember, to track down their entitlement in 30 to 40 years time when they reached retirement age—let alone inform the superannuation fund of future changes of address.

Such people visiting Australia on a working visa are generally the go-getters—the achievers—of their country and of their generation. They have the drive to come and work here and they will return home to achieve even greater goals. More than likely, they will become parents, businesspeople and community leaders in their own right. They, I imagine, will travel throughout their lives not forever as working tourists, but as well-heeled vacationers who are not scared



to spend a buck and stay in a classy hotel or visit an up-market attraction. I ask: what lasting impression did they take with them of Australia—a country that, upon their departure, withheld their future retirement entitlement?

My electorate of Solomon has a work force that swells by up to 8,000 with the arrival of the tourism and fruit picking seasons. Most of the workers are travellers, many from overseas. My superannuation office shared rental space with the employment agency Drake Personnel. I saw part-time teachers, nurses, clerical part-timers, and hotel and restaurant workers who were often temporary residents come and go daily. They also felt ripped off by a system that did not allow them to depart with their full entitlements.

I might even mention here my cousin Henno Harder, a German microelectronics engineer who came to Australia on a work exchange holiday. He too was a victim of the system—a man condemned to spend the rest of his life informing his Australian superannuation company of his every change of address so that the company can report to him how his miniature nest egg is not growing in this far distant land, safe but unattainable, until he retires many years into the future.

So on those grounds alone I support these bills. I support them for Henno Harder and all his fellow travellers and workers of the world. But more than that, these bills have my support because they are good sense for the superannuation funds as well. I assure you that those funds will be only too pleased to clear from their books the thousands of miniretirement funds they must maintain, update, track, declare and report upon each year, both to the members and to government agencies. They will reduce the workload, the need for annual statements to foreign addresses, the newsletters and the requirements to inform members of their investment options.

These bills make good sense for all members of superannuation funds living in Australia. That is because, very justifiably, there is something called member benefit protection, meaning that a super fund cannot impose administration fees in excess of annual

interest on members with superannuation savings of less than \$1,000. That means that all members must subsidise the administration cost of this myriad of small accounts owned by people in various foreign places. In short, the [Taxation Laws Amendment \(Superannuation\) Bill \(No. 1\) 2002](#) is good for those who depart from, and those who continue to live in, Australia. It is good for those with minimal benefits and for those with substantial accumulated funds, as its passage will end the excessive and unnecessary administration costs imposed by the current legislation.

Finally, as the minister has informed the House, the bill is good sense for the government, resulting in an increased revenue of \$70 million next year, \$110 million the following year and \$75 million in 2004-05. In summary, I congratulate the minister on some entirely and eminently sensible legislation which will deliver workers entitlements, enhance our country's reputation with those on working holidays, simplify procedures, reduce administration costs, save money for members of superannuation funds and gain the government additional revenue. That is why I support these bills.

**Mr SLIPPER** (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (10.51 a.m.)—in reply—Honourable members would want me to thank them for their contributions in the debate on these two cognate bills today, the [Taxation Laws Amendment \(Superannuation\) Bill \(No. 1\) 2002](#) and the [Income Tax \(Superannuation Payments Withholding Tax\) Bill 2002](#). In summing up, I would like to refer to some of the comments made, in particular, by the honourable member for Werriwa. In his speech, the member for Werriwa referred to the change of start date from 1 January 2002 to 1 July 2002 and, in effect, queried why that has occurred. It makes no difference to expected tax revenue. This is a government which is prepared to consult with the industry, and the industry argued that it needed more time to implement changes. The government could have pursued a 1 January start date, but the existing rates of taxes would not have been sufficient to claw back the tax concessions. It was a practical

decision that was made after consultation with the industry.

The member for Werriwa, in what was his maiden contribution as a shadow minister upon his return to the frontbench—and I must say that he did enjoy a number of years in Coventry—also accused the government of introducing a new tax. The member for Werriwa knows that is not the case. What we are doing is introducing not a new tax but a new tax rate. As I mentioned a moment ago, the existing tax rates of 20 per cent and 30 per cent would not have clawed back the tax concessions.

The member for Werriwa also claimed that in some cases the tax rate will be too high. In most cases, payments will be taxed at 30 per cent. The aim is to ensure that no person who takes his or her superannuation prior to retirement receives concessional tax treatment. A simple flat rate has significant benefits in making the measure simple, easy to administer and also cost-effective to administer—and that is important. The member for Werriwa also referred to the tightening of release rules in 1998. The member for Werriwa ought to appreciate that we are now in 2002 and that times have indeed changed. This measure will complement current bilateral negotiations with countries to prevent double super guarantee being paid. One could dismiss most of the comments made by the member for Werriwa which were marginally critical of the principles contained in this legislation. The government does however thank the opposition for its support for the legislation.

Before I conclude I want to place on record how fortunate this House is to have the honourable member for Solomon as a member. As we heard during his speech, he is a person with a strong professional background in the superannuation sector, unlike so many members opposite whose only claim to fame is a long and enduring membership of the trade union movement. The member for Solomon has a strong corporate background. He is able to stand up, unlike many members opposite, and refer to his own personal affiliation with the business community. I have to say that the people of Solomon were particularly discerning at the

election last year when they chose to send to Canberra a member of the quality of the honourable member for Solomon.

The government announced in its A Better Superannuation System statement last year that temporary residents permanently departing Australia would be able to access their superannuation. We deliver in this legislation on the government's announcement. The taxation arrangements for this measure are set out in this legislation. There are only a very limited number of situations where people are able to access their superannuation funds before preservation age. Temporary residents who have permanently departed Australia will not be retiring in Australia and often wish to take their superannuation benefits with them to the country in which they live. Currently they are unable to do so. The member for Solomon in his speech outlined the situation of a relative of his. The government is proposing amendments to the Superannuation Industry (Supervision) Regulations which will in future allow such persons to access their superannuation on departing Australia.

However, as the payment will be to a temporary resident who will not be using the payment for retirement in Australia, it would not be appropriate for the payment to receive concessional taxation treatment. I am a bit surprised that the member for Werriwa was critical of the government's removal of concessional taxation treatment. Accordingly, the [Taxation Laws Amendment \(Superannuation\) Bill \(No. 1\) 2002](#), in conjunction with the [Income Tax \(Superannuation Payments Withholding Tax\) Bill 2002](#), imposes special rates of taxation on superannuation paid to temporary residents permanently departing Australia and requires funds, quite understandably, to withhold taxation from such payments at those rates.

Earlier in this speech I emphasised that the amendments will claw back the taxation concessions on these payments while still allowing temporary residents permanently departing Australia to take their superannuation, rather than requiring them to leave it in this country until retirement. The explanatory memorandum, which was tabled at the time of the second reading speech, contained

the full measures of the legislation. Both of these bills are important measures for Australia's superannuation system and for the community. I thank members for their speeches and their support and I commend the legislation to the chamber.

Question agreed to.

Bill read a second time.

### Third Reading

**Mr SLIPPER** (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (10.57 a.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

### INCOME TAX (SUPERANNUATION PAYMENTS WITHHOLDING TAX) BILL 2002

#### Second Reading

Debate resumed from 14 February, on motion by **Mr Slipper**:

That this bill be now read a second time.

Question agreed to.

Bill read a second time.

#### Third Reading

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

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

### COAL INDUSTRY REPEAL (VALIDATION OF PROCLAMATION) BILL 2002

#### Second Reading

Debate resumed from 20 February, on motion by **Mr Ian Macfarlane**:

That this bill be now read a second time.

**Mr SIDEBOTTOM** (Braddon) (10.59 a.m.)—The opposition supports the **Coal Industry Repeal (Validation of Proclamation) Bill 2002**. In 1998, in the federal election campaign, the government made a commitment to withdraw from the Joint Coal Board with New South Wales. Interestingly, this

ended something like 50 years of history of cooperation between the Commonwealth and the New South Wales governments in relation to coal industry matters and the Joint Coal Board.

Following negotiations with the New South Wales government, it was jointly decided to transfer full responsibility for the Joint Coal Board to the New South Wales government. Naturally, this included the transfer of all of the assets, liabilities and rights of the Joint Coal Board to New South Wales. This was done in order to ensure the new corporation, to be established under New South Wales legislation to replace the Joint Coal Board, would have a financially sound base and would continue to have the resources needed to maintain its functions. The Commonwealth and New South Wales governments also agreed that all staff of the Joint Coal Board would be transferred to the new corporation, to be established under New South Wales law. The date of the proclamation which would dissolve the Joint Coal Board was to be coordinated between the Commonwealth and the New South Wales governments to ensure that the new arrangements were in place and that the new New South Wales corporation was ready to take over once the Joint Coal Board was dissolved.

The New South Wales coal industry is a very important industry not just for New South Wales but for the nation as a whole. It contains something like 10,000 workers, and 70 per cent of the total income from mining for the years 1999-2000 was derived from the coal industry. In 2000, for example, it was worth \$3.4 billion in exports.

The New South Wales government passed legislation in December 2001 to establish a new corporation called Coal Services Pty Ltd. Out of interest, Coal Services Pty Ltd is a private company owned jointly by the NSW Minerals Council and the Construction, Forestry, Mining and Energy Union, the CFMEU, as representatives of the coal industry. It came into being on 1 January 2002, when the Joint Coal Board and the Mines Rescue Board ceased to exist, as arranged. The merger of the two boards completed several years of negotiations—between the

Commonwealth and the New South Wales governments, the NSW Minerals Council and the CFMEU—and consolidated all activities of a health and welfare nature in one company to service the New South Wales coal industry. The merger also signalled, as I mentioned earlier, the end of something like 50 years of direct Commonwealth involvement in the New South Wales coal industry.

The Coal Industry Repeal Act 2001 received royal assent on 28 April 2001. The act was to commence on proclamation, with no further dates set within the act, and must commence in any event. The commencement of the act depended on the passage of complementary legislation through the New South Wales parliament, which occurred under the Coal Industry Act 2001, New South Wales, which was assented to on 14 December 2001. In due process, on 20 December 2001, the Governor-General signed the proclamation, which was countersigned by the responsible minister, the Minister for Industry, Tourism and Resources, in accordance with section 5 of the Acts Interpretation Act 1901. However, according to the minister's second reading speech on this bill, 'because of an administrative oversight' the proclamation was not gazetted before 1 January 2002. In fact, it was gazetted a month later—naughty! I will be speaking in the parliament on another bill today where there is another unfortunate oversight in administration. Perhaps there be too much haste at this time.

That means, significantly, that the Coal Industry Repeal Act 2001 may not have commenced on 1 January 2002, as intended. Indeed, it did not. As a consequence, the legal basis of many of the actions taken by the New South Wales government in connection with the New South Wales coal industry is, as we would expect, uncertain. So the purpose of this bill is to remedy the situation by retrospectively validating the proclamation. This will have the effect of providing certainty to Coal Services Pty Ltd, which has responsibility for workers compensation, occupational health and rehabilitation and mines rescue services in the New South Wales coal industry—very important serv-

ices that need to be provided, and there should be no uncertainty about them.

Thus, the purpose of this bill is twofold: firstly, through clause (3), to confirm the Coal Industry Repeal Act 2001, that it did and does commence on 1 January 2002, as intended; and, secondly, to validate, through clauses (4) and (6), all actions taken on the assumption that it did commence and that it did so on 1 January 2002.

**Mr BALDWIN (Paterson)** (11.05 a.m.)—The **Coal Industry Repeal (Validation of Proclamation) Bill 2002** arose because of an administrative oversight, namely that the proclamation was not gazetted before the commencement date of 1 January 2002. I understand that new procedures are being put in place so similar oversights do not occur in the future.

However, the thrust of the debate today is on the Coal Industry Repeal Act 2001. The aim of this act is to dissolve the Joint Coal Board and transfer all of its functions—staff, assets and liabilities—to a new New South Wales body. Only a few weeks ago, during the first session of parliament, I raised the issue over governance and the uncertainty that unclear definitions, under section 51 of the Constitution, place on all levels of government. The Coal Industry Repeal Act 2001 gives control of the New South Wales coal industry to New South Wales, and it provides much clearer lines of responsibility when it comes to the industry.

This represents the removal of unnecessary regulations and it paves the way for New South Wales to join other states in Australia to take control of this valuable sector and manage their own coal industries. It will be the first time since 1946, when the Joint Coal Board was established, that New South Wales will have the flexibility to manage and reform the sector, to meet the changing market needs of domestic and international markets alike. It will mean a clearer definition of responsibilities, with all existing functions of the Joint Coal Board to be fully transferred to New South Wales.

For the future of the industry we must give it the ability to act responsively to markets by moving another step towards the re-

removal of unnecessary regulation. Let us not forget that the coal industry is one of the most important industries in this country. The New South Wales coal industry is not only important to New South Wales and to Australia but, most importantly, essential to the future viability of the Hunter. Coal in New South Wales is the largest export commodity, worth in the vicinity of \$4 billion a year on current prices. The New South Wales coal industry provides over 9,000 direct jobs and many more generated through service industries—many of those located in the Hunter. Coal provides 90 per cent of the input fuel for electricity production—again, another industry represented well in the Hunter. It provides relatively low cost electricity to consumers and industries alike.

At the recent ABARE Outlook Conference, ABARE forecast a bright future for the Australian coal export industry. Production is forecast to rise to over 300 million tonnes by 2010, or about 42 million tonnes higher than current levels. Exports are forecast to rise by 21 per cent by 2010, which is worth about another \$2 billion at current prices. To expand industry capacity to meet future growth, there is currently large capital investment in the Australian coal industry. To see this we need to look no further than the Hunter, particularly the Port Waratah coal terminal and the expansions on Kooragang Island. ABARE's last half-year survey of investment plans in the coal industry, which was released in December 2001, identified some 25 new coal projects with a total capital expenditure of around \$5 billion. The total new production capacity of these projects is a potential 116 million tonnes. However, in the short term, about \$2.5 billion has already been committed. So while ABARE has predicted a solid future for the industry, today we are here to debate a bill that will put into place the reforms needed for future growth.

I have a great interest in seeing our local coal industry survive and thrive. The Hunter region, which incorporates the southern end of my electorate, is famous around the world for coal mining and my electorate of Paterson has one mine near Gloucester called the Stratford mine. The Port of Newcastle,

which is the gateway for so many industries in Paterson, is the largest coal export port in the world and plays a pivotal role in local employment and business opportunities. According to the Newcastle Port Corporation, the port handles cargo in excess of 77 million tonnes per annum with around 3,000 shipping movements. Coal exports represent more than 80 per cent of the total throughput tonnage.

This legislation will give the New South Wales coal industry the flexibility to manage its own industry and meet the challenges of world coal global markets head on. All the other coal producing states have operated their own industry without this level of Commonwealth involvement. So for the Hunter region and Paterson, I can only see it as being a step in the right direction. The New South Wales parliament passed legislation in December last year to establish Coal Services Pty Ltd. This new corporation is a private company that combines the Joint Coal Board and the Mines Rescue Board and brings together all of the services of a health and welfare nature for the NSW coal industry. These services include occupational health and welfare, workers compensation, training, mines rescue services and superannuation administration services. The new arrangements provide an opportunity for the industry to secure for itself a safe, viable and competitive future.

It is very interesting to note that, several months ago, when the bill was first introduced, the ALP had the audacity to come in here and say that they are the friends of the coal industry. Yet when it came to protecting one of our key export industries and the thousands of Hunter jobs, the ALP shot down the industry when it came to the Kyoto protocol. If the ALP had their way on the Kyoto agreement, they would have killed off the coal industry. I need to repeat that: if the ALP had their way on the Kyoto agreement, they would have killed off the coal industry. Thousands of Hunter jobs, both directly and indirectly, would have disappeared.

It was this government who went to the table with the logical argument that all developed countries have different economic circumstances and different capacities to re-

duce emissions. Our nation specialises in producing energy and greenhouse intensive goods, which account for more than 80 per cent of our exports. Australia's commitment is that we will limit growth of our greenhouse gas emissions in the target period to eight per cent above the 1990 levels. This government will be putting a billion dollars into reducing greenhouse gases, but if it were up to the ALP and their ridiculous suggestions on Kyoto, they would have destroyed one of our key industries. The question is: where was the mining unions' support for the coalition when the Kyoto protocols were being discussed? Where was their condemnation of the Labor Party when they wanted to shut down their jobs?

In conclusion, I would like to wish the new corporation every success in the future. I would also like to congratulate the Joint Coal Board on its contribution to the industry since its formation more than 50 years ago. This bill aims to remove uncertainty caused by an administrative oversight and gives effect to reform that is supported by all parties and stakeholders.

**Mr ENTSCH** (Leichhardt—Parliamentary Secretary to the Minister for Industry, Tourism and Resources) (11.13 a.m.)—In summing up the second reading debate on the *Coal Industry Repeal (Validation of Proclamation) Bill 2002* I would like, first of all, to thank both members for their contribution in this debate. I would like to thank the member for Braddon, who has confirmed the opposition's support for the bill and the fact that all of the staff would be in fact transferred from the Joint Coal Board to the new entity, Coal Services Pty Ltd. The honourable member also highlighted the value of the Australian coal industry to our nation. The member for Paterson raised the issue of unclear definition and the need to remove unnecessary regulation. The honourable member also highlighted the value of the Australian coal industry and the positive future for the industry and the very significant capital investment that is currently occurring within that industry.

I note that both the member for Braddon and the member for Paterson commented on the administrative oversight that has resulted

in this particular bill. I understand that the Attorney-General's Department has revised its procedures so that, in future, it will gazette all proclamations immediately unless instructed otherwise by the departments concerned. Hopefully, that will address those concerns and we will not see this type of thing occurring in the future.

The *Coal Industry Repeal (Validation of Proclamation) Bill 2002* puts beyond doubt that 1 January 2002 was the date of commencement for the Coal Industry Repeal Act 2001 and validates all actions taken on the assumption that this act came into force on that date. The Coal Industry Repeal Act 2001 removes unnecessary regulatory intervention by the Commonwealth in the New South Wales coal industry. It puts New South Wales on the same footing as all other states. In New South Wales the coal industry employs about 9,000 people and indirectly supports many thousands more jobs. It is the state's largest export industry, with export earnings of about \$4 billion a year. The good news today is that the New South Wales coal industry continues to grow strongly on the back of strong growth in world coal demand.

The Coal Industry Repeal Act 2001 gives effect to the Commonwealth's withdrawal from the Joint Coal Board, and transfers its functions and properties to New South Wales. Complementary New South Wales legislation that was passed late last year, with support of all parties, established a privately owned corporation—Coal Services Pty Ltd—to take over these functions and properties. Coal Services Pty Ltd is 50 per cent owned by the New South Wales Minerals Council, representing the coal employers, and 50 per cent owned by the CFMEU, representing the coal workers.

The date agreed by the Commonwealth and New South Wales governments for the commencement for both the Commonwealth and New South Wales acts was 1 January 2002. This coordinated date also reflects a parliamentary undertaking that the Commonwealth would not proclaim its act until New South Wales was ready to go ahead. This bill rectifies an unfortunate administrative omission to duly gazette the Common-

wealth proclamation fixing this commencement date.

This bill will ensure that the Coal Industry Repeal Act 2001 commenced on 1 January 2002 as intended and will validate actions taken on the assumption that it commenced on that date. It will provide solid legal foundations that support the establishment of Coal Services Pty Ltd, and will allow it to service the New South Wales coal industry as it was intended.

Question agreed to.

Bill read a second time.

### Third Reading

**Mr ENTSCHE** (Leichhardt—Parliamentary Secretary to the Minister for Industry, Tourism and Resources) (11.18 a.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

### HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION AMENDMENT BILL 2002

#### Second Reading

Debate resumed from 21 February, on motion by **Mr Williams**:

That this bill be now read a second time.

**Mr McCLELLAND (Barton)** (11.19 a.m.)—The **Human Rights and Equal Opportunity Commission Amendment Bill 2002** is the first bill of the Howard government's third term that touches on the issue of human rights. It is an important issue because human rights are fundamental living standards issues to the Australian people. It is appropriate that we therefore use this opportunity to consider the Howard government's human rights record. Sadly, the period of the Howard government has been marked by a deterioration of the government's commitment to human rights and, worse still, the sully of Australia's international reputation as a leader in human rights. Given our history, Australia should be in a position to be proud of its human rights record, but we as a nation are not now—and I will refer to a comment by the Attorney-General later in this speech.

Last year I met with a delegation from Canada—it was a cross-party delegation, from all sides of politics. To a tee, they were all immensely proud of Canada's human rights record and what they had achieved locally and internationally, whether it is in respect of their work in the treaties to outlaw land mines, chemical weapons or weapons relating to biological warfare or in respect of their work on getting pharmaceuticals into Asia and South Africa, in particular, at an affordable price. They have a tremendous international human rights record. They are a highly respected nation for that—a fundamentally decent nation, as we used to be. We used to be playing far above our weight in the international field, not only in the human rights area but also, because of that tremendous respect that we had, in so many other areas. It is a shame that this government has so dramatically damaged our human rights record that it is now a matter that fundamentally affects our national interest.

We have watched a government that has acted to diminish and undermine Australia's human rights framework and, as a result, it is always on the defensive. Let me take just a few examples of what the Howard government has done and, equally, has not done in the last few years. It has failed to step in to stop the insidious practice of mandatory sentencing of juveniles. Had the Prime Minister permitted a conscience vote on that matter, the Northern Territory's laws under the previous government up there would have been overridden by the federal legislation. As a result of the government's failure to act, we were the only country in the Western world—

**Mr Randall**—Mr Deputy Speaker, I rise on a point of order. I draw your attention to this amendment bill. It has nothing to do with what the honourable member is discussing in his attack on human rights in general. We are talking about an amendment bill—unless you wish to give me the same latitude when I rise.

**The DEPUTY SPEAKER (Hon. I.R. Causley)**—There is no point of order.

**Mr McCLELLAND**—Thank you, Mr Deputy Speaker. The bill concerns accessing remedies under the human rights legislation

and I am talking about the importance of those fundamental human rights concepts.

Turning back to the issue of the right of, in particular, young people not to be mandatorily detained, we were the only Western nation that was jailing young people, effectively as a result of an addiction to petrol sniffing. Most of those young people jailed were jailed either for stealing petrol or for receiving stolen goods—namely, a couple of litres of petrol. It was a disgraceful incident in Australia's history.

This government also introduced the first legislation in 20 years to attempt to wind back the protections offered by the Sex Discrimination Act—and, for the benefit of the honourable member, we are certainly talking about remedies under the Sex Discrimination Act directly in the subject matter of this debate. That was in the context of the ALP national conference midway through the last parliamentary term. To see the lack of sincerity or the extent to which they are prepared to abuse human rights for their political agendas, we do not need to look any further than their conduct in respect of that matter. The government dropped the bombshell in the middle of the ALP national conference, but where has been their attempt to introduce that legislation since then? It has become a non-issue. It slid off the radar because it no longer serves their political wishes. The government have also attempted to abolish tribunals, which would have resulted in citizens being less able to access those tribunals to challenge government decisions that affected them.

Fundamentally, the government has also cut the Human Rights and Equal Opportunity Commission funding which diminishes the commission's capacity to work productively for the advancement of human rights in Australia and throughout the region. Again, I stress that this concept of human rights—which some are inclined to suggest is an international counter-establishment movement—is about living standards. Some tremendous work has been done by the Human Rights and Equal Opportunity Commission in establishing just that. There is its *Bush Talks* report, for instance. The commission travelled around rural and regional Australia

to audit the resources of rural and regional Australia in terms of the right of Australians to the highest attainable level of health care, education, access to infrastructure and social services. It found that our system generally was just not up to speed. When people engage in the reality of human rights—they are about living standards and they set benchmarks and standards for us all to aim for and aspire to—they get a concept of the category in which human rights should be examined; that is, they are about improving the lifestyles and living standards of ordinary Australians and ordinary Australian families no matter where they live.

The government has also attempted to reduce the independence of the Human Rights and Equal Opportunity Commission by requiring it to obtain the permission of the Attorney-General before making submissions in matters of public importance. That was a significant attempt to impede the independence of the commission. The government has virtually abolished legal aid in human rights matters as compared with, for instance, the tremendous amount of money it is giving to very successful businessmen involved in the HIH royal commission. There is, effectively, no means test or criteria of financial hardship being applied in those circumstances.

More recently, we have seen the government prepared to lie and mislead during a heated election campaign on whether suspected unlawful arrivals were involved in throwing their children overboard. A government with any interest in human rights does not make unsubstantiated allegations for its own political purposes about the activities of people who are entirely unable to defend themselves. Nor does a government with an interest in human rights use information obtained from the Defence Signals Directorate to spy on its own citizens. Clearly, that occurred.

It is no wonder that people have come to the legitimate conclusion that this government has nothing more than a rhetorical commitment to human rights—and even that claim is wearing thin. It is also not surprising that, given its appalling record on human rights, the government has been having difficulty in attracting and retaining staff to do its



human rights work. The human rights branch of the Attorney-General's Department should be attracting and retaining some of Australia's most talented human rights specialists. Indeed, we did have a proud record in that area that was respected as being instrumental in promoting some fundamental international treaties—for instance, the nuclear disarmament treaty—and a whole range of activities in getting Cambodia to move towards democracy. These all had a pivotal role and were from a highly talented and highly respected pool of people. Under this government, they have just given it away; they have just been fed up.

It is a shame that Australia has lost that talent base and it is a shame, quite frankly, that the international community has lost that talent base. Clearly, the policies of the Howard government have been directly responsible for the exodus of staff from the human rights branch of the Attorney-General's Department. If I were the Attorney-General, I would be ashamed of that fact alone. Rather than demonstrating leadership in the protection of human rights, the government's habitual response has simply been to blame anybody else they can think of and, if it serves their political advantage, they will vilify them, victimise them and do whatever is necessary to retain themselves as the ruling class. More often than not, we have seen the government being prepared to use the international community in response to their—

**Mr Randall**—You are searching for the words because it is not true.

**Mr McCLELLAND**—attack on the national human rights committee because it would dare to criticise those things that I have already said. The honourable member says that it is not true that the international community has criticised Australia's human rights record. I say to the honourable member that that fact stands on its own, and I will shortly be referring to a statement by the Attorney-General. There was a sign this year that the Attorney-General wants to turn around the perception of his government as having a poor human rights record, as indeed it does. In his speech to senior officers of the Attorney-General's Department in February

this year—and perhaps it was to try to prevent the exodus of these talented and committed people—he said:

While Australians can and should be proud of our human rights record, I am concerned that there is a view among sections of the community that the Howard Government is not committed to human rights. I would like to address this misconception during the third term.

How did that view or perception come about? It is because the government has been prepared to ignore human rights but, worse still, to abuse human rights when it served its political purposes.

**The DEPUTY SPEAKER (Hon. I.R. Causley)**—The chair is wondering where this ties in with the amendment which is part IIB, which 'binds the Crown in right of the States'. Perhaps the member for Barton will give the connection.

**Mr McCLELLAND**—Certainly. If the government wants to address that misconception that it believes, it has to do so by way of actions, and I am talking about this legislation specifically. The government basically will have to improve the reality if it wants to improve the perception. If anything, the need for this bill shows that the government was asleep at the wheel when it moved the Human Rights Legislation Amendment Act (No. 1) in 1999. That legislation—which this bill is amending—contained a careless mistake that created a legal deficiency in one of Australia's primary human rights statutes, the Human Rights and Equal Opportunity Commission Act. This area was identified last year in the Federal Magistrates Service case known as *Rainsford v. State of Victoria*. When the complaint handling structure under the old federal antidiscrimination legislation was moved into part IIB of the Human Rights and Equal Opportunity Commission Act, the error meant that no provision was made to ensure that the new part bound the states.

As a result of *Rainsford*, while the states technically remained bound by prohibitions on discrimination in Commonwealth antidiscrimination law, complaints of unlawful discrimination cannot be made against a state. The bill fixes that mistake and brings the legislation back into line with the original

policy intention to ensure that the states are bound by the complaint handling procedure. It is quite clear; if you look at the bill you can see that it is intended to bind the Commonwealth, the territories and indeed external territories, including Norfolk Island. Quite clearly, it was an oversight in not referring to the states at that point in the legislation. The opposition say quite clearly that that error should be corrected, and for that reason we will be supporting the bill. The commencement of the amendments is retrospective to 13 April 2000 so that there will be no gap in the operation of the act. As I have indicated, the opposition will also support that.

Had the government shown more interest in protecting Australia's human rights fabric rather than dismantling it, this bill would not have been necessary. It is an embarrassing admission that the government was careless when it made changes to the structure of the federal rights law two years ago. If this bill is a sign of the government's supposed new commitment to addressing perceptions of its record on human rights, it does not bode well for the government's attempt to improve the perception of its human rights record, which is quite atrocious. It has to do far more than this.

**Mr RANDALL (Canning)** (11.35 a.m.)—I will initially speak to the [Human Rights and Equal Opportunity Commission Amendment Bill 2002](#), but I am sure that you, Mr Deputy Speaker, will give me the latitude of responding to some of the comments that the member for Barton has made in wide ranging discussions on this bill. I am pleased to see that the member for Barton has indicated that the Labor Party supports this amendment, so it should have very smooth passage through the House, and hopefully the Senate—as it should do, because it is a correction to a drafting oversight and is just a mechanical piece of legislation to correct an omission. As I and the member for Barton have already said, this bill addresses the [Human Rights Legislation Amendment Bill \(No. 1\) 1999](#), where the omission was made. The omission was highlighted, as has already been said, in the case of *Rainsford v. State of Victoria* [2001] FMCA 115. It basically meant that

the states technically remained out of bounds by prohibitions and discriminations in Commonwealth antidiscrimination law. Complaints of unlawful discrimination can no longer be made against a state. That certainly was not the intention. This bill will ensure that Commonwealth antidiscrimination laws continue to apply to the states and that the states are bound by the complaints and remedies provisions in the Human Rights and Equal Opportunity Commission Act 1986.

The reforms in this bill will make sure that actions for unlawful discrimination under Commonwealth antidiscrimination law can be brought against the state in the same way that they could be brought before the Rainsford decision. The commencement of these reforms in the bill will be retrospective to 13 April 2000, when the act was amended and the problem identified in Rainsford was inadvertently created. Any retrospective legislation must always be of some concern, but in this case retrospective legislation is actually doing the right thing and correcting an anomaly. Given the fact that it has so much support, I am sure that retrospectivity in this case is a good thing.

The reforms will simply reinstate the situation that was believed to be the case prior to the Rainsford decision: that the states are bound by the relevant complaints and remedies provisions in the act. This will ensure that there is no gap in the coverage of our antidiscrimination legislation and that individuals who believe they have been discriminated against by the state since 13 April 2000 will be able to pursue their complaints after the commencement of the bill.

The Howard government's quick legislative response to this anomaly which was identified in the Rainsford case demonstrates its strong commitment to the effective operation of antidiscrimination law across Australia. In contrast to what the member for Barton said, this government does have a deep and abiding commitment to address issues of human rights and discrimination, and the quick action of the government to fix this anomaly demonstrates the government's commitment in this regard.

That august body the Human Rights and Equal Opportunity Commission have, in their press release, welcomed the government's quick action and praised the government on its application of this action in the area of human rights and equal opportunities. Their press release says:

The Human Rights and Equal Opportunity Commission welcomes legislation introduced into the Parliament today ...

This is dated 21 February 2002, so it is not today. It says:

The Commission acknowledges the swift action by the federal Attorney-General the Hon Daryl Williams in rectifying a potential problem with the legislation.

A Federal Magistrates Service decision in November last year (*Rainsford v State of Victoria* [2001]) identified a drafting problem in the Act—inadvertently created in amendments to the Act on 13 April 2000. The decision held that the Disability Discrimination Act did not apply to the State of Victoria.

This was obviously wrong, hence the correction today. The press release continues:

The Human Rights and Equal Opportunity Commission Amendment Bill 2002 will ensure that the States are bound by the complaints and remedies provisions in the Human Rights and Equal Opportunity Commission Act 1986.

This is as I have said. They continue

The Bill is retrospective to 13 April 2000.

The Commission currently has a number of complaints involving State government respondents and welcomes the Government's quick legislative response to the anomaly identified in the *Rainsford* case. The *Rainsford* decision does not jeopardise existing complaints before the Commission.

So that is very nice to know.

We again reiterate that there is no gap in the coverage of our antidiscrimination legislation and that individuals who believe that they have been discriminated against are covered by this amendment. Without the urgent amendments to the act which this bill proposes to make, the effect of the *Rainsford* decision would compromise the effectiveness of Australia's antidiscrimination legislation.

That again demonstrates this government's commitment to ensuring good legislation and good laws, as they involve the

Human Rights and Equal Opportunity Commission. Effective antidiscrimination laws are essential to ensure that Australia remains a just and equitable society—again, the government's further commitment. I know that the bill has received wide support from the community, including—as I have already indicated—from the Human Rights and Equal Opportunity Commission and, in addition, Australian Lawyers for Human Rights.

I would like to continue in response to the member for Barton's discussion, or comments, regarding this government's attitude to human rights. Currently, in my electorate of Canning, I have been informed by the local media that a group of American lawyers have decided to take an action against the people operating the detention facilities in this country. It is amazing that you should have a group of American lawyers coming to this country who are deciding that they will take an action against the company running our detention centres.

I find it obnoxious that somebody from another country would decide to come and intervene in the business of this country. My question and my response to the local media was: if a group of American lawyers is so concerned about human rights, why aren't they doing something for the North American Indians in their own country? Why aren't they addressing the inequity that is faced by the indigenous people in their country? If they really wanted to do something on behalf of human rights, they would be going to Zimbabwe today to look at the actions of Mr Mugabe, and the horrendous human rights problems in that country. If they are so concerned about human rights around the world, they might want to consider the human rights of indigenous people in other countries and of the not-so-well-off people in their country, which are being decimated.

Coming to our country, wanting to preach to us on human rights, is just so out of whack. Let me point out that, when they come here and say the condition of the detention centres is so terrible, just remember what people from Afghanistan, for example, came from. They came from a war-torn country under the Taliban where they were

being totally destroyed and torn apart, with women being beaten and brutalised by their own men and society. Where were these people when these sorts of human rights problems were going on in countries like Afghanistan?

And yet these Afghans that are in the detention centres at the moment are receiving incredible treatment. Just think of what they are getting: they have a roof over their heads; they are fed well—at least three meals a day; their children get to go to school; they receive some reimbursement. I would say that the regard for human rights shown by Australia in the treatment of the people that come to this country is world-class, and I reject the member for Barton's criticism of the human rights treatment of people in this country.

**Mrs CROSIO (Prospect)** (11.45 a.m.)—In rising to speak on the [Human Rights and Equal Opportunity Commission Amendment Bill 2002](#), I think one of the things we have to bear in mind is that an oversight occurred on 13 April 2000 when amendments were made to the original legislation. Prior to the commencement of that amended legislation, the legislative structure for handling complaints alleging unlawful discrimination was set out in each of the separate acts dealing with the specific areas of sex, disability and race discrimination. I think you would agree with me, Mr Deputy Speaker Causley, having also come from a state parliament, that what this amendment bill is doing is making sure that the oversight that occurred which exempted the states from being covered by the particular legislation is rectified. I believe that what this amendment bill does is remedy the provisions of the acts, which will bind the states prior to the commencement of the original amended act.

When we are talking about human rights and equal opportunities, I think we in this country have to be very mindful of what rights we have and the laws in place, but at times we must also realise that, as our population changes and the concerns of Australians change, we must have legislation that is flexible enough to change with this. I have never believed—nor will I ever believe—that any state should be able to pull out of legis-

lation, particularly legislation as important as this, because of some oversight in a restructured change of that legislation. That is why I believe it is so very important that we have this bill in the House today.

The amendments, I might add, are retrospective from 13 April, so there is no gap in the coverage. Basically, what we are talking about is a bill to come before the House to reinstate the situation that had been accepted—not only believed but accepted—by the states that they were all covered by the legislation. Of course, it only came to light that they were not covered following a case in Victoria called *Rainsford v. State of Victoria*. It was only when that court action was taken that the anomaly was picked up that the original amendments and the legislation did not have enough coverage to have the states included.

I believe this is a very fair and sensible amendment, and I also believe it is something that has to be done by the government, with the support of the opposition, to make sure that this anomaly has been rectified. I commend the bill to the House.

**Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration)** (11.48 a.m.)—Thank you for the opportunity to address the House on the [Human Rights and Equal Opportunity Commission Amendment Bill 2002](#) on behalf of the Attorney-General. On behalf of the Attorney, I would like to thank honourable members who have spoken on this bill. It would, however, be remiss of me if I did not refer to a number of comments made by the honourable member for Barton. I reject his view that the government has damaged Australia's human rights record. We are rightly proud of our human rights record, and we have one of the best records in the world. The Howard government is committed to advancing human rights and currently the government is progressing a wide range of human rights reforms, including age discrimination reform and developing disability standards in the areas of accessible public transport, access to premises and education.

I would also like to remark on statements made by the honourable member for Barton about the funding of the Human Rights and

Equal Opportunity Commission. It is important that the facts be set out before the people of Australia. This government remains firmly committed to upholding the human rights of all Australians. Indeed, by way of example, I want to point out that the government, during very tight economic times, has maintained funding for a national network of specialist disability discrimination centres. In addition, the government has continued to fund work on the development of disability standards under the Disability Discrimination Act. The reduction in funding to the Human Rights and Equal Opportunity Commission in the early years of our tenure reflected a need across government to ensure that, in difficult economic times, funds were applied and directed in an efficient and streamlined manner. The growth of the commission over the last decade has been disproportionate to that of other areas of government. I note, incidentally, that the Labor Party has made no commitment whatsoever to any additional funding for the Human Rights and Equal Opportunity Commission.

The commitment of the government to the effective operation of the commission is reflected in its quick response to the problem identified in the Rainsford case. Without the amendments in the bill before the House today, the commission would be unable to progress complaints made against states under Commonwealth antidiscrimination laws. This bill reflects the commitment of the government to maintain a comprehensive system for making complaints under Commonwealth antidiscrimination laws.

There were also some comments made by the member for Barton relating to the calibre of staff in the Attorney-General's Department working on human rights. The Attorney has asked me to very strongly reject these comments from the honourable member for Barton. The Attorney-General is provided with consistently high quality advice from the Civil Justice Division of his department, which has responsibility for human rights. The high level of achievement of the talented, enthusiastic and committed staff was recently recognised by the department when five staff members in the division received Australia Day team achievement awards for

facilitating participation in the community by people with disabilities through the development of disability standards under the Disability Discrimination Act. So the member for Barton owes an apology to those people in the Attorney-General's Department who have been wronged by his highly misleading and inaccurate remarks.

The Attorney-General was very pleased to be able to introduce the [Human Rights and Equal Opportunity Commission Amendment Bill 2002](#) in the first available sittings of parliament after the need for the bill was identified in a Federal Magistrates Service case late last year. I will refer to that case. I am pleased that the House has considered this bill as a matter of priority, and I thank all honourable members.

The need for the bill was identified in the case of *Rainsford v. the State of Victoria* [2001] FMCA 115. That case identified a drafting oversight in the Human Rights Act (No. 1) 1999. The drafting oversight, which has existed since 13 April 2000, was minor and unintended. It did, however, mean that the states were no longer bound by the complaints and remedies provision of the Human Rights and Equal Opportunity Commission Act 1986. Madam Deputy Speaker, I am quite sure that you and all honourable members would accept that that was a thoroughly undesirable situation and one which had to be remedied as a matter of great urgency.

It is important that this bill be dealt with speedily, as it will ensure that the states of Australia are bound by the complaints and remedies provisions in the Human Rights and Equal Opportunity Commission Act 1986. Our system of recognising human rights and equal opportunity would be in tatters if at the state level governments were not bound by the provisions of this particular act. That clearly was not the intention of the parliament, and it is clearly not the intention of the Australian people. That is why it is vital that this legislation proceed speedily, and I hope that the bill will receive a very quick passage through the other house when it is debated in the Senate.

This bill will ensure that the situation that existed before the Rainsford decision is restored. This bill will remove doubt and en-

sure that Commonwealth antidiscrimination laws continue to apply to complaints of unlawful discrimination against the states in the same way as was thought to be the case before the Rainsford decision. I thank the Human Rights and Equal Opportunity Commission for welcoming the government's swift action in rectifying the drafting matter identified in the Rainsford case. There was adverse comment made in relation to drafting errors. These errors were unfortunate, and they were unintended. Certainly it is regrettable but, when a drafting error has been identified as a result of a decision by a court case, it is important that it be fixed as quickly as possible.

This bill will enable the commission to get on with its important work of handling anti-discrimination law complaints, including complaints against states, in the same way as it could before the drafting oversight was made. I do understand that the Rainsford case has been appealed to the full Federal Court. I am pleased that the parties to the appeal have agreed to wait for the passage of this bill before proceeding with a hearing in that case, and that is a very appropriate way for this particular matter to be handled. This will mean that Mr Rainsford—and indeed others who, like him, have complaints against a state—will not be disadvantaged by the drafting oversight that this bill will rectify. The speed with which the government has responded to rectifying the drafting error identified in the Rainsford case does once and for all prove the ongoing commitment of the Howard government to getting antidiscrimination laws right. Effective antidiscrimination laws play an integral part in achieving and maintaining a just and equitable society.

I am pleased to note that, in addition to this bill, the government has two other anti-discrimination bills before the House at the moment: the [Disability Discrimination Amendment Bill 2002](#) and the [Sex Discrimination Amendment \(Pregnancy and Work\) Bill 2002](#). Together these bills reflect the government's ongoing strong commitment to effective antidiscrimination laws for all Australians.

The government very strongly rejects any suggestion by anyone that it is soft on human

rights, that it does not defend human rights and that it does not vigorously pursue people's human rights. This government has a very proud record. The fact that the [Human Rights and Equal Opportunity Commission Amendment Bill 2002](#) has been introduced so quickly to fix up a drafting oversight is proof positive of the very high level of commitment the government has to human rights and proof positive of the very high level of commitment of this government to making sure that the human rights of all Australians are protected under the law of the Commonwealth.

I was asked to provide a substantial contribution on this bill. I want to say that the government is proud of this bill. This bill has been brought forward expeditiously, and I am quite certain that it will be widely recognised right around the Australian community as a very strong indication of the government's commitment to human rights. I am very pleased therefore to commend the [Human Rights and Equal Opportunity Commission Amendment Bill 2002](#) to the House.

Question agreed to.

Bill read a second time.

### Third Reading

**Mr SLIPPER** (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (11.59 a.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

### BUSINESS

#### Rearrangement

**Mr SLIPPER** (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (11.59 a.m.)—I move:

That orders of the day Nos 5 and 6, government business, be postponed until a later hour this day.

**Mr SWAN** (Lilley) (11.59 a.m.)—I wish to address the motion that has been moved by the Parliamentary Secretary to the Minister for Finance and Administration. This parliament has a very serious problem: it is trying to deal with important antiterrorism legislation that is now six months and 16

hours late. We are dealing with bills that should have been passed in the parliament before it rose on 27 September. We are dealing with bills that should have been dealt with six months ago. The Howard government comes into the House and expects us to rubber-stamp the bills now because it is in desperate need of a political diversion.

Just consider for a moment the climate in which the federal election campaign was fought. On 10 November no-one would have argued that the pre-eminent concerns of the Howard government were the issues of border security and terrorism. Indeed, I will quote the Prime Minister. He said:

I think the world changed forever after the 11th of September. That's what's cast a pall of uncertainty, if you like, over our future ... We do live in a different world and what I'm saying is that in this era of greater uncertainty it is better to re-elect a government and a man who's demonstrated a capacity to take difficult decisions, demonstrated a capacity to lead the country through some awkward and challenging circumstances.

He has demonstrated a capacity not to bring legislation into this House for six months! Today the government brings in a whole raft of bills that it expects us to rubber-stamp because the Prime Minister has been either too incompetent or too distracted to deal with these important issues in a timely way. This man who promised he would take the difficult decisions has in fact done nothing for six months and 16 hours. For 138 days this parliament did not sit. During that time there were two critical United Nations conventions—about the suppression of terrorist bombings and the suppression of the financing of terrorism—which themselves were concluded in 1998 and 1999 and which could have been ratified and legislated for at any time in the previous couple of years, and most certainly before the parliament rose on 27 September. But we have seen nothing for six months and 16 hours.

You might recall, Madam Deputy Speaker, that this side of the House called for that legislation after September 11 and, despite that, the government did nothing. This important legislation could have been passed before parliament rose, and it should have been passed. But the government is here today, six months and 16 hours too late. In-

stead, we have in this House today one of the most contemptuous displays by a government. It says there are urgent issues of border security. The government says it is responding to the events of September 11—responding six months and 16 hours too late because it has not sat the parliament, until the recent sittings, for 138 days. As we said yesterday, the government had a long, endless summer. It was too busy for six months and 16 hours enjoying that long, endless summer to deal with the critical issues of border security and national security.

What do we get now? We get panic. That is why all this legislation has turned up at the last minute. We have been given something like 16 hours to look at five or six bills that have been dumped in the House, because the government is now in a panic. Or, is it looking for a political diversion, because, suddenly, border security and terrorism are urgent issues again. The Prime Minister is a bit like the hare in the tale of the tortoise and the hare: he has been asleep and he now finds himself, six months on from September 11, having done nothing to protect the Australian people, despite all the promises that were made before 10 November. So he is now scurrying to look like he cares, scurrying around to create another diversion.

The Prime Minister has become famous for his deception of the Australian people on a host of issues, but they are all unravelling on him in this parliament. That is why the Prime Minister has not had the parliament sitting. That is why we have not been given the time we require to consider these bills. This government cannot take accountability. When the accountability is enforced, either in this House or in the Senate, all of the deception—all of the lies—is exposed.

As a result, we had these bills dumped in the House at 8 p.m. last night. We have 120 pages of detailed legislative amendments. The Australian Labor Party has responded to this situation in a very responsible way. We immediately convened all of our party's committees. We had them meeting past midnight. We convened our caucus this morning because, to our way of thinking, nothing could be more important to the Australian people than our national security and our

border security, and the security of Australians from acts of terrorism. We responded, despite the impossible timetable provided by this government. We have been given less than 24 hours to consider this extremely important legislation that contains sweeping measures that include giving new powers to the Attorney-General to proscribe organisations; it will be an offence for people to be members of those organisations or to associate with them. These are very serious measures that require careful and detailed consideration.

The Labor Party is a robust opponent of terrorism. But we are also a robust proponent of accountability and good government, because that is what people send us here for. That is why it is so tragic that, today, the government is six months and 16 hours late. So we are going to facilitate the progress of these bills through the House. We believe they can be further scrutinised in the Senate. But let me say this, Minister: this is the last time the Australian Labor Party will tolerate the government's contempt for the parliamentary process and the people of Australia, who expect this parliament to carefully consider all of the laws that it makes, and this is particularly so in the case of the legislation that will affect the legal rights of Australians. Those Australians concerned about the tragedy of September 11 must be ashamed that our government would seek to use these events as some form of political cover or diversion. Our Prime Minister should therefore be ashamed of himself for this approach. He has now acted in relation to the terrorist threat only because his own political hide has been so exposed in this chamber and in the Senate over the last fortnight.

He is in acute political difficulty because he and his government said anything, and did anything, to win that election. Now it is all unravelling so he is trying to go back to his old tried and true formula. I do not think it works any more. The deception is exposed. Now we have the appalling spectacle over the last 24 hours of legislation just being dumped in the parliament—legislation that is 120-odd pages long and which has profound effects on the daily lives of Australians—and the Labor opposition is expected to turn it

round in 24 hours. We are not a sausage factory and we are not a rubber stamp. This will be the end of any tolerance from this side of the House of the contempt that has been shown for this parliament by the Howard government. As is usually the case, there is a double standard from the Howard government. Whilst we have had less than 24 hours, it now emerges that government backbenchers have had days, if not weeks, if not months—that is the double standard. They have been fighting in their party room over this legislation. They cannot agree. But when did we see the legislation? Less than 24 hours ago. So those sorts of disgraceful tactics have also been exposed.

Looking to the future, I say to the government: we understand, Parliamentary Secretary, that you have the numbers. That is not contested. But we are going to employ every procedure and every device known to this parliament to keep you accountable. You are on notice that we are going to do that. We will not tolerate the Leader of the House using the parliament as his own political plaything. We will not tolerate the Leader of the House using the parliament as his own punching bag. He might want to come in here and go on like Joe Bugner. But the truth is this parliament and the people of Australia are not going to become his political punching bag. We are going to hold you accountable. Our actions may cause some frustration to the government or some disruption to its program, but there is one thing that is more important: the accountability of the people's House to the people of Australia. That is our job: accountability is going to be delivered by this parliament and it will be delivered by the Australian Labor Party.

**Mr SLIPPER**—It will not surprise honourable members that the government rejects the assertions made by the honourable member for Lilley.

Question agreed to.

#### Withdrawal

**Mr SLIPPER** (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (12.10 p.m.)—by leave—I move:



That the Security Legislation Amendment (Terrorism) Bill 2002 be withdrawn and that order of the day, No. 7, government business, be discharged.

Question agreed to.

**Mr SLIPPER** (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (12.11 p.m.)—Madam Deputy Speaker, I seek your indulgence in relation to the Security Legislation Amendment (Terrorism) Bill 2002 that the Attorney-General introduced into this House yesterday. The Office of Parliamentary Counsel has drawn to the Attorney's attention a discrepancy between the title of this bill and the title of the bill referred to in the notice of presentation that the Attorney gave to the House on Monday.

*Opposition members interjecting—*

**Mr SLIPPER**—Just listen. The discrepancy means that the introduction of the bill was technically inconsistent with the standing orders and it is desirable that the bill be withdrawn. Therefore, I ask leave of the House to present a bill for an act to enhance the Commonwealth's ability to combat terrorism and treason and for related purposes and, following the motion for the second reading, for the resumption of the debate to be made an order of the day for a later hour this day.

*Opposition members interjecting—*

**Mr SLIPPER**—I have asked leave of the House.

**The DEPUTY SPEAKER** (Ms Gamaro)—Is leave granted?

**Mr Swan**—We are not quite sure what the parliamentary secretary was saying. There has been a case of Slipper overboard.

**The DEPUTY SPEAKER**—I call the parliamentary secretary.

**Mr SLIPPER**—If the member for Lilley was prepared to listen, if he was not talking when I spoke before, he would understand that what we are doing is withdrawing the bill that was introduced earlier and I am seeking leave of the House, for technical reasons, to present a bill for an act to enhance the Commonwealth's ability to combat terrorism and treason and for related pur-

poses and, following the motion for the second reading, for the resumption of the debate to be made an order of the day for a later hour this day. I understand my friend has just granted leave; is that correct?

Leave granted.

**SECURITY LEGISLATION  
AMENDMENT (TERRORISM) BILL  
2002 [No. 2]**

**First Reading**

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

**Second Reading**

**Mr SLIPPER** (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (12.14 p.m.)—I move:

That this bill be now read a second time.

To facilitate debate—and I notice the Leader of the Opposition has come to make a contribution to this particular debate—I table the second reading speech to be incorporated into *Hansard*. The second reading speech is substantially similar to that delivered by the Attorney-General in the House before. To facilitate the proceedings of the House and to enable the Leader of the Opposition to make a contribution on this legislation, I seek leave to have the text incorporated into *Hansard*. This ought not to be treated as a precedent. However, if the opposition wants to listen to the government's words of wisdom again, we are more than happy to provide the speech in full, delivered at this dispatch box right now. However, if the Leader of the Opposition wants to make his speech now, it would be appropriate to have this second reading speech incorporated into the *Hansard* record.

Leave granted.

*The speech read as follows—*

The Security Legislation Amendment (Terrorism) Bill 2002 is part of a package of important counter-terrorism legislation designed to strengthen Australia's counter terrorism capabilities. Since September 11 there has been a profound shift in the international security environment. This has meant that Australia's profile as a terrorist target has risen and our interests abroad face a higher level of terrorist threat. Australia needs to be well placed to respond to the new security environment in terms of our operational capabilities, in-

infrastructure and legislative framework. This package, and other measures taken by the Government, are designed to bolster our armoury in the war against terrorism and deliver on our commitment to enhance our ability to meet the challenges of the new terrorist environment.

The first element of this package—The Criminal Code Amendment (Anti-hoax and Other Measures) Bill 2002—was introduced last month.

Today I introduce the Security Legislation Amendment (Terrorism) Bill 2002, and three other Bills that make up the legislative package: the Suppression of the Financing of Terrorism Bill; the Criminal Code Amendment (Suppression of Terrorist Bombings) Bill 2002; and the Border Security Legislation Amendment Bill 2002. Next week I will be introducing a further element of the package—a Bill to enhance the ability of the Australian Security Intelligence Organisation to investigate terrorist related activity.

The Suppression of the Financing of Terrorism Bill will enact a terrorist financing offence and the mechanisms necessary to enhance the sharing of financial transaction information with foreign countries.

The new offence will be in line with the requirements of the International Convention for the Suppression of the Financing of Terrorism.

The Criminal Code Amendment (Suppression of Terrorist Bombings) Bill 2002 will implement the International Convention for the Suppression of Terrorist Bombings in Australian domestic law.

The Border Security Legislation Amendment Bill 2002 will increase our national security by introducing further measures to protect our borders.

**The Security Legislation Amendment (Terrorism) Bill 2002 (The Terrorism Bill)**

The Terrorism Bill introduces a number of new offences for terrorist related activities that are not caught by existing legislation.

It has been prepared in response to the changed security environment since September 11.

September 11 is a stark example of the horror and devastation that can be caused by acts of terrorism.

Terrorism has the potential to destroy lives, devastate communities and threaten the national and global economy.

For these reasons this Government has reaffirmed its commitment to combating terrorism in all its forms.

We join with the international community in condemning the 11 September attacks and other terrorist activities. Other like minded countries have

passed, or are in the process of passing, anti-terrorism legislation designed to assist in this fight. Consequently, counter-terrorism legislation and proposals throughout the world have been considered in the preparation of this Bill.

**Terrorism offences**

Schedule 1 to the Bill will establish a new general offence of engaging in a terrorist act.

Various related offences, such as providing or receiving training for terrorist acts, directing organisations concerned with terrorist acts, and possessing things connected with terrorist acts, are also included in the Bill.

All terrorism offences will carry a maximum penalty of life imprisonment.

‘Terrorist act’ is defined to mean a politically, religiously or ideologically motivated act that involves serious harm to a person, serious damage to property, endangering a person’s life, creating a serious health or public safety risk or seriously interfering with an electronic system.

This definition is intended to capture such acts as suicide bombings, chemical or biological attacks, threats of violence and attacks on infrastructure.

To reflect the severity of these offences, they will attract a maximum penalty of life imprisonment.

At the same time, this Bill protects the existing rights of law-abiding Australians.

The Bill makes it clear that a terrorist attack does not include lawful advocacy, protest, dissent or industrial action.

**Treason Provisions**

Schedule 1 to the Bill contains a new treason offence to replace the existing treason offence in section 24 of the Crimes Act 1914.

This will be inserted in the Criminal Code Act 1995.

The new provision modernises the wording of the treason offence and removes gender-based limitations.

The Bill also includes a new ground on which a person can be convicted of the offence.

Under this new ground, the offence will be made out if a person engages in conduct that is intended to assist and does assist another country or an organisation engaged in armed hostilities against the Australian Defence Force.

These amendments are designed to ensure that the offence of treason reflects the realities of modern conflict, which do not necessarily involve a declared war against a proclaimed enemy that is a nation state.

The penalty for the offence of treason remains life imprisonment.

#### **Proscribed Organisations Provisions**

Schedule 1 to the Bill also contains proscribed organisations provisions to be inserted into the Criminal Code.

These provisions provide an effective and accountable mechanism for the Government to outlaw terrorist organisations and organisations that threaten the integrity and security of Australia or another country.

The proposed provisions give the Attorney-General the power to make a written declaration that one or more organisations are proscribed. However, objective, reasonable grounds must be made out before an organisation may be proscribed.

The Attorney General must be satisfied, on reasonable grounds, of one or more of the following matters.

First, that the organisation was committing or had committed a Commonwealth terrorism offence.

Second, that a member of the organisation was committing or had committed a Commonwealth terrorism offence on behalf of the organisation.

Third, that the declaration is appropriate to give effect to a finding of the United Nations Security Council that the organisation is an international terrorist organisation.

Fourth, that the organisation is likely to endanger, or has endangered the security or integrity of the Commonwealth or another country.

The Attorney-General will have an express power to rescind such a declaration.

A declaration of a proscribed organisation will not take effect until gazetted and will be the subject of a notification in newspapers circulating in each State and mainland Territory.

The Attorney-General's decision to proscribe an organisation is subject to judicial review under the Administrative Decisions (Judicial Review) Act 1977.

It will be an offence to direct the activities of, receive funds from, make funds available to, be a member of, provide training to, train with, or assist a proscribed organisation.

The maximum penalty will be 25 years imprisonment.

There are two defences to ensure that those who are genuinely innocent of any complicity will not be convicted. The defendant will have to establish the defence on the balance of probabilities.

Placing the onus on the defendant is justified by the need for strong measures to combat organisations of this kind, and the fact that a declaration

that an organisation is a proscribed organisation will not be made lightly.

It will be a defence to prove no knowledge and no recklessness as to the existence of any of the grounds on which the organisation could potentially have been proscribed.

To the charge of being a member, it will also be a defence to prove that all reasonable steps to cease membership were taken as soon as the organisation was proscribed.

#### **Aircraft Security Officers**

Schedule 2 to the Bill amends the Australian Protective Service Act 1987 and the Crimes (Aviation) Act 1991 to ensure that the Australian Protective Service is able to provide a full and effective service in relation to combating terrorism.

The Bill includes provisions to enable the members of the Australian Protective Service to exercise their powers of arrest without warrant in relation to the proposed terrorism and terrorist-bombing offences.

This will mean that when members of the Australian Protective Service are performing their protective and security function, they are fully empowered to act to prevent or respond to a terrorist attack.

The Bill also includes provisions to ensure that the air security officer program, which is currently a function of the Australian Protective Service, is able to operate on all Australian civil aircraft.

Currently members of the Australian Protective Service who are providing this important air security capability are unable to exercise their powers of arrest without warrant on flights that operate purely within a State.

Such flights have traditionally been the subject of State jurisdiction and the amendment will not change this position.

However, if an aircraft is hijacked on an intra-State flight, for example between Brisbane and Cairns, it is clear that this will have national implications.

This amendment will expand the definition of "prescribed flight" in the Crimes (Aviation) Act to include flights operating within a State, allowing air security officers to operate as a fully effective and efficient team on those flights.

#### **Summary**

No country has ever been immune to the threat of terrorism. While there is no known specific threat of terrorism in Australia at present, we must ensure that we are as well prepared as possible to deal with the new international security environment. Terrorist forces, through violent and intimi-

datory methods, are actively working to undermine democracy and the rights of people throughout the world.

We must direct all available resources, including the might of the law, at protecting our community and ensuring that those responsible for threatening our security are brought to justice. And we must do so as swiftly as possible. The Howard Government emphatically rejects any suggestion that because we have not experienced any direct terrorist threat in Australia since September 11 this package of legislation is not justified or is an over-reaction. We are actively involved in the war against terrorism. We cannot assume that we are not at risk of a terrorist attack. We cannot afford to become complacent. And we should never forget the devastation of September 11. The Howard Government takes very seriously the responsibility to protect Australia against terrorism. We will be seeking to bring this important package of legislation on for debate as soon as possible.

This package of counter-terrorism legislation delivers on the Howard Government's commitment to ensure we are in the best possible position to protect Australians against the evils of terrorism.

I also present the explanatory memorandum to the bill.

Debate (on motion by **Mr Swan**) adjourned.

**SECURITY LEGISLATION  
AMENDMENT (TERRORISM) BILL  
2002 [No. 2]**

Cognate bills:

**SUPPRESSION OF THE FINANCING  
OF TERRORISM BILL 2002**

**CRIMINAL CODE AMENDMENT  
(SUPPRESSION OF TERRORIST  
BOMBINGS) BILL 2002**

**BORDER SECURITY LEGISLATION  
AMENDMENT BILL 2002**

**TELECOMMUNICATIONS  
INTERCEPTION LEGISLATION  
AMENDMENT BILL 2002**

**Second Reading**

Debate resumed.

**Mr CREAN** (*Hotham—Leader of the Opposition*) (12.17 p.m.)—Legislation to more effectively counter terrorism is essential and we support it. But what we strongly object to is the abuse of parliamentary proc-

ess by which this legislation is being introduced and progressed through the parliament. We have just seen an example as to what haste does. This is a shambles. What we should have in this place today, if they have mucked up, is the Attorney-General coming in here to correct it.

**Mr Swan**—Where is he?

**Mr CREAN**—You may ask where the Attorney-General is. He is in a crisis meeting with the Prime Minister, as I understand it, because the Prime Minister's parliamentary secretary has tried to put another diversion out there—which we believe these bills are about, in any event. But all that the parliamentary secretary has done is out-divert this diversion. The parliamentary secretary has made outrageous allegations in the other place and we have asked where the evidence is. I think that is the question the Prime Minister is asking, and he is asking it of the Attorney-General. That is why the Attorney-General is not in here today. This is a government that cannot be trusted. This is a government that runs on fear. This is a government of incompetence. What we are seeing today is government members scrambling to try and correct that incompetence.

Labor believes that as a nation we must be tough on terrorism. We must be unequivocal in our stance against terrorism, because it underpins and defends our democratic society for us to be so tough. Labor's record of supporting the war on terrorism is unimpeachable, and everyone knows it. Terrorism must be choked off, but our focus must be the terrorists and the terrorists only, not innocent bystanders. The nation's security is the most important task of all governments.

We do not oppose these bills. Our national security agencies must have the power to tackle terrorism but with clear laws and without political interference. It is crucial that we get these bills right and that they have broad community support. Even the government's own backbench has expressed concerns about what the government is seeking to introduce. For these reasons, we believe that the bills—all of them, the amended ones included—deserve close scrutiny. They should not be rushed through

the parliament in 24 hours in order to secure the government's own political objectives.

Australia took months of careful planning to put together our contribution to the war on terrorism. We wanted to protect our soldiers with the best possible planning. We did not throw it together in 24 hours. This legislation is too important to be a rushed job. We would not send our troops into the field with 24 hours preparation, nor should we rush such important laws through the parliament with 24 hours debate.

Careful consideration of the bills is particularly important. After having waited a full six months for this legislation to be drawn up, we have to ask why the government has taken until now to introduce the legislation. They have taken six months to consider this legislation and they have given us 16 hours to consider their consideration. It is just not appropriate. We have offered bipartisanism in terms of this commitment and you just abuse it. What you now have is the shambles that you have had to come in to try and correct.

The bills in question before the House amount to over 100 pages of legislation and over 100 pages of explanatory memoranda. To give some indication, this was introduced into the parliament at 8 o'clock last night and we are expected to consider those 200 pages and form a position about them to debate in this chamber at 12 o'clock the next day. That is not how you run modern government. I have talked about the need for modernising government and I have put forward some constructive proposals. I will tell you this, and I think this should be taken on board: we need a mechanism by which this abuse does not happen again. There needs to be a mechanism by which appropriate time and due process is allowed for consideration by the opposition—in particular, where it is an opposition that is prepared to offer bipartisan support. The government's abuse of this process leads to bad law and we have seen what bad law has done in terms of the asylum seekers, because they are having to correct that bad law with more legislation introduced this morning at 9.30—the first admission that the Pacific solution is failing; the first recog-

niton that the legislation they passed last year was flawed.

The issues, as far as these cognate bills which we are debating are concerned, are important to Australia's national security and to the civil liberties of the nation's citizens. We in the opposition take very seriously our duties as responsible legislators and this is the core of my concern about the haste with which these bills have been introduced. Wise and effective public policy is not advanced by routinely requiring such short time frames for the consideration of legislation when no policy rationale can be advanced to explain the need for time frames of 24 hours passage. Where has been the government's explanation of why we need to rush it through so quickly?

We understand what the government claims these bills do, and in our quick reading of it we think that there are a number of issues that need further consideration. I will allude to those later on. Why have we not got a statement demonstrating the need for urgency for the passage of the legislation through this parliament without appropriate scrutiny?

The opposition is concerned about the quality of public policy and, accordingly, I am asking the Prime Minister that enough notice be given of forthcoming bills to enable routine party room meetings to consider them, and that sufficient time be allowed for their responsible consideration by the opposition. For our part, we intend to give detailed consideration to all of these bills through the normal processes of our parliamentary party and through proper parliamentary processes. This will be our consistent practice for the remainder of this parliament. If the government intends to persist with this approach of providing insufficient opportunity for parliamentary scrutiny, we have no option as an opposition other than to use the Senate processes to ensure that bills receive that appropriate consideration. It is a choice that this House needs to make. Does the Prime Minister want this House to become an irrelevancy with the scrutiny all done in the Senate, or does he actually have a regard for the place and a belief in the fact that it should be giving the scrutiny? I be-

lieve in the latter and that can only happen if appropriate time and due process is given to this chamber. These bills are not being allowed that process, that scrutiny and that time frame.

I am also giving notice that we will move amendments to several of these bills, consistent with the aim of improving the quality of their policy content, and I trust that any such amendments will be considered in the constructive spirit in which they are intended—not like the Minister for Education, Science and Training who sought amendments in terms of his bills in the Senate. We have put amendments in, the shadow education minister, the deputy leader of the Labor Party, has sought meetings with him and he will not see her. This is a government that says it wants cooperation from the Labor Party but when it is offered, it closes the door. This is a government that is not transparent. It is a government that is devious and deceitful. It is a government that needs to be cracked open. What we are doing is ensuring that it is not allowed to get away with the abuse it is perpetrating on this chamber. If this chamber is going to be denied the opportunity, we will ensure that that opportunity is pursued elsewhere.

This is all against the background of saying that it is not intended as a statement of opposition to the bills themselves. It is about a process of ensuring that we get the bills right, that they are accurate and that they hit the target they are designed to hit—not the shambles that we have seen on evidence this afternoon in parliament. I hope, in the spirit of the commitment to fighting terrorism jointly, that the Prime Minister will join me and improve the quality of the parliament's consideration of this legislation and use it as a template for the future because we saw all too often this habit emerge in the last parliament of the government introducing legislation and rushing it through the chamber—rushing it through here—without proper consideration. Invariably that legislation had to come back here to be corrected. It is a waste of time, it is inefficient and it could be handled so much better.

We on this side of the parliament believe in inclusion and consultation. We believe in

talking the issues through, not as an abrogation of leadership, but as an underpinner or strengthener of it. If you were prepared to sit down with us more often and work these issues through, you would have better outcomes and you would also have an electorate that would be better understanding. They are sick of the arguments between us. What they want is agreement around key issues and on this issue—fighting terrorism—we have consistently said that we will stand with you and the international community in developing an effective, constructive response. If that is an offer that is being made, it is an offer that should be taken up—but instead, it is an offer that is being abused. Improving the parliamentary standards is crucial to strengthening the public's faith in the democratic institutions. What can most improve the public's faith is a realisation that we are capable of reaching agreement on key issues. If we are capable, let's go through the process of doing it properly, not the shambles that we are seeing in evidence today.

In the context of the bills that are before us today, it should be noted that yesterday the world paused to acknowledge the passing of six months since the infamous terrorist attack of September 11 last year. Those events took place in the United States and the people of the US suffered in the greatest numbers. But they were events that touched the world and they still touch us today. The new footage of the brave firemen being buried under rubble in the World Trade towers brought home again the chilling nature of the events. People of many countries were killed in the events of September 11. While our territory was not attacked, Australians were. Fifteen Australians died in those attacks. One of my own staff members had a close personal friend who was killed. We grieve for all of them. It is a timely reminder in the context of this legislation.

But we are only a few degrees of separation from the consequences of terrorism ourselves. This is a result of the fact that Australians are increasingly citizens of the world. It is also the consequence of the changing nature of terrorism. During the 1990s, some observers pointed optimistically to the decline in the number of terrorist inci-

dents. According to the RAND-St Andrew's University chronology, a record of 484 terrorist incidents were recorded in 1991. By 1995, that number had fallen to 278. However, although terrorists were becoming less active, they were becoming more lethal and more fanatical. Experts were warning as far back as 1998 that a more destructive and even bloodier era of terrorist violence lay ahead. Tragically, they have been proved correct.

The second change in the nature of terrorism has been its increasingly international character. Terrorists are more likely to act across borders, not just within the boundaries of their own nation state. Success in the struggle against terrorism will to a large extent depend on continued and continually strengthened international cooperation. We should not forget that the Japanese terrorist sect that perpetrated the heinous sarin gas attack in the Tokyo subway in 1995, which killed 12 people and injured several thousand more, had established operations here in Australia.

Given the transnational dimension of the new international terrorist threat, any response that is to yield effective results will have to involve enhanced national, regional and multinational policies to monitor, prevent, pre-empt and if necessary destroy terrorist organisations through military means. Where terror exists, no matter where in the world, Australians are likely to be in harm's way. This new nature of terrorism requires new types of responses. The democratic nations of the world must come together to fight terrorism wherever it exists. Australia is proudly playing its role.

As we speak, the SAS are in the hills of eastern Afghanistan fighting for us. Our Navy and Air Force are supporting them. And we have suffered our first military casualty. All Australians honour the services of our armed forces and our thoughts are constantly with their families. But there is another way that we must fight terrorism: by building a rules based international order to choke off terrorism at its source. We must destroy the financial and military supports that make terrorism possible.

The bills before us emerged from the events of September 11. Following those events, Labor outlined our response just two days later in a 10-point plan to fight terrorism, which was announced by the then Leader of the Opposition. The essence of that plan was aiding in the creation of an international legal and security response to combat the increasingly global nature of terrorism. It called for an international intelligence, police and military effort against those who committed the atrocities in New York, in Washington and in Pennsylvania, and those who supported them.

The principles outlined in that document remain the basis for sound measures to tackle terrorism, many of which have found their way into these bills debated here today. That is why we are surprised at the extent of time it has taken to actually get the bills before the parliament. We were putting forward those proposals six months ago. We were offering to join with the government in legislating to effect those changes. We could have put this legislation through in the last parliament.

Yesterday, as I said before, was six months since September 11 and tomorrow is six months since Labor first introduced that plan to counter terrorism. The starting point of that plan was the upgrading of international agreements against terrorism to undercut the support provided by some national governments and individuals to terrorist groups and activities. As part of this, we argued that Australia must sign and ratify the Convention for the Suppression of Terrorist Bombings and the Convention for the Suppression of the Financing of Terrorism and move without delay to ratify the statute of the International Criminal Court. Australia must support the imposition of UN sanctions against countries suspected of supporting or harbouring terrorist groups.

Domestically, we argued that Australia needed to consider specific antiterrorist legislation. This package of bills addresses that. In our 10-point plan we also wanted a strong international coalition to fight terrorism wherever it threatens democratic and peaceful nations. As well as putting troops on the ground—as Australia has done—this means integrating more closely our intelligence and

police agencies with their international counterparts.

Australia's counter-terrorist capabilities and strategies have evolved over the years to deal with specific events, such as the Olympics and CHOGM. A long-term counter-terrorist strategy and resource commitment is now required. The role of the SAS and Commonwealth law enforcement and other agencies is critical. They must have the tools to do the job in the modern terrorist environment.

We also argued that we must improve the security of our airports and our airways. Terrorists are sophisticated. Their means of attack on our way of life have become sophisticated, as demonstrated by the tragedies in New York, Washington and Pennsylvania. We need to strengthen resources committed to the checking of visa applications and review visa regulations and criteria for excluding people with known or suspected criminal records. Our plan highlighted the need to upgrade the effort of Australia's various intelligence and security agencies in tracking transnational criminal organisations that threaten our way of life. These activities involve terrorism, drug trafficking, organised crime, people-smuggling and trafficking, financial fraud, arms smuggling, the potential theft and sale of nuclear material and efforts to produce and acquire agents used to create chemical and biological weapons.

Fighting these criminals will require closer links between our national security agencies and state police agencies, so we call for the enhancement of our human intelligence capabilities in our foreign and domestic intelligence security agencies. These agencies should draw more on Australian citizens with appropriate backgrounds to build up the intelligence picture on the ground. This is critical in defeating secretive terrorist networks and organisations. Even our superb technical means of collecting intelligence only go so far in this fight.

Our plan argued that Australia should put the issue of fighting terrorism high on the agenda in Australia's regional security dialogues, including with Indonesia and the ASEAN Regional Forum. We called for the establishment of an Australian coastguard to

conduct Australia's coastal surveillance, including in relation to illegal immigration and drugs issues. This will help guard our borders against those who would threaten the safety of our communities, including any would-be terrorists. We called for a cop on the beat 24 hours a day, seven days a week. And we called for the establishment of an integrated national security policy approach by broadening the focus of our cabinet's national security committee so that it covers not only traditional issues but also strategic law enforcement policy. Government agencies covering these issues must also be more closely integrated.

Some of these measures, such as Australia's participation in an international military response, have already been implemented. The bills before the House today include more of Labor's proposals. As recommended by the opposition, the UK Anti-Terrorism, Crime and Security Act 2001 may prove a useful model for the Australian legislation, and we note that the bills before the House include significant elements of that act. But there are significant differences between the two sets of legislation, and the government's legislation appears to be much broader in its application than the UK act. These differences must be carefully examined, and we must ensure that the legislation, while being tough on terrorism, applies only to terrorism. The bill allows Australia to conform, at long last, to international conventions to suppress the financing of terrorism and to suppress bombing.

The first bill, the Security Legislation Amendment (Terrorism) Bill 2002 [No. 2], attempts to define a terrorist. It gives the Attorney-General the power to ban terrorist organisations and to have their members arrested. We must ensure that the bill targets genuine terrorists and does not limit freedom of political association. The extraordinary new powers that the bill gives the Attorney-General must be examined in great detail. Protecting our freedoms is as important as protecting our security. The bill has to be right; the whole community must support the laws to be introduced, but it has to be a balanced approach.



Labor supports the provisions that create new offences of setting off or intending to set off explosions or using lethal devices in public places. The offences carry the penalty of life imprisonment. This is tough, but it needs to be tough. The bill also changes the definition of a political offence in the Extradition Act 1988 to facilitate the extradition of terrorists to face justice in other countries. Previously, extradition could be refused on the basis that an offence was political in nature. Now, the escape clause will be closed.

An important part of the bills is the suppression of the financing of terrorism. Terrorist activities of the scale that we saw on September 11 involve huge sums of money. Cutting off the sources of terrorist funding is essential. The bills enhance the Commonwealth's counter-terrorism legislative framework by preventing the movement of funds for terrorist purposes and enhancing the exchange of financial transaction reports information with foreign countries. The measures implement obligations under the United Nations Security Council resolution 1373 and the International Convention for the Suppression of the Financing of Terrorism. Australia has signed the convention and the government tells us it intends to ratify it in the near future, subject to the usual consultation process. The convention has not yet gone to the parliamentary Joint Standing Committee on Treaties, but it will be referred to the committee as soon as possible after its introduction. We will be supporting early ratification of this important international agreement.

Backed by his father's millions, Osama bin Laden was able to fund the training of hundreds of Al-Qaeda terrorists in training camps in Afghanistan. Bin Laden was able to move money around internationally in support of those activities. The explicit purpose of this legislation is to stop that ability to move terrorist funds quickly. Under the bills before us, Australia's law enforcement and intelligence agencies will be better able to track large financial transactions. The bills also create new penalties aimed at persons who provide or collect in Australia funds that would be used to facilitate a terrorist act.

Again, the focus has to be on the terrorists—and at all times when discussing the strengthening of powers to security and law enforcement agencies, we must be mindful of the balance needed between security and civil liberty. Although we support this legislation for being tough on terrorism, the legislation in its final form must take account of Australia's community concerns—and, I might add, the concerns of all MPs, including a number on the other side of the chamber—regarding the rights of the individual. Significant in this regard has been the government's decision to excise provisions in the [Criminal Code Amendment \(Espionage and Related Offences\) Bill 2002](#) that relate to the unauthorised disclosure of information. Conditions governing the disclosure of information will safeguard privacy and ensure that information is only used for its proper purposes. The [Border Security Legislation Amendment Bill 2002](#) and associated amendments to the Customs Act 1901, which also form part of this package of legislation, enable Customs officers to more effectively monitor and enforce security requirements at Australia's border.

The [Telecommunications \(Interception\) Legislation Amendment Bill 2000](#) makes Australia's legislation more effective by taking into account modern communication methods. Again, we will insist that appropriate safeguards on Australia's freedoms and values are protected. But the bill provides an opportunity for much-needed legislative clarification, to take into account changes in modern telecommunications services.

The last bill in the package, the [Criminal Code Amendment \(Suppression of Terrorist Bombings\) Bill 2002](#), increases the maximum penalty for espionage from seven years to 25 years imprisonment. Labor has consistently argued that the inclusion of harsh penalties for whistleblowers, public servants and journalists in the original version of the bill was a direct attack on freedom of speech. It appears, thankfully, that the government has bowed to opposition and public pressure on this matter and has removed the offensive parts of the original bill.

This is a comprehensive set of legislative change. We welcome the thrust and indeed

much of the detail because we proposed it. But we are not happy with the way in which this legislation is being brought on and the amount of time that is allowed. Therefore, 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 notes that the Opposition is committed to supporting detailed examination of this bill and the other bills dealing with security by the Senate Legal and Constitutional Legislation Committee and reserves the right to pursue amendments as a result of the Senate Committee consideration".

This was an amendment that need not have been necessary. It was an amendment that we should not have had to move if the government had accepted our offer in the first place. I have outlined the comprehensive approach we would take on this. We are glad that the government has picked up most of it. It is a pity they did not consult us on the detail because they would have got it right and they would not be in here having to patch up the shambles that we have seen evident this morning. (*Time expired*)

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

**Mr Melham**—I second the amendment.

**Mr CADMAN (Mitchell)** (12.47 p.m.)—One must wonder where the Australian Labor Party really is going in its so-called stand against terrorism. You are prepared to throw the whole responsibility of the House of Representatives over to the Senate, let them go away in a committee and spend days and days in committee and then move amendments ad nauseam in the Senate. There is no commitment in that. The Leader of the Opposition comes to the House and says, 'This is a matter of urgency'. His actions belie his commitment to urgency. His actions belie the suggestion that the Australian Labor Party is really serious about any attempt to deal with terrorism today. What they are prepared to do is just cast off all responsibility of this House, move it to the Senate, let the Senate spend days on it—weeks if they wish—and then eventually consider whether or not they will accept the legislation the Senate comes forward with. That is not a responsible atti-

tude; they are not the principles the Leader of the Opposition outlined. They are not the principles that he espoused here in the House.

There are two speeches in that speech: one here for the public, which says, 'We are against terrorism,' and another one for internal consumption, which means that they are going to delay and try to destroy this legislation. Don't worry, we have seen it in the funding of schools legislation. We have seen what you have done there: you have cried poor mouth on behalf of schools and then blocked the legislation in the Senate. We have seen you do it day after day. You make public statements that belie your actions. You are a double-minded, double-action lot of people. You make statements in the House that you publicise to the public and put them out around your electorates, but block the stuff in the Senate and say it is the government's fault. That lacks integrity, that lacks sense of direction, that lacks commitment, that lacks loyalty, that lacks understanding, that lacks patriotism and that lacks a commitment against terrorism. You guys are just all words, loud noise and no action.

*Opposition members interjecting—*

**The DEPUTY SPEAKER (Mr Mossfield)**—Order. If the member for Mitchell addressed his remarks through the chair I think he would get a better hearing from the members on the left.

**Mr CADMAN**—Thanks you, Mr Deputy Speaker. I will not reflect on you, but in other circumstances you could perhaps be part of that noise.

**The DEPUTY SPEAKER**—That is a reflection.

**Mr CADMAN**—The Australian Labor Party shows no commitment or patriotism. They are anti-Australian in every action they have taken today here. They have dealt with this in exactly the same way as they have dealt with the schools legislation. What is their undertaking? To throw it away to the Senate. They make loud noises, 'Sign the convention now'. And yet with the very legislation that proposes the signing of that convention they are prepared to send it off to the Senate. Come on, get real! We have state-

ment after statement, 'Urgent action is needed, sign the convention now.' The Leader of the Opposition said, 'You could have had this legislation last year.' When they get a chance to pass it, what do they do? Give it to the Senate—no sense of responsibility or commitment at all. Not patriotic, not committed, not antiterrorist—just prepared to let things roll along and just hope that there are no terrorist actions in Australia that we have to deal with.

It is exactly the same way that you dealt with the migration legislation: same system, same formula. You can see the pattern: 'Schools and migration—it is going to be a problem for the government if they cannot get action, so we will make noises here in the House of Representatives and we will send the whole issue over to the Senate.' There are poor schools in Australia awaiting funds. They have been awaiting funds for months and months. They have been awaiting funds from August of last year. Those funds have been not allowed by members of the Australian Labor Party refusing to pass legislation in the Senate.

The migration problems that Australia has seen and the problems of people coming illegally into Australia, the so-called asylum seekers, have been dealt with in the same way. Philip Ruddock, who by anybody's understanding is a compassionate, thoughtful person, has come into this House on four or five occasions saying, 'Please let me deal with this situation.' I do not want to stop migration; Australia depends on migration. But Australia must have a manageable plan that people understand, where the people that are going to make a contribution can come here—not the latest bunch of blow-ins who happen to jump on a boat but those people out of the refugee camps who have waited for years for the chance to get here, people in the family reunion program or people who will start a business that Australia wants to have, who are in the proper queue and are going through the proper process. Philip Ruddock has tried to have legislation to deal with that. It has been blocked in the Senate time and time again.

What happens when it is raised in the House of Representatives? 'We let it go

through,' they say. Yes, the Australian Labor Party had no choice but to let it go through, because the fact of the matter is that they did not have the numbers to vote it down. So they did let it go through—they voted against it, but they did let it go through. In the Senate, it was a different story. They blocked, delayed and obfuscated—they did everything to foil the government. Again, they are doing the same thing with this antiterrorist legislation.

These are serious matters. You are prepared to play with the lives of children needing education in schools. You do not seem to care about poor schools; you do not seem to care about kids' education. Mr Deputy Speaker Mossfield, I know that you do care—I am just amazed that in another forum you have not been more persuasive with your colleagues, to have them accept the same attitudes that you express and that I see from time to time. But what does the Australian Labor Party do as a whole? They oppose the legislation to fund schools. Some might say that this is not so bad. But then they decide to block the legislation that will clean up the problem of illegal migrants and asylum seekers. That becomes more serious, because one has to have a measured and proper program. One cannot have people arriving in Australia, saying: 'Because I could afford to pay for a boat, because I could afford the fare, because I could pay a people-smuggler, I have a right above and before others to be in Australia.' Australians are for fairness. They do not like people who use money, position or threats to gain an advantage over others.

What we are seeing today in the parliament is security legislation—terrorism bills, they have been called—namely, a whole range of bills seeking to make Australia a safer place. There is nothing extraordinary about them. The Leader of the Opposition even says, 'We are going to support them, but we will whinge about the fact that we haven't been consulted.' They could have spent the whole time here talking about it, but no—the Australian Labor Party said, 'We will give it to the Senate, and let's wait weeks and weeks while the Senate pores over it.' Not a single member of the House of

Representatives is going to have a say in that process. At the end of the day, it will come back here and we will decide whether the House of Representatives accepts it. It could be midyear before this whole thing is fixed up.

They claim urgency, but their actions belie their commitment. 'Sign the convention today,' says the Leader of the Opposition. 'They could have done it last year,' says the Leader of the Opposition. I am quoting the words he used in his speech. They are absolutely wrong, because he wants to delay and block this legislation from going through in a speedy manner. He complains about this legislation being broader than the UK legislation and that it must only apply to terrorism—that is what he is saying. He is not prepared to give the urgency factors a consideration although he proclaims them publicly. Instead, he says, 'This is urgent. The government has been slack. It could have done it last year. Let's get on with the job,' but the other story is: delay it in the Senate; put it to one side.

What is in this legislation that the Leader of the Opposition finds so offensive? Is it the fact that we have a great range of bills concerning the security of Australia—the suppression of financing of terrorism; the changing of the Criminal Code so that treason is redefined to be about what people can do as a treasonous act, the changing of the customs legislation to give customs officers greater powers? Are these the factors that the Leader of the Opposition finds so objectionable that he has to send them off to the Senate? Is he not prepared to make decisions himself on this?

The bills introduced today implement the recommendations of a high level review of Australia's security. The government started that immediately after September 11. The counter-terrorism arrangements chaired by the secretary of the Attorney-General's Department have been brought to the House as a result of that examination. The terrorism bill creates a new general offence of terrorism and an offence related to preparing for or planning terrorist acts. These offences will be inserted in the Criminal Code and will be punishable by imprisonment for life. So there

is the first action. Is that an objectionable one for the Australian Labor Party—that somebody preparing and planning a terrorist act should suffer the effects of the Criminal Code and be punished by life imprisonment? Are they finding that that is something which is unacceptable, or which has to be pored over for hours by the Senate?

These current proposals replace the existing treason offences in the Crimes Act with a modernised offence in the Criminal Code. The Criminal Code has been changed, and should be changed, as Australia starts to realise what the prospects are that we, too, might suffer an attack similar to that experienced in the United States. This network is worldwide—there is no doubt about it. Any terrorist activity that expects to have a big political impact will be worldwide. It is a new era in the way in which people seeking to gain a political advantage will operate. It applies day to day in Jerusalem, where suicide bombers are prepared to take out whole bunches of people in public places. They are not military or political targets—they are just ordinary young people, or mums and dads, going about their lives in a civil manner. The terrorist does not care who he or she targets. They will take out innocent people as they did in New York and planned to do—and, to some degree, did do—in Washington.

There are changes to the Criminal Code concerning what the intention and actions of a person wanting to perform a terrorist act are. There is the insertion of a regime enabling the Attorney-General to proscribe an organisation that has a specified terrorist connection or that has endangered, or is likely to endanger, the security or integrity of the Commonwealth. This means that he may make the organisation illegal and make the membership or other specified links with it an offence. So there is scope for the Attorney-General, after proper consultation, to identify dangerous organisations or links with dangerous organisations and make it an offence to belong to them.

It enables air security officers, when they are on all-Australian civil aircraft, to exercise their power of arrest without warrant in relation to the proposed terrorism and terrorist bombing offences. That is what Aussies

want. They want something with a bit of teeth in it so that if there is a threat here something can be done about it. The [Suppression of the Financing of Terrorism Bill 2002](#) will change the Criminal Code to make it an offence to fund terrorism, with a maximum penalty of life imprisonment. So people collecting funds—whether it be in fetes, churches or anywhere—for terrorist causes face the prospect of being imprisoned for life. This would apply as much, I believe, to events in Ireland—if they were to be identified as terrorist activity—as it would to events in Yugoslavia or the Middle East. Any action where funds are being raised to support a terrorist organisation or function could face a maximum penalty of life imprisonment.

This penalty and these new offences are in line with the International Convention for the Suppression of the Financing of Terrorism. There we have it in this legislation. The opposition say, 'Sign the convention,' yet they want to slow the whole thing down and spend days deciding in the Senate whether or not we should sign the convention. What is this about? This is to delay and obstruct the government—nothing more. We have seen it in schools, we have seen it in migration—

**Mr McClelland**—Fair go. You're kidding, Alan.

**Mr CADMAN**—The members at the table seem to be denying that that has occurred.

**Mr McClelland**—It's an outrageous suggestion.

**Mr CADMAN**—It is a fact. It is recorded here day after day that the opposition have done it with school funding and with the amendments to the Migration Act, and now they are going to do it with this legislation.

The Criminal Code amendment will implement in Australia other parts of the international convention. That means that a person who delivers, places, discharges or detonates an explosive or other lethal device in or against a place of public use, a government facility, a public transport system or an infrastructure facility, with the intent of causing death, serious bodily harm or extensive destruction, will be guilty of an offence punish-

able by life imprisonment. There we have another element that is really important for Australia to have in its legislation, but the opposition say, 'No, we're going to delay that and let the Senate deal with it.' If it is so important, pass it now; pass it now if you are serious. The government has applied itself and has had advice from all its agencies on what it should be doing, but the Australian Labor Party want to nitpick over that advice, bring people before the Senate, scrutinise them and pursue these matters. But the things that I am describing are part of the changes to the Criminal Code that the government intends to implement; they are part of the International Convention for the Suppression of Terrorist Bombings and they are part of the International Convention for the Suppression of the Financing of Terrorism.

The Customs legislation will increase our national security by introducing further measures to protect our borders. What does that do? The capacity of Customs to search and investigate will be increased. It means that around airports Customs officers will have greater powers. It means that there will have to be proper identification of people working in airports, and that is proper. It means that Customs will be able to investigate goods that are in transit. They cannot do that at the moment. By goods in transit, I mean goods that are passing through an airport or goods that are not consigned to a particular destination—for example, goods that are in transit from somewhere international through Sydney airport to Melbourne. Customs will have the opportunity of investigating goods in transit. That seems to me to be a pretty sensible decision.

A further element of the package—and this is in the bill that will come to the House later—is to expand ASIO's powers to detain and question people for the purposes of gathering security information. That legislation will be introduced next week. It will allow our security agencies to fully investigate where they think a problem may come from and to speak to and take evidence from people who may be suspects. Whether it be the [Security Legislation Amendment \(Terrorism\) Bill 2002](#), the [Suppression of the Financing of Terrorism Bill 2002](#), the [Criminal Code](#)

**Amendment (Suppression of Terrorist Bombings) Bill 2002** or the changes to the Customs Act, the government has moved on the whole of this area with a precise and comprehensive package to protect the lives and wellbeing of Australians.

I would not suspect that anybody from either of the parties represented here would want to see this House, or the Senate for that matter, give opportunity for terrorists to take action, so I appeal to the members of the Australian Labor Party to use their goodwill to get this thing resolved. I have set out the worst situation as I see it. It seems to follow a pattern that has been developed in the handling of legislation for schools and migration. Are these bills going to go down that same track or is the Australian Labor Party prepared to expedite the process? Let us get this done and have a legislative backing for law enforcement, for the intervention of finance, for the prevention of the use of explosive materials and for the strengthening of the powers of Customs officers. This is what Australia needs. The government has been able to bring this on in the fastest time track of its capacity and in the most thoughtful of approaches, and I appeal to the members of the opposition, if they are seriously considering the safety of their fellow Australians and if they are seriously concerned about the protection of lives and property, to expedite the processing of these bills.

**Mr MELHAM (Banks)** (1.07 p.m.)—I seconded the amendment moved by the Leader of the Opposition, which is:

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 notes that the Opposition is committed to supporting detailed examination of this bill and the other bills dealing with security by the Senate Legal and Constitutional Legislation Committee and reserves the right to pursue amendments as a result of the Senate Committee consideration”.

The Leader of the Opposition said earlier that it was crucial to get these security bills right. That is because fighting terrorism and ensuring the nation’s security is such an important task for government. Getting it right is exactly what Labor is about. That is what

our second reading amendment is about, and it should not be interpreted in any other way.

We want to ensure that these bills provide a workable and robust framework to tackle terrorism on all fronts. We are 100 per cent committed to fighting terrorism and protecting national security, and we are 100 per cent committed to protecting the freedoms that we enjoy in our civilised society. The two must exist side by side, otherwise the terrorists win, freedoms go out the window and we all live in fear and insecurity. As I foreshadowed a few weeks ago, Labor is determined to subject the government’s antiterrorist laws to rigorous scrutiny. Our commitment to fighting the threat of terrorism is driven by our desire to protect the very systems and institutions that set us apart from the terrorists. I am talking about the reason for the war on terrorism in the first place: to protect the rights and privileges that we enjoy in a functioning democracy. It is about protecting such principles as the rule of law, freedom of speech and the right of free movement.

I worry that the freedoms we cherish are threatened by this government’s package of antiterrorism laws. I said before that Labor will not be writing the government a blank cheque on antiterrorism law. We will work with the government to tackle terrorism, but the government must proceed with caution. It must work with Labor to ensure we protect the freedoms that are the very signposts of democracy.

The Howard government tabled these bills right after the dinner break last night. They delivered 119 pages of legislation and 123 pages of explanatory memoranda under the cover of darkness—and they expect us to consider the legislation overnight and to come back this morning with our response. That is no way to go about fighting terrorism. That is no way to go about protecting our national security. Like I said, we want a robust and workable framework to tackle terrorism. Delivering that means exposing these bills to scrutiny and getting more input from experts and from the community. We can do that quickly.

The government took six months to prepare this legislation; they have dragged their heels on this one lately, trying to calm the

backbench revolt that has been going on behind closed doors. It took the government six months, and they expect us to come back overnight. It is not going to happen that way. Labor is committed to rigorous scrutiny of these bills. Where they provide a sound framework for tackling terrorism without intruding into our society's freedoms, the bills will get our support. But there are aspects of the bills that sound alarm bells and that highlight the need to expose them to greater scrutiny. It need not take a long time—we can do this quickly—but we have to get it right.

The Leader of the Opposition outlined the broad principles of the bills earlier. I would like to look at some of the detail. Let me give you some examples of the alarm bells that sounded for me when I read these bills late last night. The Security Legislation Amendment (Terrorism) Bill proposes a wide definition of terrorism and terrorist acts. It says that a terrorism act is where:

... action is done or the threat is made with the intention of advancing a political, religious or ideological cause ...

It goes on to list 11 actions that will constitute terrorism. These include action that creates serious risk to the health or safety of the public or that involves serious damage to property. If someone is found guilty of one of these offences, they could face a life sentence. The danger here is that the net may be cast too wide. Remember that offenders face a life sentence.

The bill goes on to list six offences that are related to terrorism. These include possessing things connected with terrorist acts and collecting or making documents connected with terrorism. These are so-called 'absolute liability' offences. In other words, the intention of the individual is irrelevant and the penalty is life imprisonment. Think about what this might mean. It might mean that, if somebody prints off an article from the Internet about making bombs, they have in their possession a document connected with terrorism. It might mean they are guilty of an offence and face a jail sentence, even if they printed off the article or saved it to their computer out of some stupidly misguided curiosity. That would surely be an unin-

tended consequence of this bill, and that is why we have to expose it to closer scrutiny.

Another troubling aspect of the bill is the proposed regime that allows the Attorney-General or a minister to proscribe an organisation. The regime would give the government the power to single out organisations, to ban them and to make membership or involvement with those organisations a criminal offence. Again, the problem here is that the bill may give too wide a power to the government to proscribe organisations. There is potentially a very wide power, and one that needs to be closely scrutinised. At the same time, the power to proscribe may cross that fine line between judicial and executive power. It may also be open to challenge on the grounds that it unreasonably infringes upon the implied freedom of speech enjoyed by all Australians. These are some of the sorts of concerns that came to me overnight. They are the sorts of concerns that highlight the need to put these bills through the Senate legislative committee.

Another of the bills tabled last night was the [Suppression of the Financing of Terrorism Bill 2002](#). It is designed to prevent the movement of funds for terrorist purposes and to allow Australia to share information on the movement of money with other countries. As the Leader of the Opposition said earlier, cutting off the sources of terrorist funding is essential. Without cash these organisations are crippled. Labor supports moves that dry up the flow of cash to these organisations. But again we need to be careful that there are no unintended consequences. Under this bill, someone who is reckless about giving money to an organisation is guilty of an offence and could face life imprisonment or a fine of \$220,000 if that organisation turns out to have terrorist links in Australia or overseas. Oddly enough, this may mean that if you are reckless about being a member of a group that the government deems to have terrorist links then you might say in your defence that you neglected to ask the right questions and you did not know about those links. But you will have no such defence if you happen to hand over money that goes to a terrorist group somewhere further down the line and you fail to

ask enough questions about where it might end up. It is this sort of question that needs to be adequately answered and that makes it vital for these bills to undergo closer scrutiny.

The government also last night tabled the [Telecommunications Interception Legislation Amendment Bill 2002](#). It amends the definition of 'interception', the offences for which warrants may be sought and the purposes for which the interception can be used. Alarm bells sound when this government, with its tendency to spy on its own citizens, tries to bring in a bill overnight that changes the ground rules on intercepting phone calls, emails and SMS messages. I want to look much more closely at these provisions and their effects on the Australian public. I am sure the public would expect nothing less from its federal opposition.

The government claims it wants to get these bills through quickly. No doubt they will accuse us of slowing the process, because we want to scrutinise the bills. We have just heard the ranting and raving of the member for Mitchell along those lines—a disgraceful contribution to this debate by the honourable member. I urge the government not only to pull him into line but also to not even attempt to go down that route, because it is beneath the dignity of this place for those sorts arguments to be put as they were in the manner of the member for Mitchell. I will explain why immediately. If the government is serious about fighting terrorism then why did it come into this House exactly one month ago with a law to tackle hoax terrorists that had retrospective application, yet it did not do that with laws that fight the real thing? That is, why do these bills not have an application date of last night, when they were tabled in the House.

Let me explain. The bill that we dealt with, the [Criminal Code Amendment \(Anti-hoax and Other Measures\) Bill 2002](#), had a commencement date of 16 October 2001, which was the date the Prime Minister announced in a press release his plans to deal with hoaxers. Indeed, the Attorney in his second reading speech and in his press release of 13 February 2002 conceded the date of operation and commencement of that bill.

Labor supported that commencement date, as it should have, because everyone was on notice from the time of the Prime Minister's detailed announcement. Yet here we have bills dealing with the real thing which the government wants to rush through because the date of commencement is on royal assent. I ask the question: why isn't there a commencement date of last night, which is when the bills were tabled in the parliament? That would have got the balance right. It would have put the community on notice about the new offences, it would have given this House the opportunity to closely scrutinise the bills without being held to ransom by government scare tactics from the member for Mitchell as we have witnessed already, and it would have shown that what we had here from the outset was not division but a constructive approach with a message going out that all sides are at one on this issue. In terms of the principles all sides are at one, but we reserve the right. To attack us for scrutinising these bills will not wash. We are committed to protecting both the national interests and the freedoms that Australians enjoy. That is why the laws need to be exposed to close scrutiny, and that is exactly what Labor will do.

The member for Mitchell wants to cite examples. Let me cite a classic example from within the last 12 months which came about prior to September 11—the [Intelligence Services Bill 2001](#). On the face of it, its passage through this place could have been highly contentious. The parliament—and the government, to their credit—enjoined the opposition. We set up a joint select committee to look at the Intelligence Services Bill and report to this House. That legislation was subsequently amended. All sides in this House and in the other place had the opportunity to make contributions. We had public hearings when agencies and the Office of Parliamentary Counsel came before the committee. Lots of concerns and unintended consequences were removed from the bill with unanimous support. Australian security services were set up to be in an ideal situation pre-September 11. To use September 11 as the excuse, under the cover of darkness, to introduce 119 pages of legislation and 123 pages of explanatory memorandum will not



wash because the first bill introduces new offences, eight of which carry life sentences, one sentence being 25 years imprisonment. The second bill also introduces an offence which carries a life sentence. So we are saying, 'Hang on; we want a bit of an opportunity to make sure you have got it right.' Even now that we are debating the bills the parliamentary secretary has had to get up in the House to seek leave to amend a stuff-up that was made earlier in the week. We gave that leave.

I have had discussions with the Attorney-General, which is why I have raised the commencement date of these bills. It seems to me that there does not necessarily have to be a commencement date of royal assent but that they can commence from the day they were introduced into the parliament. Everybody would be on notice, the parliament could set about doing its job, and we would not have this ridiculous argument that there is a hiatus the terrorists can take advantage of. Why was it used for the antihoax bill and not for these bills? The appropriate commencement date, it could be argued, is the date these bills were introduced into the House. That does not mean necessarily that the bills will remain in their present form.

I urge the government very strongly not to try to wedge the Labor Party on this issue, because this issue is and should be above party politics. No side of the debate has a mortgage in this regard. The best message to sell, and to send out to the terrorists, about why we are prosecuting this war on terrorism is that we value our institutions, we value our democracy and we value our rule of law. At times there need to be protections, and you do not throw the baby out with the bathwater.

I do not accept the argument that just because the Americans or the British do it we should do it as they do it. On many occasions I have heard the catchcry in this House that we are masters of our own destiny and that we should, in effect, produce Australian laws in accordance with Australian values. There have been precedents. The member for Mitchell was a member of the House of Representatives Standing Committee on Legal and Constitutional Affairs when the committee, which I had the privilege of chairing

from 1993 to 1996, dealt with the child sex tourism bill and the international war crimes bill. The latter bill came about from a resolution of the Security Council. We were then in government and I was chairman of the committee, but the committee did not accept the legislation as it was tabled in the parliament on each of those occasions. The current Attorney-General was a member of that committee. Both sides accepted the principles behind the bills and we ended up with better bills—bills that were used as models for other parliaments around the world—because we did not play this silly game of ambush. We accepted that we are entitled to properly scrutinise intended and unintended consequences of these bills because we have to get it right. I commend the amendment to the House. (*Time expired*)

**Mr KING (Wentworth)** (1.27 p.m.)—I am very pleased to support and commend the legislation that is currently before the House. The legislation that was referred to earlier is part of a package of three pieces of legislation, the first of which was the **Criminal Code Amendment (Anti-hoax and Other Measures) Bill 2002**, introduced last month. The legislation being addressed today is the **Security Legislation Amendment (Terrorism) Bill 2002**, the **Suppression of the Financing of Terrorism Bill 2002**, the **Criminal Code Amendment (Suppression of Terrorist Bombings) Bill 2002** and the **Border Security Legislation Amendment Bill 2002**. Next week the Attorney will introduce into the House the proposed legislation regarding ASIO and the investigation of terrorist related activities.

The legislation currently before the House effects amendments to the Crimes Act 1914, the Crimes (Aviation) Act 1991 and the Migration Act 1958 and also enhances the Commonwealth counter-terrorism legislative framework generally. I will deal a little later in this address with the new offences of terrorism and the redefined offence of treason and also with the offences relating to proscribed organisations, about which there has been some discussion already.

I wish at the outset to reiterate the importance of this debate. Just a couple of weeks ago in my first speech in this House, I was

pleased to identify the steps to be taken in this place as being critical to the advancement of the war against terrorism and as being a very important priority for this parliament.

I also support the observations of the Leader of the Opposition relating to the consolation of and condolences to the victims of the September 11 tragedy in the United States. In my electorate in the last few days a number of the firefighters who fought so valiantly to bring that conflagration under control have been hosted. They have been shown around and treated in a way that I think shows many Australians are very grateful.

The first question which I think requires some consideration in this important debate is the modern understanding of the word 'terrorism'. The best definition that I have been able to find is the one that is contained in a State Department publication in the United States. It reads as follows:

Premeditated, politically motivated violence perpetrated against non-combatant targets by subnational or clandestine agents, usually intended to influence an audience.

There are other definitions which I will consider during some reflections upon the legislation itself.

The fact is that the events of the last six months have brought into focus new ways of considering terrorism and the risks and fears that arise from it, and the importance of modern government addressing the concerns of ordinary citizens to ensure that those risks and those fears are prevented and are prohibited by legislation.

President Bush, in his address to the joint session of Congress in the United States last year, made a number of important observations regarding the war on terrorism, with which Australia has been associated. He referred of course to Al-Qaeda, and mentioned that that organisation has become to terror what the Mafia is to crime. He noted that its goal is not so much making money as it is remaking the world and imposing a set of radical beliefs on people everywhere. President Bush referred to the fact that this organisation and the terrorists who support it practise a fringe form of religious extremism.

We have come to know in the ensuing months of the fight that is occurring in Afghanistan that that group, led as it is by Osama bin Laden, is linked to organisations in many other countries, including countries such as Egypt and Uzbekistan, that support the Islamic religion. There are thousands of terrorists in more than 60 countries. They are recruited from their own nations and neighbourhoods and brought to camps and training places such as those in Afghanistan. They are trained in the tactics of terror and evil, and they plot destruction of the societies in which they are located and of the target societies which their organisations are committed to destroy.

I join with the people of the United States and the Congress of the United States in the discussions that have occurred in that august assembly, and I agree that we should not expect one battle; we should expect a lengthy campaign, perhaps unlike any which we have seen before. It will possibly include further dramatic strikes. It will include operations that are visible on TV, but it will include some that are not—that are covert. The campaign will require new techniques for defeating terrorists and criminals who support these organisations; techniques that are addressed in this legislation, in particular those in relation to starving them of funding and utilising the new international communications network, the Internet.

It is important to note that Australia has made the decision that President Bush called on all nations of the world to make, to commit itself to driving out terrorism not only from this country but, by doing what we can, from around the globe itself. I have observed the direct results of terrorist activity in recent times. There is a young man lying in Mount Scopus Hospital in Jerusalem as we speak named Lauren Blum. Just some 10 days or so ago I met him. He was maimed for life as a young chef—his livelihood lost. As he walked into a restaurant in Jerusalem in December, 11 people were killed. He is now under the constant care of the hospital and his family. He has been left with the intellect of a 12-year-old. His sad story is one of many and it is a story that is told by those who are the subject of indiscriminate and

vicious recrimination. He is one of the innocent victims.

Perhaps the greatest fear of ordinary people, people in our country as much as anywhere else, is that innocent, ordinary people are the subject of attack by those who perpetrate terrorism. Because of those unusual, distinct and very fearful consequences for ordinary people—people who did not prepare, who did not don the garments of battle, who did not carry guns, but who were simply part of an innocent and democratic society whose values are opposed by those who support the aims and the mission of the terrorists—we need special legislation and special measures to ensure that innocent people going about their ordinary lives are protected.

In our own country we have heard of concerns regarding the actual fight against the terrorists. Only in December of last year the Australian High Commission in Singapore was the target of proposed attacks by a terrorist organisation. Our own soldiers have been fighting on the ground the war against terrorism in Afghanistan. In particular in recent days they have performed heroic acts in east Afghanistan. President Bush in a recent speech in the United States mentioned the fact that our country has already lost one life, there have been injuries and we have done all we can to propagate the war against the terrorists. But we are not the only country. There are 36 countries engaged in that current alliance in that current fight. Let us hope that that coalition is maintained and sustained by the leadership and by the measures that have been put in place. We must do all we can to eliminate the threat of terrorism not only from our country but from the globe.

New measures are required. The first measure that I want to make reference to is the new offence of treason. Treason of course was one of the most serious offences under the law and has been since the earliest of times. But in the Crimes Act 1914 the offence of treason was defined in a certain way which requires extension in order to address some of the problems regarding the modern fight against terrorism which I have mentioned. In particular the provision in proposed section 80.1(1) of the bill provides that

a person commits an act called treason if the person:

- (f) engages in conduct that assists by any means whatever, with intent to assist:
  - (i) another country; or
  - (ii) an organisation;
    - that is engaged in armed hostilities against the Australian Defence Force ...

That provision is new and permits the offence of treason to be brought against a person, including an Australian, who in this country or elsewhere—and obviously this includes Afghanistan—involves himself or herself in armed hostilities against our defence forces.

The importance of the extension provided for in that new provision is that it redresses some of the limitations of the previous legislation which meant that it would be difficult, if not impossible, to prosecute persons, even Australians, who fought overseas in a sphere of combat in which Australian defence forces were involved but where no formal declaration of war, under the Hague convention or otherwise, had been promulgated. That of itself reflects the very problem that we face as a modern society in pursuing the war against terrorism. We are not fighting countries; we are not fighting people who gather together and through a leadership or a parliament actually declare war, state their position and fight. We are fighting a clandestine organisation which mixes amongst the ordinary populace but which is, nonetheless, the more dangerous for that. I commend the terms of the new provision in section 80 of the bill.

I also commend the provision in proposed division 101 in relation to terrorism. That provision gives rise to new offences in relation to training and those who prepare and assist others to train for terrorist activities. The particular provision of which I wish to make mention concerns a person who 'provides or receives training in the making or use of firearms, explosives or chemical, biological, radiological or nuclear weapons' which is 'connected with preparation for, the engagement of a person in, or assistance in a

terrorist act'. Elsewhere in the proposed statute the word 'terrorist act' is defined.

Importantly, the person's mental state is not relevant. That, of course, is important, because it is often extremely difficult for the defence forces and the police to determine whether a person who is holding a weapon or is in proximity to those who appear to be conducting terrorist activities has a criminal intention or, more importantly, could be proved in court to have such an intention. This legislation, in the unusual circumstances of the case, ensures that that normal requirement of criminal legislation is waived. In my view it is a proper, supportable measure.

The third provision to which I wish to draw attention is that relating to proscribed organisations. This provision is contained in the proposed divisions 101 and 102 and permits the Attorney-General to make declarations in writing that an organisation is a proscribed organisation if he is satisfied on reasonable grounds that one or more of certain factual situations arise in relation to that organisation. This includes, among other things, the fact that it is proscribed or adversely referred to by the United Nations and, *inter alia*, by our allies. This would have the effect, for example—if the Attorney thought appropriate—of proscribing Al-Qaeda and any of its elements and perhaps, having regard to the activities of the Al-Aqsa Brigades in recent times, of proscribing that organisation.

In this way the legislation properly confines but also, on the other hand, addresses the requirements of progressing the war against terrorism. In my respectful judgment, it does not have that lack of definition and clarity which was mentioned by the Labor Party in its earlier address such as to give rise to proper concerns from civil libertarians. It is legislation which addresses a very necessary problem and does it in a way that is effective and expedient. It will assist our defence forces to ensure a complete victory in the difficult actions they are currently undertaking.

I wish to address briefly some of the concerns that were mentioned by our political opponents in relation to this legislation. It

was suggested that the legislation that has been brought forward is too late, that not enough has been done to protect the Australian people and that there has been some disagreement amongst those in the government about this legislation. As a new member of this parliament, I can say that I am unaware of any disagreement. Since September 11, all I have observed as an ordinary member of the public and as a parliamentarian is a government that is totally committed to waging a war against terrorism and which is totally committed to ensuring that every step is taken to protect the Australian people and to protect ordinary people from the fears and concerns that they properly have in relation to terrorists and their possible activities in our country.

I have already mentioned various possible threats, but this legislation will also ensure that biological threats and the issue of access to electronic systems such as the Internet are also addressed. That issue, which was raised by the Labor Party, is in my respectful judgment an empty concern. On the other hand, as reported recently in Australian newspapers, Internet traffic amongst Al-Qaeda followers has occurred in the last 10 days or so, including intercepted email messages indicating that elements of the Al-Qaeda network may be regrouping in remote sanctuaries in Pakistan, near the border with Afghanistan. New web sites and Internet communications have appeared as part of an apparent concerted Al-Qaeda effort to reconstitute the group and re-establish communications following the war. As we know, there are some 60 countries outside central Asia which are impacted upon by this legislation. *(Time expired)*

**Mr McCLELLAND (Barton)** (1.47 p.m.)—May I commend the contribution just given by the member for Wentworth, and contrast that with the uncharacteristically almost hysterical speech by the member for Mitchell, which quite significantly demeaned the quality of this debate on the [Security Legislation Amendment \(Terrorism\) Bill 2002](#). That is what we are talking about—the quality of the law-making capacity of this parliament. We, collectively, are paid a considerable amount of money. Collectively, we

have access to tremendous resources—whether it be the library resources or the services of the clerks—to assist us, in our role as legislators, to get it right.

I would like to contrast two examples. Firstly, there is what occurred in respect of the *Intelligence Services (Consequential Provisions) Bill 2001*, which went to the Joint Select Committee on Intelligence Services. Look at the number of tremendously qualified members from both houses, some frontbench and some backbench, who made a tremendous cross-party effort and came up with a unanimous report in respect of highly controversial issues—that is, additional powers being given to Australia's security intelligence services. Anyone who wants to see the contribution that that constructive legislative approach makes need only contrast the act that came out—the Intelligence Services Act 2001—with the bill. Clearly, a number of constructive amendments were made, and clearly the mere fact that that consultative process had taken place eased public apprehension.

This type of legislation, where there is a conflict between the fundamental need for security that all governments must provide as their foremost responsibility and the civil rights of citizens, is always controversial. This is particularly so in complex areas, particularly where there is this necessary interaction with law making, international security and counterterrorism measures. There are always going to be apprehensions in the community. The best way of allaying those apprehensions and getting the community on board for the actions of this legislature is to use a consultative approach. Contrast that approach to what happened with the first border protection legislation introduced by the government last September. I think we had less than an hour's notice. Indeed, I do not think the explanatory memorandum was available by the time the bill came into the House.

**Mr Melham**—Not until the third reading.

**Mr McCLELLAND**—My colleague the member for Banks points out that it was not until the third reading that it was available. To contrast that, the government walked away from that legislation when they had the

time to review it. Why? Because its thrust was basically that any person—and 'person' was referred to generally—on board a ship coming into Australian waters could be put back on that ship and expelled from Australian waters. 'Ship' was defined literally as 'any floating vessel'. That legislation, as the government realised, could have applied to pleasure seekers on a yacht in the Whitsundays as much as it could have applied to people illegally trying to enter Australia. The government realised that, abandoned that and came up with alternative measures which ultimately we had the capacity to support.

I say that not to score a point but to point out the difference in the legislative approaches—one is a process that gets constructive, balanced and sensible legislation which is tested across the chamber and the other one is where the government attempts to score political points. We are trying to take away any anxiety about the effect of this legislation, by agreeing to the bills being amended to have a commencement date as of last night—the date that they were introduced into the House. We are not about trying to delay or obstruct; we are all about trying to get a better package of legislation for the Australian people and indeed getting the Australian people on side in terms of the need to introduce what are unquestionably severe measures that are necessary in many respects because of the severity of that which we confront.

The reality today is that Australia's personal security is far less likely to be affected by war than it is by terrorist activity. There is no doubt about that. That is why the Australian Labor Party supported last year in a very inclusive sense the defence civil call-out legislation that enabled our defence forces to be called out with respect to a terrorist incident. If I may comment on my own behalf—certainly on behalf of my colleague the member for Denison then—when the public controversy came regarding those provisions, more often than not we were contacted by the media to defend the provisions of the legislation, because the Attorney-General and the Minister for Defence had gone absent without leave. We were prepared to take the ball-up on the need for strong measures

to protect Australian citizens from potential terrorist activity. That remains our position.

Let me talk in terms of the general concepts of this interaction between terrorism and civil rights. Is there a conflict? I am one of those persons who say that the most fundamental human right that citizens have is the right to security—and we are of course protecting Australian citizens. The human rights of thousands of people who were killed in the September 11 terrorist attack in New York, some 15 Australians among them, were fundamentally denied to them on that day—their right to life, their right to work, their right to freedom from arbitrary interference in family life and their right to freedom from discrimination based on religion or nationality. Their fundamental rights were obliterated in a single incident. That is why the right to security underpins all other human rights. Unless a citizen is physically secure, a citizen cannot enjoy those other fundamental human rights.

I will tell an interesting story. The Mayor of New York City, Rudy Giuliani, who was hailed both domestically and internationally as the hero of New York after the September 11 event, is famous for his zero tolerance law and order policies in New York. I should say that, before becoming mayor, he was a prominent civil rights activist. He saw no inconsistency with strong law and order policies and the civil rights of citizens. I am not necessarily advocating any zero tolerance policies, but I am pointing out that someone who is so passionately committed to human rights saw that security of the citizen was the most fundamental of rights.

But let us talk about it in terms of the analysis of rights from a historical point of view. One of the modern human rights thinkers was Thomas Hobbes. Central to Hobbes's thoughts was the role of a strong state in securing the existence of a civil society free from arbitrary violence so that, within that society, men and women could enjoy real freedom, opportunity and security. So what we are talking about is entirely consistent with those philosophies on human rights. We are talking here about principles of clamping down on terrorism.

Indeed, it was during the Second World War itself that the United Nations declarations, covenants and conventions flowed from the recognition of the United Nations Charter of Human Rights as one of the most significant purposes of world organisation. That was the recognition of a connection between the protection of human rights and the protection of international peace and security. Any advocate of security at any price or through tough talk alone needs to re-read the United Nations charter and reconsider how often in the history of the last century it was lack of respect for human rights which led to the threats to peace and security. Any human rights advocate who might deride talk of security likewise needs to re-read the United Nations charter with its recognition of the right of nations to defend themselves and its provisions for the use of armed force to protect international security.

It was under these provisions, of course, that the Hawke Labor government joined in armed action to expel Saddam Hussein from his illegal occupation of Kuwait. It was as a result of those principles that the former leader of the Australian Labor Party, in a letter to President Bush shortly after the terrorist attacks of September 11, said:

Those responsible must be found and held to account for their horrific actions. No stone must be left unturned. Australia will stand shoulder-to-shoulder with its friend and ally, the United States, and the American people in meeting the challenge signalled by this heinous attack, without notice upon civilians.

That quote demonstrates the commitment of the Australian Labor Party to an international order where terrorist activity cannot survive. The United Nations emphasis on human rights goes back to the middle of the Second World War to the Atlantic Charter, which was drafted on board a battleship and was agreed between Churchill and Roosevelt—not exactly two soft-hearted or soft-headed wits—meeting in the depths of a desperate struggle for security and survival. The whole concept of the interaction between security and rights was seen as crucial in those heated times. That fundamental interaction remains equally as valid today.

**The SPEAKER**—It being 2 p.m., the debate is interrupted in accordance with standing order 101A.

#### QUESTIONS WITHOUT NOTICE

##### Privilege: Senator Heffernan

**Mr CREAN** (2.00 p.m.)—My question is to the Prime Minister. Is the Prime Minister aware that his parliamentary secretary made comments prejudicial to a judge in the Senate last night? Is the Prime Minister aware of the foreign minister's comment reported by AAP at 12.40 today that:

I think when people use the parliament and use parliamentary privilege they should always remember that privileges bring with them responsibilities and if you are going to attack people who are out of the political sphere it's very important to have evidence to back that up.

Prime Minister, do you agree with your foreign minister and, given that there is no credible evidence to support Heffernan's allegations, when will you sack him?

**Mr HOWARD**—I thank the Leader of the Opposition for the question. As it does go to a serious issue, I might take a little longer in providing the answer than might otherwise be the case. Yes, I am aware of the speech made in the Senate last night by my parliamentary secretary Senator Bill Heffernan. It raises both a serious and difficult issue. Mr Justice Kirby has been a member of the High Court for a number of years. He enjoys in Australia a very good and fine legal reputation and he is a person who is well known to many people in this place on both sides, including me. Insofar as our dealings have been necessary, I have always had cordial and gracious dealings with him.

The speech that was made last night by Senator Heffernan did raise a number of very significant allegations. I do not say this critically—I offer it by way of information—it was a speech that he had made off his own bat. The issues generally that were canvassed in the speech are issues that have been generally canvassed by Senator Heffernan in the past with me and a number of my other colleagues. They are issues on which he feels very strongly and very deeply.

I do agree with the foreign minister that parliamentary privilege is, as the description

implies, a privilege. It does have to be used carefully and properly, but it is ultimately there for any of us to use if we believe the circumstances warrant it, otherwise it would not be there. Ultimately, it is very hard to codify the circumstances in which parliamentary privilege should be used. Obviously, given what he sees to be the history of this matter, my colleague Senator Heffernan felt that he was justified in using parliamentary privilege to air the matters which he did. In relation to allegations made against them, all people in this country—whether they be High Court judges, ordinary citizens, governors-general, people holding political office—are entitled to a presumption of innocence. That applies to every citizen in this country irrespective of his or her station in life.

As a result of the speech that was made last night, I have had a number of discussions with Senator Heffernan and I am going to table two letters. I am going to table a letter that Senator Heffernan has written to me and also a copy of the letter that Senator Heffernan has written to the New South Wales police commissioner, Commissioner Peter Ryan. It will be apparent from the letter that Senator Heffernan has written to me that he did, in fact, raise these matters with the police as far back as 1998. Any suggestion that he used parliamentary privilege as a first resort rather than as a last resort is wrong.

**Mr Crean**—Does he say what happened?

**Mr HOWARD**—Yes, he does say what happened and the letter will explain the response that he was given by the police. He has written again to the New South Wales Police asking that this matter be further investigated. In his letter to me, he states as follows:

As my letter to the Commissioner indicates, I have previously provided background information relating to the potential commitment of criminal offences. That information was subsequently assessed by the NSW Police Service and I was advised by a Senior Officer that because the allegations provided in a police statement involved a person aged 17 years and 6 months, and although of serious concern for the police, there was no prosecution undertaken because in their assessment it would not meet the technical prosecution guidelines of the NSW DPP.

Those are Senator Heffernan's words. I have no independent knowledge as to whether those claims are true or false. Senator Heffernan has written again to the commissioner asking that the matter be further investigated.

In his letter to me, Senator Heffernan has also said that he believes it would be appropriate that he stand aside from his position as parliamentary secretary until such time as these matters have been further investigated. This next comment is made on the basis of my discussion with the senator and it is not in the letter: he said that he acknowledges that I was not given notice that he was going to make the speech last night and—although he holds very strongly to the views that he has expressed in the speech and he does not resile from them one iota—he thinks it is appropriate, both in his interests and in the interests of the government, that he step aside from his duties while this matter is assessed. I accept his assessment of that, but I should emphasise that he has initiated that. He is very comfortable with that and I think it is the right course of action to take.

Two issues are raised here. One of them relates specifically to the allegations that have been made by Senator Heffernan against Mr Justice Kirby. They need to be further assessed and, depending on what comes out of that further assessment, people will make judgments—I suspend mine until such time as that further assessment is made. The other issue relates to the question of how in the future—I am not talking here specifically of Mr Justice Kirby—generally speaking, we as a parliament should deal with allegations which are made against senior judicial officers of the Commonwealth. It is an area where, frankly, there are gaps. You have a situation where, under the Constitution, a federal judge holds office until he or she reaches the age of 70 and can only be removed by a finding of both houses of parliament that he or she has been guilty of proved misbehaviour. There is no preliminary procedure to assess the value or otherwise of allegations that are made. As recently as a couple of years ago, when allegations were made—as the member for Barton will recall—against Mr Justice Callinan, even though the view was taken by the gov-

ernment that those allegations did not have merit in terms of the relevant section of the Constitution, the opposition argued that there should be a judicial examination of those allegations by three retired judges.

It is fair to say that in the past from both sides there have been allegations of unsuitability to hold a high judicial office. This is not the first time an allegation of this type has been made, and it probably will not be the last occasion. It is therefore time that the parliament, and in particular the government, gave more urgent consideration to a recommendation of the Law Reform Commission—most recently in recommendation 12, where it was recommended that the federal parliament should develop and adopt a protocol governing the receipt and investigation of serious complaints against federal judicial officers. It says:

For these purposes, a 'serious complaint' is one which, if made out, warrants consideration by the Parliament of whether to present an address to the Governor-General praying for the removal of the judicial officer in question, pursuant to s 72 of the Constitution.

There is a strong case for examination by the parliament of the adoption of such a protocol. The value of it would be that, where allegations are made or people wish to make those allegations, they would not be left with the choice of either the person in question being determined by the criminal justice processes of one of the Australian states to have been guilty of a criminal offence or, alternatively, resorting to allegations being made in this or another chamber under the cover of parliamentary privilege. The advantage of the adoption of a protocol of this kind would be that, in future, people who had these allegations could go to this body in the first instance and have the value of those allegations assessed.

As I said at the commencement of this answer—and I apologise for its length, but it is a serious and sensitive issue and it does deserve to be treated seriously—the judge in question enjoys a high reputation in the legal profession. The senator in question enjoys both my affection and my friendship, and I know that he holds the views that he expresses on matters very deeply and very con-



scientifically. The procedure that I have outlined in relation not only to his standing aside but also to the matter being fully and further investigated by the New South Wales Police is the appropriate procedure. I also commend to members on both sides of the House a very strong belief that we need to adopt a protocol that will provide a more practical and effective mechanism for dealing with complaints of this kind, from wherever and through whomsoever they may arise in the future. I table both the letter dated today from Senator Heffernan to me and a copy of a letter from Senator Heffernan to Commissioner Peter Ryan, the Commissioner of the New South Wales Police force.

#### **Transport: Government Policy**

**Mr BAIRD** (2.12 p.m.)—My question is addressed to the Deputy Prime Minister, the Minister for Transport and Regional Services. Would the minister inform the House of developments in transport efficiencies in Australia resulting from the government's transport policy? Are there any impediments to the delivery of further efficiencies?

**Mr ANDERSON**—I thank the honourable member for Cook for his question. I am pleased to report to the House that, after a pretty challenging time in the transport sector, we are now seeing some very encouraging signs of growth. That will be needed—transport represents around nine per cent of gross domestic product at the moment. With predictions that the freight volume task in this country is likely to grow threefold between now and 2020, we are certainly going to need an efficient transport industry. The growth that we are seeing now does not come about by accident; it is enabled and facilitated by the policy settings of the government. In that light, I am very pleased indeed that in the aviation sector we are now seeing the prospect of very strong growth by Virgin Blue Airlines, since Virgin Blue Airlines and Patrick Corporation announced yesterday that they had signed a \$260 million agreement for Patrick Corporation to acquire a 50 per cent shareholding in Virgin Blue. I am confident that Virgin, which really has shown that a competently and efficiently run company can compete successfully with the big players, will be able to further grow its

market share and will therefore be in an even better position to offer consumers real choice in whom they fly with.

I am advised that plans are already afoot for the airline to increase its fleet from 16 to 23 state-of-the-art Boeing 737 aircraft by the end of the year. I also understand it is planning to grow the fleet to a total of 50 aircraft over the next five years. So it is good news for Virgin Blue and Patricks, good news for jobs—and, while I would not want to raise any false hopes, I think it does present further opportunities for some of those Ansett employees looking for employment—good news for the travelling public and for competition, and good news for the Australian economy.

I have to say it is absolutely essential that the union movement does not sabotage the Virgin Blue deal as a result of their hatred of Chris Corrigan. We already see the Labor movement split on this issue. This morning Hughie Williams from the TWU warned:

I think we've got to keep a very close eye on Mr Corrigan. We know what he's capable of doing.

Like cleaning up the waterfront and growing our export industries and all the jobs in them! I am most concerned that members of the opposition might not have heard what the member for Batman said on Sydney radio this morning. He showed a surprising lack of understanding of the last hundred years of history of the ACTU and the Labor movement by claiming:

The Labor Party and the union movement don't go through life trying to settle scores.

That was the member for Batman this morning. So we will see who is right: whether it is Hughie Williams warning about Mr Corrigan, or the member for Batman saying—either in ignorance of their history or because they have turned over a new leaf—that they do not go through life seeking to settle scores. Very importantly, Patricks is also involved in the national rail consortium—

**Mr Martin Ferguson**—Boofhead!

**The SPEAKER**—The member for Batman!

*Mr Martin Ferguson interjecting—*

**The SPEAKER**—The member for Batman is defying the chair!

**Mr ANDERSON**—Dear, oh dear! I have struck a raw nerve. Patricks is also involved—

*Opposition members interjecting—*

**Mr ANDERSON**—Interesting or not, we do not want to pursue transport reform. Patricks is also involved in the national rail consortium through the Lang Corporation, and I think that also offers the opportunity for real synergies in terms of cross-modal reform, cross-modal efficiencies. The national rail consortium will develop an integrated road and rail freight system building on a very extensive network of regional depots. That will have major implications for the development of the transport efficiencies we are going to need in the Australian community in years to come.

It is worth noting on the way through that no government has done more for local roads than the current government, as well. Recognising, as we do, the important role played by local roads in our overall transport infrastructure, we launched the Roads to Recovery program in November 2000. It has assisted 717 councils so far to undertake 6,600 projects at a value of nearly \$400 million. I take pleasure in tabling the first Roads to Recovery annual report, which details the first year of its activity.

**Mr Howard**—Hear, hear! It's a great program.

**Mr ANDERSON**—It's a great program. They love it out there, Mr Prime Minister.

**Mr Howard**—Brought joy to many people.

**Mr ANDERSON**—Yes, that is right. It has given them an ability to get their kids to school on a wet day and things like that. The report reveals that 44 per cent of funds went to reconstruction, rehabilitation and widening of existing roads, 30 per cent to regravelling, sealing and resealing roads, and 11 per cent to bridge and drainage works. They are excellent figures and they show the program is working well.

I was also asked whether there are any impediments to the delivery of further effi-

ciencies. There are many—and they all sit opposite. We need only to remember the Labor Party's opposition to Roads to Recovery. That is a good case in point, but there is a more poignant issue at hand at the moment that involves air traffic controller strike action at a time when I thought that everyone in this country would have thought it imperative that we make sure the aviation sector is given every chance to recover its strength after September 11 and other events and that important industries like tourism are also given every chance to recover.

I can think of nothing more irresponsible, at a time when the aviation sector is in a fragile state after the events of last year, than the actions of those five unions at the moment. I think it is time that we saw the holding company of the Australian Labor Party, the union movement, recognise that the AIRC has strongly recommended that they go back to negotiation because there are no reasons for this strike. Negotiations have not failed; they have not been seriously undertaken—and that ought to be reversed forthwith.

#### **DISTINGUISHED VISITORS**

**The SPEAKER**—I inform the House that we have present in the gallery this afternoon Minister Martin Cullen, the Irish Minister of State at the Department of Finance with Special Responsibility for Public Works, together with the Irish Ambassador, Richard O'Brien, who is, as everyone would know, Dean of the Diplomatic Corps. Also present in the gallery is a senior delegation from Vietnam here under the auspices of the Australian Political Exchange Council. Also present in the gallery is Mr Jim Carlton, a former minister in the Fraser government. On behalf of the House, I extend to all of our visitors a very warm welcome.

**Honourable members**—Hear, hear!

#### **QUESTIONS WITHOUT NOTICE**

##### **Privilege: Senator Heffernan**

**Mr CREAN** (2.21 p.m.)—My question is to the Prime Minister and it again refers to the allegations made by Senator Heffernan. Is the Prime Minister aware that the New South Wales police minister, Michael Costa, has said today:

I am advised that police have previously investigated information provided to them by Senator Heffernan. I am advised that those investigations did not warrant the laying of any charges in connection with the matters recently raised by the senator.

Prime Minister, if the senator's allegations were dismissed by the New South Wales Police and, as his letter indicates, he was advised accordingly, I ask you: is it appropriate for him to use the Australian Senate to repeat them and, if not, why didn't you sack him?

*Mr Melham interjecting—*

**The SPEAKER**—The member for Banks is abusing the parliamentary norms.

**Mr HOWARD**—I am aware that the New South Wales police minister has made a statement, and it would appear to me—while I have not read it in the last few minutes—to be substantially to the effect. This is an issue that is somewhat atypical, but if the opposition wishes to turn questions on this matter into the normal slanging exchange of question time then I think it would be a great pity.

*Opposition members interjecting—*

*Mr Crean interjecting—*

**Mr HOWARD**—You are the most unctuous opposition leader we have had for years.

*Opposition members interjecting—*

**The SPEAKER**—The Prime Minister is entitled to be heard in silence. I will determine whether or not any remarks made warrant intervention from the chair.

**Mr HOWARD**—The sequence of events is that the senator made approaches to the New South Wales Police, he was not satisfied with the response that he got, he exercised his right as a member of parliament to further ventilate those matters and, immediately that was done, he was encouraged to refer the matter to the New South Wales Police. He has referred it back. I believe that is the proper course of action, and I believe that the action that I have taken is entirely proper. The question of whether the exercise of parliamentary privilege—

*Mr McMullan interjecting—*

**The SPEAKER**—The member for Fraser!

**Mr HOWARD**—by an individual senator or member is appropriate is a subjective judgment; different people will have different views. I certainly believe that, in the past, members of the Labor Party—

*Mr McMullan interjecting—*

**The SPEAKER**—The member for Fraser is defying the chair!

**Mr HOWARD**—have abused parliamentary privilege. They have abused parliamentary privilege to attack justices of the High Court, but because they were justices of the High Court identified with this side of politics then apparently that is acceptable.

#### **Economy: Performance**

**Mrs DRAPER** (2.24 p.m.)—My question is addressed to the Treasurer. Would the Treasurer advise the House of the results of recent domestic and international surveys of sentiment towards the Australian economy? What do these surveys indicate about the strength of the Australian economy?

**Mr COSTELLO**—I thank the honourable member for Makin for her question and for her interest in the national economy. I can report to her that both international and domestic surveys show that the Australian economy has strong momentum. In fact, this week's *Economist* magazine, which has a regular poll of forecasters, has Australia forecast as having the strongest growth rate of any of the major industrialised countries through the course of 2002, at 3.4 per cent. I am sure the Labor Party will welcome strong prognostications of growth in Australia. The second highest is Britain at 1.9 per cent, so Australia is just a little under double the second highest growth rate forecast for 2002. In 2003, Australia is again forecast to have the highest growth of any of the country forecasts in the *Economist* poll. I think all Australians would welcome that news, especially on this side of the House. That comes on top of a growth rate of 4.1 per cent in 2001, which was the highest of any of the industrialised countries and indeed 10 times the average of the OECD. So the outcome for 2001 was the highest, the forecast for 2002 was the strongest and the forecast for 2003 was the strongest.

This week we had the Westpac-Melbourne Institute consumer sentiment survey, which rose to a level of 116, the fifth consecutive rise since the drop in confidence on the back of September 11; we had the ACCI-Westpac survey of industrial trends showing a strengthening of business activity; and we had the National Australia Bank monthly business survey showing business conditions increasing for February. So I think the good news is that notwithstanding an international recession—a recession in the United States, a third recession in Japan in a decade, a recession in Singapore, a recession in Taiwan, a recession in Germany and a weakness in Europe—the Australian economy continues to perform strongly.

Members of this House will recall that not everybody forecast that that would be the case in 2001. There were a lot of people in 2001 gleefully anticipating a recession in the Australian economy—and none more so than the member for Hotham, who took great delight in attempting to mislead the Australian public. Perhaps I will just finish by referring him to the advice that was given by the Premier of New South Wales, Bob Carr, in the *Financial Review* in January. As far as I am aware, Mr Carr is the only Labor leader who has an economic policy, which he put out in January of 2002, urging Mr Crean and others to adopt. He made this observation when he did so:

The electorate hesitated to vote for Labor, in part because of concerns about economic management.

The electorate was right about that, and I can say that, since the November election until now, the Labor Party has not come up with a single economic policy. It is now six years bereft of any economic policy or any thinking, and it shows no signs of improving. Can I recommend that you take the advice of Premier Carr. The electorate did hesitate to vote for Labor because it knows that Labor has no credentials on economic management. If Labor were to try and get some, I urge you to come out and support the government in its economic policy and recognise the advantages that has brought in Australian growth rates.

### Privilege: Senator Heffernan

**Mr CREAN** (2.29 p.m.)—My question is again to the Prime Minister. Is the Prime Minister aware that his parliamentary secretary made comments in the Senate last night prejudicial to a judge? Is the Prime Minister aware that, in doing so, his parliamentary secretary referred in part to findings made at paragraph 7.288 of the report of the Wood royal commission? Is the Prime Minister aware that the Wood royal commission concluded of these claims, at paragraph 7.241:

It's not appropriate to give the allegations currency by detailing them. The report shows that they were not able to be substantiated.

And paragraph 7.286 states:

As the matter stands, there cannot be any adverse inference against the judicial officer to be derived from the information provided to the AFP, the New South Wales Police, the ICAC, the Judicial Commission or to the Royal Commission.

Prime Minister, isn't it the case that Senator Heffernan's letter to the New South Wales Police Commissioner contains no new allegations to those which have previously been dismissed? Why won't you sack your parliamentary secretary immediately?

**Mr HOWARD**—I think the action I have taken is entirely appropriate.

**Mr Crean**—You have taken no action.

**The SPEAKER**—The Prime Minister has the call.

**Mr HOWARD**—It is entirely appropriate in the circumstances.

**Mr Crean**—You have taken no action.

*Mr Costello interjecting—*

**Mr HOWARD**—The question of the propriety or otherwise of the allegations made by—

*Mr Costello interjecting—*

**Mr Crean**—Come on!

**The SPEAKER**—Order! There is an obligation faced by the Leader of the Opposition to extend the same courtesy to the Prime Minister in his response to a question as I expect the Prime Minister to extend to the Leader of the Opposition whenever he is addressing the House.

**Mr Latham**—What about the dog?

**The SPEAKER**—The member for Werriwa will withdraw that statement.

**Mr Latham**—In what sense?

**The SPEAKER**—The member for Werriwa will come to the dispatch box, as he is required to do, and withdraw the statement he just made, which was made as an interjection and was entirely inappropriate.

**Mr Latham**—I will do that, Mr Speaker, but I will remind you that one of the member's opposite did not have to—

**The SPEAKER**—The member for Werriwa will withdraw the statement unequivocally and resume his seat.

**Mr Latham**—I will. I withdraw it, but I raise a point of order.

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

**Mr Latham**—You might recall, Mr Speaker, that in the last sitting week the member for La Trobe or the member for Eden-Monaro—

**The SPEAKER**—The member for Werriwa will resume his seat. I ask the member for Werriwa: what licenses him to continue to interject when I am drawing his attention so that I can require those on my right to be quiet so that he can be heard and I can hear him?

*Mr Latham interjecting—*

**The SPEAKER**—The member for Werriwa will resume his seat. I remind the member for Werriwa that I am still on my feet. The member for Werriwa.

**Mr Latham**—In continuation of my point of order—

**The SPEAKER**—Which is what I was endeavouring to get the House to be quiet enough to hear.

**Mr Latham**—You might recall that, in the last sitting week, one of the members opposite—I think it was the member for Eden-Monaro—was asked to withdraw and did not have to stand in his place, as he is required to do under the standing orders, and make that withdrawal. I would just point out to you that you have applied a double standard. Could you clarify for the benefit of the

House: do members have to stand in their place to make a withdrawal?

**The SPEAKER**—The member for Werriwa will resume his seat. The member for Werriwa goes very close to reflecting on the chair. The member for Eden-Monaro was in his seat when he made the appropriate withdrawal. It is true that I recognised his withdrawal without his rising, and I conceded that to the House at the time. The Prime Minister, in response to the question, is entitled to be heard in silence.

**Mr Crean**—Mr Speaker, I rise on a point of order. I was not interjecting on the Prime Minister. I was responding to comments made by the Treasurer. If you are going to call me to order, call him to order too.

**The SPEAKER**—The Leader of the Opposition will resume his seat. I am very happy to accommodate the Leader of the Opposition and apply precisely the same standards to the government frontbench as I do to his frontbench. The Leader of the Opposition has an obligation to extend the same courtesy to the Prime Minister as I expect the Prime Minister to extend to him.

**Mr HOWARD**—I do not have anything to add to my previous answer. I think I have handled the matter entirely properly.

#### **Small Business: Fair Dismissal Legislation**

**Mr ANTHONY SMITH** (2.34 p.m.)—My question is addressed the Minister for Employment and Workplace Relations. Is the minister aware of a small business survey, released today by the Certified Practising Accountants, regarding the attitude of small business to current unfair dismissal legislation? Have there been any responses to this survey? Minister, what are the obstacles to further reform in this area, which is so critical to jobs growth?

**Mr ABBOTT**—I thank the member for Casey for his question and congratulate him for the fine start he has made as a member of this House.

*Mr Martin Ferguson interjecting—*

**The SPEAKER**—The member for Batman needs to be reminded that he too is on the front bench. The standards the Leader of

the Opposition wants applied to one side, I am obliged to apply to the other.

**Mr ABBOTT**—I am aware of a survey by Australia's peak accountancy body which entirely vindicates the government's position on the [Workplace Relations Amendment \(Fair Dismissal\) Bill 2002](#). This survey shows that 42 per cent of small businesses think that they do not know how to properly comply with unfair dismissal laws. More importantly, it shows that 76 per cent of accountants dealing with small businesses think that those businesses are confused about how to cope with unfair dismissal laws. Mr Speaker, 62 per cent of small businesses and 81 per cent of accountants think that the unfair dismissal process is complex—perhaps far too complex.

This survey amply demonstrates the need for reform to everyone except, it would seem, the shadow minister for workplace relations, the member for Barton. He put out a press release today saying that reform is unnecessary because only five per cent of small businesses nominated unfair dismissal as the chief obstacle to employment growth. Five per cent of small businesses translates to 50,000 individual enterprises, and that means 52,000 new jobs if those businesses take on just one extra staff member. According to the member for Barton, just three per cent of small businesses would be encouraged to employ new staff by the repeal of the unfair dismissal laws. That would translate to 30,000 new jobs if these laws were repealed.

I have to say that I feel a bit sorry for the member for Barton; being the workplace relations spokesman inside the Labor Party is a little like being the education minister at a Teachers Federation conference—everyone thinks he knows better than you. The member for Barton might be a third generation Labor peer but he has never been a trade union official, unlike just about everyone else on the front bench. If you read the shadow minister's press release, you can see that it is actually a cry for help. It is a coded plea for his colleagues to see reason. The member for Barton says that 'many small business operators have fears about unfair dismissal'. The press release goes on:

Twenty-seven percent (27%) of small business operators were worried that "you can't dismiss a person even if they are stealing from you".

Thirty percent (30%) of small businesses thought that the employer always lost unfair dismissal cases ...

The employer always loses by the time you take into account the time and money involved in dealing with these cases. The member for Barton and all sensible, intelligent members opposite know that there is only one way to remove this handbrake on the creation of new jobs in Australia—that is, to pass the government's fair dismissal laws.

#### **Privilege: Senator Heffernan**

**Mr CREAN** (2.39 p.m.)—My question is to the Prime Minister. I refer to the letter tabled by him and the first paragraph in which Senator Heffernan says that he did not contact you, Prime Minister, or your office prior to making the speech. Prime Minister, I ask this question against the context of that statement: when did you become aware that cabinet secretary Heffernan was intent on pursuing his allegations against Justice Kirby? Was any of the subject matter of the allegations raised in discussions between you and Senator Heffernan prior to last night? If so, what steps did you take to ensure that this matter was dealt with appropriately, rather than seeing it raised in the Senate with the resultant damage to the High Court and to Justice Kirby's reputation?

**Mr HOWARD**—I have had earlier discussions with Senator Heffernan about this matter. In those earlier discussions, amongst other things, I counselled him against any improper use of parliamentary privilege.

#### **Immigration: People-smuggling Conference**

**Mr HAASE** (2.40 p.m.)—My question is addressed to the Minister for Foreign Affairs. Would the minister update the House on the outcome of the recent people-smuggling conference held in Bali, co-hosted by Australia and Indonesia? Is the minister aware of any alternative approaches?

**Mr DOWNER**—I thank the honourable member for Kalgoorlie for his question. I recognise the great interest he has in the is-

sue of people-smuggling. He raises this issue very much on behalf of his constituents, who I know are particularly concerned about this issue given the geography of the electorate of Kalgoorlie. The Australian government hosted with Indonesia what has become known as the Bali conference on people-smuggling. This was a very significant conference, attended by 38 ministerial level representatives from countries of origin, transit and destination that are used by people smugglers. Importantly, this meeting very significantly raised the profile of the campaign against people-smuggling in the region, with ministers agreeing in particular on the importance of legislative measures to criminalise people-smuggling and trafficking. In many countries of the region people-smuggling is not a crime, and there was a consensus that the countries involved needed to improve their legislative regimes.

There was also agreement that there should be cooperative action in fields such as intelligence sharing, law enforcement, border management and return arrangements. At the end of the meeting I appointed John Buckley, who is our outgoing ambassador to the Philippines, as the Ambassador for People-Smuggling Issues. I was also pleased that, at the meeting, Afghanistan confirmed its willingness to accept Afghans who choose to return home. There was a very useful contribution made by Afghanistan at the meeting.

The honourable member for Kalgoorlie asked if there are any alternative approaches. All I can say is that the alternative approaches of the Australian Labor Party cause one to question the credibility of the Labor Party as an opposition. I note, for example, that on the Sunday before the Bali people-smuggling conference the opposition spokesman on foreign affairs, the member for Griffith, went on an ABC program called *Insiders*—the informal program. The member for Griffith said that the people-smuggling conference would not really be effective because ‘Pakistan will not be represented at the conference, either by its foreign minister or any other minister’. He went on to argue, using a cricketing metaphor, Prime Minister, that this was like the International Cricket Council having a meeting without

England. That does cause you to reflect. I think his point was meant to be, if I can put it that way, that this meeting would not be credible without Pakistan’s participation. The opposition often alleges that the government’s standards of integrity are not high enough, which seems to suggest that the opposition’s standards must be very high. The fact is that, despite this allegation, the minister for the interior of Pakistan very much enjoyed the Bali people-smuggling conference, as did his officials. The meeting was a great success. The opposition ran a line that the conference was not going to work because Pakistan was going to be absent, but Pakistan was there, and not only at ministerial level.

Why wouldn’t the opposition be deceptive on this sort of an issue? After all, at the last election they ran the greatest deception of all, which was—

*Opposition members interjecting—*

**Mr DOWNER**—And they laugh at it! The greatest deception of all, as we know on this side of the House, was that the people over there said they supported the government’s policy on border control, knowing all the time that if they were to win the election they would change the policy. And when they lost the election—those who were elected in marginal seats having got elected on the basis of their supporting the government’s policy—they went out and abandoned it. What is the Labor Party’s policy now on these issues? The opposition spokesman on foreign affairs said at the end of November that there would be a review process:

I would imagine it would take some months. During the period of our policy review we couldn’t articulate an alternative policy.

He went on to say, meaningfully:

I mean, it’s logical ...

Then we have the member for Lalor, who is the opposition spokesman on immigration, saying later:

However, we’ve now got three years to review the policy. The policy that’s right for Australia in 2005 might be quite a different one.

I will tell you what the Labor Party’s policy in 2005 will be: it will be the government’s policy because when an election draws near

the Labor Party will abandon its three-year policy review and its policy debate, and just do what it did before and adopt the government's policy. Months have passed now since the last election and we expect the Labor Party to start coming up with a few ideas and a few policies, not just smear campaigns. If I may say so, it is pathetic when a Leader of the Opposition only ever sees, to the best of my knowledge, Asia from 35,000 feet up in the seat of a plane. All I can say is that this is an opposition which has no policy except a three-year review. It is a pitiful reflection on a pitiful opposition.

**Privilege: Senator Heffernan**

**Mr CREAN** (2.47 p.m.)—My question is to the Prime Minister. Prime Minister, having advised Senator Heffernan not to abuse parliamentary privilege on the matter of his allegations against Mr Justice Kirby and he having defied you on this matter which goes to the heart of our constitutional arrangements, why won't you sack him?

**Mr HOWARD**—I do not necessarily accept the conclusion reached by the Leader of the Opposition in the first part of his question; therefore, the second part of his question requires no answer.

**Trade: Steel Industry**

**Mr HUNT** (2.48 p.m.)—My question is to the Minister for Trade. Would the minister inform the House of the purpose of the steel summit planned for next week. What obstacles exist that could prevent a positive outcome for Australia's steelworkers?

**Mr VAILE**—I thank the member for Flinders for his question—obviously, representing an area where there are a number of jobs and workers engaged in the steel industry, and particularly the steel industry that exports to the United States. I recognise his very keen interest in what this government has achieved on this issue, in conjunction with the industry, and some of the comments that have been made by different people with regard to their position.

As has been mentioned earlier this week, we have achieved an unprecedented outcome in terms of improving the position of the Australian steel exports into the United States market during the last week. We aim

to continue to address the remaining 15 per cent that I know is of concern to all members in this House—including the member for Cunningham, who represents an area where there are steelworkers. As part of that process, next week we are going to call together interested parties in regard to where we take the balance of our argument on the remaining 15 per cent that we expect are still going to be affected by tariffs. Next week we are going to get together in Canberra the companies that are involved in exporting steel to the United States (BHP Steel, Smorgon and OneSteel) to talk with the relevant ministers—me, the Minister for Industry, Tourism and Resources, the Minister for Justice and Customs—and have a look at the plan of attack for the future.

It is also of interest that my office has been contacted in the last couple of days by none other than the President of the ACTU, Ms Sharan Burrow, about participating in the summit. Sharan suggested that she might bring four or five representatives from different unions along. I am considering inviting Sharan along to have a discussion about it if they can be constructive. But there are a number of people involved in the union movements in Australia who have not been very constructive at all in this whole debate. One of them had an article in the paper in the member's electorate. This is just an outrageous comment by someone supposed to be representing the steelworkers of Australia. The comment was made by Mr Eagles in Victoria. The headline is 'Steelworkers back US tariffs'. How outrageous is that? US tariffs are going to cost his members jobs, yet he backs the tariffs. It is a ridiculous statement. You cannot say that that is making a constructive contribution to the efforts of the government and the steel industry to resolve this issue. This article states that concerning the announcement of George W. Bush, Mr Eagles took a different tune from Australian voices raised against the US. He said:

'The United States Steel Workers' Union intervened to protect jobs,' said Mr Eagles. 'We congratulate them on these tariffs.'

That is the situation of the union movement in Victoria as far as this issue is concerned. It is in the local Hastings *Independent* newspa-



per. We know that other representatives of the Labor Party in Australia have supported the government on this position. Yesterday, we heard about Mr Beattie's support all the way from Washington—or New York, or wherever he was—not just on our position on this issue but also on the free trade agreement that we are pursuing with the United States.

Today we see another leading light of the Labor Party in Australia, none other than the Premier of New South Wales. In his press release, he uses a word that we have not heard from the Leader of the Opposition for almost 12 months—the 'R' word. Mr Carr said:

Carr on US steel tariff roll-back.

We have not heard 'roll-back' from the Labor Party in this House for a while. Mr Carr said:

Following representations from the Australian Ambassador and the federal government, the US has agreed to exempt a further 250,000 metric tonnes of steel.

He went on to say:

This is a major concession from the United States and a big win for the Australian steel producers.

He also went on to say:

In a bipartisan spirit, I warmly commend the federal government.

Thank you, Mr Carr. There has never been any bipartisan support from the Labor Party in this chamber in the last six or seven years on any public policy matter that has improved the circumstance of Australians and Australian workers.

We will participate and we will conduct the summit next week and we will expect all the participants to be constructive in their contributions, not like Mr Eagles from Victoria, who is backing the tariffs that would have cost his members jobs. It would have cost his members jobs, except for the work that the government and the steel industry have done in terms of lobbying the US administration on this issue. So we look forward to the summit. But I think the steel workers in the electorate of the member for Flinders should question their leadership and the position they are taking on this issue.

#### **Economy: Debt Management**

**Mr McMULLAN** (2.52 p.m.)—My question is to the Treasurer. Treasurer, isn't it the

case that the 1999 Auditor-General's report into the currency swaps program, on page 59, paragraph 343, states:

... there is ministerial endorsement of the annual swaps strategy.

Isn't it also the case that the Treasury and the Australian Office of Financial Management annual reports to you advised of any losses incurred every year? How then can you continue to claim you did not know of the losses being incurred under the program since 1997-98? Treasurer, were you really asleep at the roulette wheel?

**Mr Ross Cameron**—Mr Speaker, on a point of order: under standing order 144, in relation to argument, the last sentence of that question is such a gratuitous invitation to debate that it should be ruled out of order.

**The SPEAKER**—It is reasonable for the member for Parramatta to observe that the statement was gratuitous and it is also reasonable to observe that there was an imputation that was unnecessary in the latter part of the question. The Treasurer will ignore the latter part of the question. I will allow the question to stand.

*Honourable members interjecting—*

**The SPEAKER**—Before I recognise the Treasurer, I appreciate the fact that the exchange is good-natured, but the Treasurer is entitled to be heard in silence.

**Mr COSTELLO**—I congratulate the honourable member for Parramatta for his maiden success, although I point out that he was only up against the member for Fraser. The point that is made by the member for Parramatta I think explains that the member for Fraser has never put any serious matters in relation to these issues. It has always been an attempt to make invalid and cheap points. He had a very bad day in the Senate inquiry this morning, because after reconvening the Senate estimates committee the Senate was told by the Treasury officials that the Treasury, as they said in their evidence, had recommended the continuation of the cross-currency swap position to all governments of every colour from 1989 until June 2001.

*Mr Gavan O'Connor interjecting—*

**Mr COSTELLO**—Until June 2001. That was the recommendation that the Treasury made, as I said, clearly in their evidence to all governments of all persuasions from 1989 until June 2001. As I have already indicated, in June 2001 the advice changed because I suspended the benchmark and called for a full review, which was done in June. We have already put on the record the support which Senator McMullan gave to a swap position—something which he has never actually explained.

**Mr Bevis**—I thought he actually made a profit.

**Mr COSTELLO**—No, he made four years of losses, I am afraid—unrealised losses. Four years of losses, I regret to inform him—unrealised losses. The other point that I thought was very interesting in the Treasury evidence this morning, by the way, is they made the point that physicals were the same as currency swaps and that Australia has been borrowing in foreign currency physicals since the 1930s. Physicals are exposed to movements in the currency exchange rate. I think they made the point that in 1985 and 1986, in a two-year period, as a result of currency devaluation, the unrealised loss on physicals was \$8.7 billion.

I did not hear any interjections. I was waiting for the howls of horror and shock. As the Treasury said, in 1985 and 1986, as a result of currency devaluations in relation to physicals, the unrealised movement was, in today's dollars, \$8.7 billion in a two-year period. I have not actually heard that being mentioned previously. I think the then secretary to the Treasury was perfectly entitled to say, as he did then, that he was relying on Treasury advice in relation to foreign currency physicals.

*Mr Griffin interjecting—*

**Mr COSTELLO**—He was relying on Treasury advice in relation to cross-currency swaps. The Treasury believed, after having external reports from JP Morgan, UBS Warburg, BT Consulting, Carmichael Consulting, in relation to UBS Warburg again, in relation to ANAO reports and the Joint Committee of Public Accounts and Audit, that this was a reasonable policy. That was

the view they held until I asked for a full review in December 2000.

*Mr Griffin interjecting—*

**The SPEAKER**—The member for Bruce is warned!

**Mr COSTELLO**—As a result of that full review, they made a recommendation to terminate the program in June 2001, and it was a program that I terminated after accepting their advice to do so.

#### **Centrelink: Breaching**

**Mr LLOYD** (3.00 p.m.)—My question is addressed to the Minister for Employment Services. Is the minister aware of any reports relating to the breaching of job seekers? What is the government's response to job seekers who do not fulfil their mutual obligation? Does the government intend to alter its approach to job seekers who fail to turn up to appointments and interviews without a reasonable excuse?

**Mr BROUGH**—I thank the Chief Government Whip, the member for Robinson, for his first question in this parliament. I know that he has always had a great interest in employment issues and I know that unemployment has reduced dramatically during his term since 1996 as the member for Robinson on the Central Coast.

At the outset, I should say that this government would like to believe that no member of the Australian public receiving unemployment benefit should ever be breached, because we believe that there should be a situation whereby those who are using the resources of the taxpayer to help them get back to employment should be able to fulfil their obligations. The unfortunate situation arises when people deem that they do not wish to fulfil their obligations and they then unfortunately find themselves breached.

In the recent Pearce report, great play was made on the most vulnerable in our society—those who are homeless, those who perhaps have a drug addiction or some other difficulty which is providing great challenges to them getting back into the work force. This government is very aware of those problems and, from 1 July, we understand that many people will not identify those issues to Centrelink when they apply for un-

employment benefit. In fact, why would you? They can often be ashamed of the fact that that may have such a debilitating impact on their applications for work.

However, this information comes out after they have spent a period of time with their Job Network member. We are providing a system whereby those individuals, who are the most vulnerable, can be referred back to Centrelink for a more appropriate course of assistance to get rid of the drug addiction, to fix up the domestic violence issue or the homelessness. Those people should not be in the labour market looking for work. We have to get them into the position where those issues are dealt with before we give them the assistance, and this government is prepared to invest money to do that.

Unfortunately, there are those who would like to abuse the system and there are those opposite who, in this place and in the other place, have made comments, recorded in *Hansard*, which indicate that they believe people should not be breached. Senator Evans said:

What is it about this government's breaching policy: is it a deliberate policy that they are trying to be harsher on people on benefits?

The member for Shortland said:

The government has had a long history ... of targeting those people who need assistance. ... It has spent more time and effort on breaching people that need assistance, on trying to make them jump through hoops, than actually trying to help them.

Perhaps I could outline to the parliament some cases that have been provided from our community work coordinators, those who run Work for the Dole and Job Network members, of people who have presented that have been breached.

*Ms Hall interjecting—*

**The SPEAKER**—The member for Shortland! The chair has exercised a great deal of tolerance that is simply being abused by you.

**Mr BROUGH**—Stephen is a representative case. He is 28 and lives in Melbourne. He started his six-month placement on Work for the Dole in February 2001 and attended the occupational health and safety session on the first day. He did not attend the project

again. When contacted, Stephen said he thought the one-day session was all he had to do. For this reason, he was not breached but the rules were re-explained to him—I think a fair and reasonable thing to do. Stephen still did not attend. There were repeated contacts and warnings over several months, but Stephen continued to be absent. He was breached twice in this time until, because of his continued non-attendance, Centrelink imposed a third breach. This breach meant that Stephen's payments stopped in May 2001. I wonder whether those opposite think that that is an inappropriate behaviour on behalf of this government.

Then there is the case of Bruce. Bruce is 20 and lives in Adelaide. He did not attend his Work for the Dole interview although he had been sent two separate letters giving him his appointment times and a contact telephone number in case those times were not suitable. When he was asked why he did not attend, he said that he was too busy. He was told that he had to attend the Work for the Dole interview or a participation report would be lodged with Centrelink. Bruce agreed to the appointment time. He attended the interview and complained about having to attend. He said that it had cost him \$150 to keep his appointment. When asked what he meant, Bruce said that he couldn't be at the interview because he was at work. That is right; he could not be at a Work for the Dole interview because he was at work, and he is on Work for the Dole because he is receiving taxpayer-funded dole payments—but he thought that that was reasonable. It seemed that Bruce was working regularly but had not reported his income to Centrelink. Centrelink was advised and Bruce was breached.

I will give you one other example. This is John—

*Opposition members interjecting—*

**Mr BROUGH**—The interjections from members opposite quite clearly demonstrate that those on this side respect the taxpayers who are providing assistance to the unemployed and those opposite have no respect for the taxpayers or the services—

**Mr Swan**—On a point of order, Mr Speaker—

**The SPEAKER**—As the member for Lilley knows, I will recognise him when I have an opportunity to hear him. The member for Lilley.

**Mr Swan**—Under standing order 76, I find it offensive for the minister to suggest that we would support anyone who was rotting the system. When will you bring this minister back to the question and make him relevant?

**The SPEAKER**—The minister's answer is relevant to the question.

**Mr Swan**—Mr Speaker, on a point of order: I find what the minister is saying offensive and I ask you to ask him to desist.

**The SPEAKER**—I have indicated that I believe the minister's answer is entirely in order.

**Mr BROUGH**—Just to put the member for Lilley's conscience at rest, perhaps he would like to explain to the House why Senator Denman said in the Senate *Hansard* of 23 August:

... the current enthusiasm for breaching people is a total disgrace.

Perhaps that would put succinctly the feeling of those opposite about this government's commitment to ensuring the public purse is well spent. Let me give you this final example: John. He explained at his initial Work for the Dole interview that he was not well and that he could not—

**Mr Swan**—Mr Speaker, I rise on a point of order. There are 600,000 unemployed people in this country. Are we to go through every case? This is tedious repetition.

**The SPEAKER**—The member for Lilley does not have a valid point of order. The member for Lilley will resume his seat.

**Mr BROUGH**—John explained at his initial Work for the Dole interview that he was not well and could not take part in the program. He said that he had a doctor's certificate about his illness and he gave it to his supervisor. The certificate described the patient's medical problem as 'ovarian condition'—John had an ovarian condition! This, and the appearance of the medical certificate, raised doubts about whether it really did belong to John. John was told that he had to

take part in Work for the Dole unless a medical certificate that he actually owned about his own illness prevented him. John did not obtain a medical certificate and did not return to the project as he had promised. A report was provided to Centrelink and John was breached.

This government believes that we should have a fair but firm policy in relation to the commitments that we provide and the obligations we have to this nation's unemployed. We expect reciprocal obligations from those who take money from the public purse. Job Network and Work for the Dole are about assisting people back into work. This government will never apologise for throwing the book at those who do not do what is expected and required of them by the public.

**Mr Swan**—I ask that the minister table the notes from which he was reading.

**The SPEAKER**—Was the minister referring to confidential documents?

**Mr BROUGH**—Yes.

**The SPEAKER**—He was reading from confidential documents.

#### **Economy: Debt Management**

**Mr LATHAM** (3.10 p.m.)—My question is to the Treasurer. Treasurer, can you guarantee that no executives responsible for the management of the currency swaps program, either in the Treasury or in the Australian Office of Financial Management, were awarded performance bonuses in 1997-98 when the program lost \$2 billion, or in 1999-2000 when the program lost \$1.1 billion, or in 2000-01 when the program lost \$1.9 billion?

**Mr COSTELLO**—Obviously, I cannot say whether or not performance bonuses were awarded, but that is something that we can take on notice. I will also investigate whether any performance bonuses were awarded in the four years of losses from 1989 to 1992—unrealised losses.

**Mr Latham**—They were not currency swaps.

**Mr COSTELLO**—They were actually currency swaps. They were both unrealised losses and negative economic returns.

**Mr Latham**—They were not physical.

**Mr COSTELLO**—No, the four years—

**The SPEAKER**—The Treasurer will ignore the interjections.

**Mr COSTELLO**—I do not think he actually heard what I said. Between 1988 and 1991 there was not only four years of unrealised losses but a complete negative return. It was during 1985-86, before the swaps, when physicals were going on—

**Mr Beazley**—Mr Speaker, I rise on a point of order and it goes to relevance. The question was related directly to performance bonuses, nothing else. There were no epithets attached to it whatsoever. He is not answering.

**The SPEAKER**—The Treasurer has concluded his answer.

#### **Economy: Resources Sector**

**Mr WAKELIN** (3.12 p.m.)—My question is addressed to the Minister for Industry, Tourism and Resources. Would the minister inform the House what action the Howard government has taken to ensure the resilience of Australia's resources sector compared to world trends?

**Mr IAN MACFARLANE**—I thank the member for Grey for his question. I have had the pleasure of travelling to the member's electorate—

*Mr O'Connor interjecting—*

**The SPEAKER**—The member for Corio is warned!

**Mr IAN MACFARLANE**—As I was saying, I have had the pleasure of travelling to the member for Grey's electorate and have seen first-hand both resources and industry in that electorate. The electorate of Grey is responsible for a very high volume of South Australia's exports and its industries include lead smelting, iron ore, steel, oil, gas, gemstones, slate, copper, silver, gold and uranium. In fact, the resources sector in South Australia employs some 12,000 people.

As the Treasurer is apt to say in this House, Australia tends to defy the trends and we have done that not just in economic terms, where the economy has grown by some 4.1 per cent. Australia's resources companies have also defied the trends. Companies and their workers within the sector

should be proud of their efforts. These efforts are shown through the latest ABARE statistics, which show that, during the December quarter, Australia had a very strong result in that sector, despite world trends. Minerals, including refined lead and zinc, recorded production improvements of some five per cent. Iron and steel exports recorded an improvement of some 18 per cent, or some \$58 million. Lead earnings rose by 21 per cent to \$192 million and diamond exports—

*Dr Emerson interjecting—*

**Mr IAN MACFARLANE**—I know how much you know about the sector! In terms of diamond exports, values increased by some \$8 million, some five per cent over the previous quarter. I know those who sit opposite would be pleased to see that our strong resources sector means extra jobs in our community, particularly in our rural and regional communities. Not only do we earn significant income from our resources but also some \$1.9 billion worth of mining and mineral processing equipment and technology and services to mining operations are exported annually.

**Ms Gillard**—Are you on page 2 yet?

**Mr IAN MACFARLANE**—I can go to page 3 if you want me to. Our resources sector is successfully adapting to the demands of a continuously competitive international environment and, along with the economic policies of this government, which have created a very conducive environment for investment through low interest rates and low inflation—and that would be new to the mining sector after the years of Labor—we have seen the work force continue to grow. Australia also continues to attract exploration and we are, based on Canadian figures, the No. 1 preferred destination for exploration, attracting some 17.5 per cent of global exploration. I know those who sit opposite do not want to hear good news. I know those who sit opposite prefer to think industry and resources are old economy. Our resources sector continues to grow, continues to defy the odds and continues to provide jobs and economic growth for Australia.

#### **Environment: Townsville Trough**

**Mr KELVIN THOMSON** (3.16 p.m.)—My question is to the Minister for the Envi-

ronment and Heritage. Will the minister allow oil exploration in the Townsville Trough, which is located just 50 kilometres from the Great Barrier Reef World Heritage area?

**Dr KEMP**—I congratulate the shadow minister on his first question. I notice that his predecessor as shadow minister went some 250 question times without asking a question on the environment—I hope you are going to do a great deal better than that.

The government's position is quite clear on the Townsville Trough and, indeed, any area outside the World Heritage area. That is, we will not allow any activity outside the World Heritage area which could damage the World Heritage values of the Great Barrier Reef, and I have made that clear on many occasions. The Great Barrier Reef is better protected now than it has ever been, and it is better protected because of the legislation of this government. The Environment Protection and Biodiversity Conservation Act gives this government powers to protect the World Heritage area—powers which did not exist when the Labor Party was in office. The Labor Party's legislation did not provide for a minister to indicate that an action outside the World Heritage area could be a controlled action and be prevented if it damaged the reef.

The shadow minister has shown a remarkable incapacity to understand the issues here or the legislation. I noticed that on Monday this week he called for a zoning plan to be put down under the EPBC Act to prevent mining outside the reef. Now there is in fact no provision in this legislation for a zoning plan. Zoning plans can be laid down by the Great Barrier Reef Marine Park Authority within the marine park, but the EPBC Act does not rely on zoning. It relies on the process under which an action is a controlled action, and the minister can require that certain things be done or not done by a company contemplating a controlled action.

The shadow minister also on Monday, on the ABC, said that the opposition would agree with the government if the government were to come to a blanket ban on mining on the reef. Now of course mining is banned on the reef. Mining has been banned on the reef

since 1975, yet the shadow minister appears not to understand this. The shadow minister has also asked me to override the legislation and not call for an environmental impact assessment, even though the legislation requires that such an environmental impact statement be provided. So it is quite clear that the current shadow minister has no understanding of the very powerful legislation which the government has put in place. The government is determined to protect the environment around the reef, and the World Heritage values of the reef will be fully guarded by this government's policy.

#### **Age Pension: Changes**

**Mr CAUSLEY** (3.20 p.m.)—My question is directed to the Minister for Children and Youth Affairs representing the Minister for Family and Community Services. Can the minister outline any changes to the age pension, and is he aware of any alternative policies?

**An opposition member**—Go the duck!

**Mr ANTHONY**—The only poultry in this House are the turkeys on that side of the chamber!

**The SPEAKER**—The minister will come to the question.

**Mr ANTHONY**—I thank the member for Page for his question. I know he has a very keen interest in the wellbeing of seniors—along with the Minister for Family and Community Services, who made a very important announcement yesterday. More than four million Australians will start receiving pension increases next Wednesday. The maximum single rate of pension will rise by \$11.30 to \$421.80 a fortnight. The maximum partner pension will also increase by \$9.50 to \$352.10 a fortnight, for each member of a couple. These pension increases are greater than the rise in the cost of living, and that is because the coalition linked pensions to 25 per cent of average weekly earnings as well as to inflation. This is something Labor promised to do but never delivered during its 13 years of power. During those 13 years of power, when Labor was in government, age pensions fell relative to average wages.

Fortunately, and the member for Page knows this, we have reversed this situation, and there are real pension increases. In fact, the single pension has now increased by more than 20 per cent since 1996, going from \$346 to \$421. That is an increase of over \$75 per fortnight, or nearly \$2,000 per year. There is no doubt that hundreds of thousands of pensioners will also benefit from the fall in deeming rates that will also take place on 20 March from 3.5 per cent to three per cent. Members should know that Centrelink—and this is particularly for the new members on both sides of the House—uses the deeming rate to estimate pensioners' earnings from savings. The lower deeming rate normally means a greater entitlement to age pensions.

The member for Page asked if they were any alternative policies on this subject. It is hard to see how any of this could be bad news for our seniors but, somehow, the member for Lilley has managed to make this claim. The Treasurer did remind the House on Tuesday that the opposition leader was a hopin' and a wishin' and a thinkin' and a prayin' that Australia would go into recession. The member for Lilley goes one step further: he has given up waiting for bad news to jump onto; now he just invents it. Labor is quoted in today's *Canberra Times* as saying:

Pensioners could be worse off, not richer, when they received a pay rise of up to \$11.30 a fortnight.

How do you get that?

Pensioners could be worse off, not richer, when they received a pay rise of up to \$11.30 a fortnight.

In Wayne's world, the bigger your benefit increase, the worse off you become. In this fantasy world that he lives in, under this premise, the 9,676 pensioners in the electorate of Lilley are suffering because the coalition government is giving them more money. Think of the consequences of giving those 9,676 pensioners in Lilley more money. They might spend it with the local small businesses. It might even create more local jobs. Where would Labor's hope for recession be then? The fact is that the worst thing that can happen to Australian seniors and pensioners would be for the Australian Labor

Party to get back into government, and the best example for pensioners is this graph. This represents six years of Labor and six years of coalition government. It is the coalition government that is looking after pensioners.

### Child Care

**Ms ROXON** (3.25 p.m.)—My question is also to the Minister for Children and Youth Affairs. Minister, I refer to your own department's evidence in Senate estimates that it is seeking repayment of 'tens of millions of dollars' from child-care services across the country. Are you aware that this includes a child-care service in your own electorate—as well as one in the Treasurer's electorate—which has a child-care assistance debt exceeding \$40,000? Given that the overpayments come from the quarter ending June 2000, why were the first repayment notices only sent after the election? Is slugging child-care services, including one in your own electorate, another way you intend to make up for the Treasurer's failed \$4.8 billion gamble on currency swaps?

**Ms Gillard**—Got something to read?

**The SPEAKER**—The member for Lalor is warned.

**Mr ANTHONY**—I thank the honourable member for her maiden question. She certainly has a lot more interest than the previous member who was looking after this area, the member for Lilley. The facts are that child care has been one of the outstanding successes of the coalition government. Why is that? Because over the next four years, we will spend \$6.7 billion on child care, which is a 36 per cent increase on what Labor ever spent in their last six years. Why is that? We are seeing utilisation rates now in child-care centres greater than they have ever been before. We have seen the cost of child care fall by over 13 per cent.

**Ms Roxon**—Mr Speaker, I rise on a point of order on relevance: this question is about child-care assistance debt, which he has not addressed in any way.

**The SPEAKER**—The minister was asked about the repayment of debt on child-care centres and I deem his answer in order.

**Mr ANTHONY**—I think it is important that the shadow minister recognise that the affordability and the expansion of child care has never been greater. The question she raises regards child-care assistance, which was part of a payment structure before the introduction of the new taxation system. In the new taxation system we combined child-care assistance and child-care rebate into child-care benefit. Child care benefit has meant substantial increases to Australian families and to children right across the country. We said this back before July 2000, and notices were given to child-care centres—

*Mr Latham interjecting—*

**The SPEAKER**—I warn the member for Werriwa.

**Mr ANTHONY**—particularly about child-care assistance, because we advanced them two quarters, six months, to overcome that hump between the transition from the old child-care system to the new child-care system. They have had that total time to repay those debts. We have given them adequate notification. A whole litany of letters and correspondence has gone out to the child-care sector, particularly to those community based centres that may have had difficulty in coping.

It has been a number of years since we gave those advances. I do not think it is unreasonable, as far as the Australian taxpayers are concerned, that they need to repay that debt. We have entered into arrangements with those child-care centres, if they so wished, as far as repayment schedules are concerned. We have been extremely reasonable, which was appropriate because the introduction of the child-care benefit perhaps caused some administrative transition problems, but the bottom line is that there are more children today than ever before using Commonwealth funded child care, whether it be in community based centres, long day care, outside school hours care, occasional care—the list goes on.

It is a very good record and those centres have had every opportunity, through Centrelink, to come into some type of meaningful repayment schedule. It is regrettable that you

should flame the fears within the child-care sector. One of the reasons child care has had substantial difficulty was because of the negative campaign that you and the previous shadow minister have raised about the affordability of child care before the introduction of child-care benefit. Child care is an outstanding success of this government.

#### **Immigration: English Language Programs**

**Mrs MAY** (3.30 p.m.)—My question is addressed to the Minister for Citizenship and Multicultural Affairs. Is the minister aware of reports of a decline in understanding of the English language in Britain and of measures being considered by the British government to address this? How does this compare and contrast with what the Howard government is doing to encourage newly arrived migrants to learn our national language?

**Mr HARDGRAVE**—I welcome the question from the member for McPherson. It is astonishing to note that there have been recent reports suggesting that more than one million people in Britain have no understanding of the English language, which is double the estimate of some six years ago. Here in Australia, of course, we have had well-established programs that deal with the importance of building our nation by making sure that citizenship requires an understanding of basic English.

It is also astonishing to note that this is another one of the areas about which those opposite showed absolutely no understanding in their policy development—which is a bit of an oxymoron—prior to the last federal election. They actually went into the last election campaign with no statement at all about important settlement services such as English language classes, no commitment to funding and nothing that even conceded that what had been done by my senior colleague, Minister Ruddock, in this area was in fact something that they endorsed. There was none of that. There was no commitment at all to anything.

It is important to know that, unlike Great Britain, in this country we have had a very established process of settlement. We have ensured that language skills and knowledge about our society are an important part of the



process that all people face. We believe that those who come to this country come here for the very best of reasons. They bring a range of skills and abilities, but often one of the key skills that is missing is an ability to communicate as well as they might in the English language. They have access to the 510 hours that we make available in the Howard government's Adult Migrant English Program, and some 30,000 clients participate in that program each year—with a client satisfaction rate of some 79 per cent who find that the AMEP has been very helpful or helpful and a further 17 per cent who find it a little helpful.

We find that Great Britain is now looking at us for examples of what they should be doing. The coherent and cohesive society that we have built in Australia is a stand-out example to so many others in the world. In England they are looking very closely at our citizenship processes, and the way that people offer commitment and loyalty to this country when they become a citizen, as an example for them also for building something of a greater cohesion and a greater society than has been the case to date.

So it is astonishing to know that one million people in Britain—more than double what it was six years ago—do not have a good understanding of the English language. That is something that is not going to be a problem here. In fact, we have taken it one step further in recent days with a pilot project at the point of embarkation, through areas of Asia and South-East Asia in particular, which encourages people who come from non-English speaking backgrounds to seek out the fully funded services that we have here and which meets our commitments at the last election—completely opposite to those opposite.

#### **National Strategy for an Ageing Australia**

**Mr ALBANESE** (3.34 p.m.)—My question is addressed to the Prime Minister. I refer to the launch of the National Strategy for an Ageing Australia by former Minister Bishop during last year's election campaign. Is the Prime Minister aware that, despite being advised by her department that any use of the document would breach the caretaker convention, Mrs Bishop proceeded with the

launch of the strategy at a media conference on 10 October—five days after you had called the election? As this document was produced by public servants and printed at a cost of \$42,300 to taxpayers—

*Government members interjecting—*

**The SPEAKER**—Order! The same courtesy I expect to be extended to ministers I expect to be extended to shadow ministers.

**Mr ALBANESE**—Thank you, Mr Speaker. As this document was produced by public servants and printed at a cost of \$42,300 to taxpayers, do you not agree with the department that by proceeding with the launch Mrs Bishop was in clear breach of the caretaker convention? Prime Minister, will the Liberal Party now reimburse the taxpayer the amount of \$42,300?

*Mr Hockey interjecting—*

**The SPEAKER**—The Minister for Small Business and Tourism! I have not as yet recognised the Prime Minister.

*Dr Emerson interjecting—*

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

**Mr HOWARD**—I thank the member for Grayndler for the question. I am aware of the government strategy for ageing. One part of it is that the member for Grayndler should grow old in opposition—that is a very, very important element of it. I am confident that the proper practices were observed by the former minister and I think that the document repays a great deal of study. If there is to be any offset, it will be the 20 million bucks going out of Centenary House.

**Mr Albanese**—Then perhaps I could assist the Prime Minister—

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

**Mr Albanese**—I seek leave to table an answer by the department to questions in the Senate estimates committee.

Leave not granted.

**Mr Albanese**—It is your document—he hasn't read it.

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

*Paper.* It has been a very, very agreeable question time.

#### PERSONAL EXPLANATIONS

**Mr MURPHY (Lowe)** (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 MURPHY**—Most certainly, Mr Speaker.

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

**Mr MURPHY**—Today on page 4 of the *Age* in the ‘House on the Hill’ column, Annabel Crabb, under the heading ‘Take your partners by the hand’, reports:

Simon Crean’s decision to allow a conscience vote on the matter of stem-cell research and the fate of those embryos will allow cross-chamber alliances to blossom.

Is it possible that sympathisers on either side of parliament have begun to pair up already?

Spotted in the chamber yesterday: Mr Andrews sending a note to Labor MP John Murphy, who – like the minister – completely opposes the use of any embryos for research.

Mr Murphy read the note and responded with a broad grin and a thumbs-up signal.

Love is in the air.

For the benefit of Ms Crabb, you, members of this House and Mr Andrews—

**The SPEAKER**—The member for Lowe! I am, in fact, having trouble hearing.

*Mr Downer interjecting—*

**The SPEAKER**—The Minister for Foreign Affairs!

*Mr Martin Ferguson interjecting—*

**The SPEAKER**—The member for Batman! I was having trouble hearing the member for Lowe and he is close enough to the chair to be heard. I require a little less conversation.

**Mr MURPHY**—As our wives will attest, Mr Andrews and I were not swapping love notes. We are not in love; we are just good friends.

**The SPEAKER**—Order! I should indicate to the member for Lowe and to all members that, while the member for Lowe

gets a good deal of accommodation, that was in fact an abuse of the misrepresentation.

#### AUDITOR-GENERAL’S REPORTS

##### Report No. 36 of 2001-02

**The SPEAKER**—I present the Auditor-General’s audit report No. 36 of 2001-02 entitled *Benchmarking implementation and production costs of financial management information systems*.

Ordered that the report be printed.

#### PAPERS

**Mr ABBOTT (Warringah—Leader of the House)** (3.40 p.m.)—Papers are tabled as listed in the schedule circulated to honourable members. Details of the papers will be recorded in the *Votes and Proceedings* and I move:

That the House take note of the following papers:

DEPARTMENT OF FINANCE AND ADMINISTRATION—Advance to the Finance Minister – July 2001 to January 2002 (28 February 2002 / 28 February 2002)

DEPARTMENT OF FINANCE AND ADMINISTRATION—Supporting Applications for Issues from the Advance to the Finance Minister during July 2001 to January 2002. (28 February 2002 / 28 February 2002)

Debate (on motion by **Mr Swan**) adjourned.

#### MATTERS OF PUBLIC IMPORTANCE

##### Environment: Townsville Trough

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

The Government’s failure to protect the Townsville Trough, located just 50 kilometres from the Great Barrier Reef World Heritage Area, from oil exploration

I call upon those members who approve of the proposed discussion to rise in their places.

*More than the number of members required by the standing orders having risen in their places—*

**Mr KELVIN THOMSON (Wills)** (3.42 p.m.)—When it comes to protecting this nation’s great environmental icons it takes a

Labor government. Whether it be the Great Barrier Reef, the Daintree and the wet tropics, the Franklin River in Tasmania, Kakadu, Uluru—all the great environmental icons of this nation—it has always taken Labor to recognise their environmental worth and value and to protect them for future generations. The Liberal Party, with its fetish on states rights—I am not sure how long this fetish will survive the fact that it has no state governments—and its aversion to the concept of World Heritage and international treaties is always unwilling to do the right thing by way of protecting our great national environmental icons.

Today, the Minister for the Environment and Heritage was again given the opportunity to rule out oil exploration in the Townsville Trough, located within 50 kilometres of the Great Barrier Reef World Heritage area. Yet again, he refused to rule out oil exploration in this highly significant area. The truth is that conservative governments have always been sniffing around the Great Barrier Reef for oil. We learnt at the start of 2001 from the release of federal cabinet documents, which were made public for the first time, that former Queensland Premier Joh Bjelke-Petersen had ignored Commonwealth requests to stop issuing permits for exploratory mining on the reef. Back in 1968, the state government had issued some 16 permits, covering more than 80 per cent of the reef, in the course of those three years—from 1968 to 1970. Had it been left to Joh Bjelke-Petersen, during the 1970s more than 80 per cent of the Great Barrier Reef would have been plundered for oil. At that time, the proposal was for drilling rigs to be sent to places such as Repulse Bay near Proserpine. Sir Joh was interviewed about this and he said, 'Well, there was no current going out to sea. There was no way in the world the Barrier Reef could have been damaged. If there was a spill, or something like that, it would have gone to shore.' Beauty! If you happen to live at Proserpine, Airlie Beach or Townsville, I guess it would have been all right for the oil spills to come on-shore rather than onto the reef!

It took the Whitlam Labor government in 1975 to establish the Great Barrier Reef Ma-

rine Park. And it took the Whitlam government to defend the Commonwealth's control of the Great Barrier Reef from challenges in the High Court. Again, back in 1990, oil exploration adjacent to the Great Barrier Reef was proposed. At the time, the Liberal shadow environment minister, Fred Chaney, told ABC radio:

I'm certainly in favour of continued oil exploration in prospective areas ...

The then Labor Prime Minister, Bob Hawke, intervened to stop oil exploration at that time. Recently, on 28 December 2000—during the Christmas holiday period—the Howard government listed an application by the Norwegian company TGS-NOPEC Geophysical for oil and gas exploration in the Townsville Trough, which is 50 kilometres from the World Heritage area, on Environment Australia's web site. Those with an interest in this matter were aghast. For example, Don Henry, the Executive Director of the Australian Conservation Foundation, said:

It's a disastrous ecological accident waiting to happen if it is approved ... the reef is worth more via tourism than any oilfield.

Similarly, Stephen Gregg, the Tourism Queensland Chief Executive, said:

Queensland tourism operators want to see a permanent ban on exploration or any potentially harmful activities anywhere near the reef.

We had John Olsen from the Queensland Seafood Industry Association saying:

It would be ridiculous for the Federal Government to give the go ahead for a seismic survey. If oil was discovered, it would inevitably lead to full-scale drilling.

We had the environmental scientist Guy Lane saying:

If they find petroleum reserves in the Townsville Trough it'll create this enormous political and economic vacuum and there'll be great pressure to start drilling. It really should be nipped in the bud at this stage.

After that, Labor launched a campaign to prevent drilling and exploration in this area. We noted that the Norwegian company had planned to survey an area of the Townsville Trough in Commonwealth waters and then market the seismic data to international oil companies. What they have been proposing

is a 50-day shoot over an area of 4,900 kilometres between the Lihou and Marion reefs off Townsville. I note that the Queensland government, to its credit, has made its position on this issue abundantly clear: it does not support this project in any way, shape or form. Why is Labor concerned about this project? In the first instance, there is the issue of the seismic tests themselves. The environmental scientist and consultant Guy Lane, to whom I have referred previously, has indicated that there is evidence that seismic tests, which involve sonic blasts being sent through the water to come up with a profile of the ocean floor, created an underwater 'racket' for dolphins and whales. Dr Simon Cripps, Director of the World Wide Fund for Nature's endangered species program, stated:

If you look in the North Sea and in the Mexican Gulf then you see the impact—

that is, from seismic testing—  
well past 50km.

The second reason we are concerned about this proposal is that there is no question that this seismic testing is a precursor to drilling and mining. Let me quote:

... it seems obvious that seismic activity is carried out only as a precursor to further exploration and production activities, such as drilling.

Who said that? The former environment minister, Senator Hill, said that. So the Howard government, by its own admission, sees seismic testing as a precursor to drilling for oil and gas. And if that was not disconcerting enough, from reports in the *Australian* over the weekend we learn:

... in internal Queensland government briefing papers, a number of officials of the Environment Protection Agency and the then mines and energy department relate that the company will not be proceeding with the application without some 'comfort'—

'comfort' is their word—

from the federal Government that the area would be later released for petroleum exploration, including drilling.

We also have the claim from a former Queensland government official that, in briefing state officers, the Norwegian company TGS-NOPEC gave the impression it

had indications of support from federal resources bureaucrats for the release of exploration acreage in the Townsville Trough. These clearly are matters of concern, as is the fact that last year we learned that, with the ocean drilling project, there was drilling for core samples inside the Great Barrier Reef: 16 holes drilled at some four sites. The Great Barrier Reef Marine Park Authority did not require any impact assessment of the drilling, provided no opportunity for public comment or input, and apparently permitted that drilling despite the 1999 regulations prohibiting research for a mining operation. There is also concern about the involvement of industry personnel in this matter.

*Mr Lindsay interjecting—*

**Mr KELVIN THOMSON**—I am coming to you, Peter. Why are Labor concerned about this issue? We are concerned about it also because of the issue of proximity. Former environment minister Senator Hill said it was okay to have seismic testing in this area because it was nowhere near the reef. The fact is that 50 kilometres is not a long distance in the marine environment, with strong ocean currents and prevailing winds. For example, in July 1991 the Greek tanker *Kirki* lost its bow off the coast of Western Australia. During the incident and the subsequent tow of the tanker to a safe haven, more than 17,000 tonnes of light crude were lost. At first light on the following Monday there was an extensive slick spread very thinly over the water, almost 100 kilometres in length and almost 10 kilometres wide at its widest point. So we can see in Australia oil spills travelling over 100 kilometres in less than one day. We also know from recent bitter experience—for example, oil rigs sinking off Brazil, ship bunker fuel smearing the New Zealand coast, oil spills on the Galapagos and oiled penguins on Phillip Island—that these things are testament to the fact that spills can travel hundreds of kilometres, so we are concerned about proximity.

Why also are we concerned about this proposal? We are concerned because the member for Leichardt is involved. The member for Leichardt has a reputation for being an environmental vandal. After all, he advocated logging in World Heritage wet

tropical rainforest areas and has a lot of other form in relation to this issue. But his colleague the member for Herbert proposed that the Great Barrier Reef Marine Park should be extended. I quote from the *Cairns Post*:

... Townsville-based MP Peter Lindsay wants the park made bigger in an effort to protect the area from over-fishing and mining.

He is similarly quoted in the *Townsville Bulletin*:

Herbert MP Peter Lindsay said the outermost reaches of the reef region needed protection and flagged a future marine park expansion.

But his colleague the member for Leichardt said that he was not a supporter of that idea. He said:

I think it is nonsense and I think we need to start dealing with what we have already. If this campaign continues we could see expansions indefinitely.

Where we have got the member for Leichardt involved in this matter, it is clearly something of concern to the opposition. Finally, why are we concerned? Because the community itself is concerned, and this is reflected in the comments of the *Townsville Bulletin*, which conclude by saying, talking about the Townsville Trough proposal:

An offshore oil industry in such a delicate environment would be akin to playing Russian roulette. Australia has witnessed the effects of massive oil spills from afar. It is puzzling to wonder why Canberra would even contemplate such a venture when security from a spill or leak cannot be guaranteed.

It is puzzling indeed. The minister says that his hands are tied. He says that the Environment Protection and Biodiversity Conservation Act is a great and powerful piece of legislation, but then he goes on in the next breath to say that his hands are tied and there is nothing is can do, that he has got to go through this environmental impact assessment process.

The fact is that it is time for this government to make its intentions clear after over 12 months of skirting around the issue, and indicate to this House and to the broader community whether it accepts that the Great Barrier Reef is one of the world's natural wonders and a jewel in the World Heritage crown and that it is to be protected, con-

served and loved or whether it is the next jumping-off point for the oil industry.

There are mechanisms available to him if he has the will to prevent oil exploration in the Townsville Trough. He can do that—protecting the park—through regulation. There is capacity in the Great Barrier Reef Marine Park legislation to regulate or prohibit acts, whether in the marine park or outside it, that may pollute water in a manner harmful to animals or plants in the marine park—and that is being used to regulate aquaculture activities in the vicinity of the reef—or he can protect the park through rezoning. You could have a situation of amending schedule 1 of the Great Barrier Reef Marine Park Act with the intent of extending the area to the east of the present marine park, and that sort of appropriate zoning of a general-purpose zone could then be applied within the new park boundary.

Labor made clear prior to the last federal election that we were committed to protecting the Great Barrier Reef and that, to this effect, we would extend the Great Barrier Reef Marine Park boundaries to include the pristine reefs in the Coral Sea, including Osprey, Marion, and Lihou Reefs. If the minister were prepared to do this, if he were prepared to engage in that extension of boundaries and appropriate rezoning, then we would not have the threat from oil exploration that we presently have. Indeed, Labor said we would go further: we would prohibit all mineral, oil and gas explorations and operations in Australian waters offshore of the Great Barrier Reef region.

I urge the minister to give serious consideration to Labor's policy proposals. When a Norwegian tanker sought to bring in a boatload of asylum seekers last year, all hell broke loose. We had the Navy being called out, we had new legislation and so on. But when a Norwegian company wants to explore for oil just 50 kilometres from one of Australia's greatest national treasures, the government does nothing to stop it and cites due process. I know which constitutes the greatest threat to Australia's quality of life, and it was not the asylum seekers.

**Dr KEMP (Goldstein—Minister for the Environment and Heritage)** (3.57 p.m.)—The

Australian people have a well-known expression for those who, like the shadow minister for the environment, were always going to do something worthwhile but never actually got around to doing it: 'gonna' it is called. 'I'm "gonna" do something.' 'We were "gonna" do something if we'd been re-elected.' They had 13 years in government to do something further to protect the Great Barrier Reef. Instead, they left in place their 1974 legislation, the Environment Protection (Impact of Proposals) Act, that preceded the very powerful legislation that now protects the World Heritage area put in place by the Howard government.

The 1974 Whitlam legislation provided no environmental consideration in terms of exploration activity near the reef. That legislation gave no assurance whatever that environmental considerations would be at all relevant if mining proposals were raised for the area outside the Great Barrier Reef Marine Park. But the shadow minister now tells us that they were 'gonna' do something and, if they had won the election, they were 'gonna' put in new legislation that would protect these areas—always in hindsight.

It is good to hear that the Labor Party wants to protect the reef, but it never had legislation that effectively protected the area outside the Great Barrier Reef Marine Park. It was the Howard government that put in place the legislation that can actually do that job. Under the Howard government's legislation, any activity that might pose a significant threat to the World Heritage values of the reef or to endangered species or to migratory species must be referred for assessment under the EPBC Act. Any act—not some; this is not an optional extra but a basic legislative requirement—that might pose a threat to the World Heritage values of the reef must be referred for assessment, and the Minister for the Environment and Heritage is the minister who is charged with making that assessment and judgment.

Under the Labor Party's legislation it was the resources minister who had to make any decision concerning activity outside the Great Barrier Reef Marine Park. The resources minister had an option to engage the environment minister but that option was

never exercised in relation to a seismic application. So it is this government which has put in place the requirement that the environmental values must be protected and the environment minister is charged with making the relevant decision.

The proposal that is currently being debated is the proposal by TGS-NOPEC Geophysical Company for approval for seismic operations to obtain approximately 4,900 kilometres of seismic data from the Townsville Trough area, which is in Commonwealth waters. The western boundary of the survey area is, as the shadow minister has noted, some 50 kilometres from the eastern boundary of the Great Barrier Reef World Heritage area and somewhat further from the actual physical reef itself. TGS-NOPEC Geophysical Co. referred the proposal to the Commonwealth under the Environment Protection and Biodiversity Conservation Act 1999 on 28 December 2000. That referral was necessary because the Commonwealth was concerned that the activities of the company could damage the reef.

The shadow minister said the Labor Party is concerned that these activities could damage the reef and that therefore the Commonwealth government should take action. The Commonwealth government has taken action under the most powerful legislation that has ever existed in this country. It has taken action because it is concerned that the company's seismic survey activities may damage the reef. That is why the former minister for the environment, Senator Robert Hill, set in train a process that would allow the public to have full information about the implications of the company's proposed activity through an environmental impact statement.

The act is very clear in section 85 when it says what the minister must do if he is going to act to protect the World Heritage area. The act says that the minister must choose one of the following ways of assessing the relevant impact of an action the minister has decided is a controlled action. The minister may choose to set in place an accredited assessment process, an assessment on preliminary documentation, a public environment report, an environmental impact statement or a public inquiry. Senator Hill chose to set in place

the requirement for an environmental impact statement. My department is currently looking at the guidelines for that environmental impact statement.

The Labor Party says that a series of actions have been taken within the marine park but there has been no process of informing the public. The Labor Party is concerned, apparently, when there is activity going on which the public does not have a capacity to know about from some process. This concern by the Labor Party about the activity within the park is completely misguided because this is scientific activity permitted by the Great Barrier Reef Marine Park Authority and it is quite clear from a whole chain of actions what this activity involves. The government has put in place a process to govern this controlled action outside the park, which does lead to the public being informed—the environmental impact statement. It will be up to the company to decide whether or not it proceeds with this environmental impact statement. It will have to do that if it wants to continue its activities.

The shadow minister, quite carelessly I think, and certainly in ignorance of the operation of the legislation, has called on me as the minister to declare what the Commonwealth's decision will be—what my decision will be—on the receipt of this statement before it has been undertaken. This is foolish because if I were to do that I would in fact put the Commonwealth government in a position where the company might choose to legally challenge any statement I would make because they would say that I had not taken that decision on the basis of the proper legal process but had taken it on other grounds.

So the shadow minister's request to the government would undermine the government's capacity to protect the park. It would lay open the possibility that actions could then take place which could damage the World Heritage values of the Great Barrier Reef. But this is apparently of no concern whatever to the shadow minister. The shadow minister is building up, with remarkable rapidity, a record of carelessness and ignorance as he pursues what he thinks is a clever political point.

Virtually every press release and every statement made in the media by the shadow minister for environment and heritage contains either some inaccuracy, some error or some recommendation which cannot be carried out because, as I have just said, it would put the Commonwealth in a difficult legal position in its aim of protecting the park, or asks the minister to take actions under the act which the act does not permit. For example, on Monday, 11 March, in a press release, the shadow minister called on me to regulate a zoning change under the EPBC Act, the act which is now protecting the reef. But there is no provision in that act for a zoning change; the act makes no provision for zoning. It is powerful legislation to protect the reef by designating controlled actions. It does not proceed by way of declaring certain areas to be in zones. And yet the shadow minister seems to have no understanding of this. Today he has changed his line—he has obviously realised his error. Like the experienced politician that he is, he never admits his errors; he just moves on from them, once they are pointed out. When he called on me on the ABC to agree with the Labor Party to ban mining on the reef, he seemed to be completely unaware that mining on the reef has been banned for almost 30 years. It is banned under the Great Barrier Reef Marine Park Act. But never mind about that; there is a political point to be made. He has not got anything of substance to say, so he chooses to simply make these absurd, unsubstantiated suggestions, based on a misreading, a misunderstanding or an ignorance of that legislation.

The government is proceeding in a way which holds out the very best opportunity for the World Heritage values of the Great Barrier Reef to be properly protected. The department, in its consideration of the environmental impact statement guidelines, has revealed that these guidelines will show that very considerable information and detail will be required from the company if it wishes to proceed with this proposal. It will then be up to the company to decide whether to prepare an environmental impact statement or to allow the proposal to lapse. The environmental impact statement is not a minor thing; it is a very major and—I have to say—costly ac-

tivity for the company. The company will have to decide whether or not to proceed with the preparation of an environmental impact statement once the guidelines are released.

I was interested to see a comment in this context from Professor Bob Henderson, who is head of the School of Earth Sciences at James Cook University. My attention has been drawn by the member for Herbert to this statement of Professor Henderson's. The House will be interested to hear what Professor Henderson has to say, and I quote:

Whilst the eastern sector of the Townsville Trough lies adjacent to the Great Barrier Reef, the trough would not be considered prospective for petroleum exploration, because the water depth is generally beyond the limits of present technology. The distance from the world heritage area is not relevant to the issue, as petroleum prospectivity is reliant upon water depth.

It may be relevant in one regard, of course, because of the proximity of the reef. But what Professor Henderson is saying is that it is not relevant from the point of view of petroleum mining in the area, as 'petroleum prospectivity is reliant upon water depth'. Professor Henderson goes on to say:

Even if oil companies wanted to, the depth of the Townsville Trough precludes economic oil production. Oil exploration of the Townsville Trough is a non-event. The suggestion that the government has failed to protect the Townsville Trough is a nonsense.

Professor Henderson is speaking from his expertise in that matter. I am not going to comment one way or the other on the accuracy of Professor Henderson's expert comment; I simply put it before the House to indicate some of the significant issues that will arise if the environmental impact statement is proceeded with. But the fundamental point is this: the government is not going to allow mining on the reef, it is not going to allow mining in the World Heritage area and it is not going to allow mining beyond the World Heritage area where there is any possibility of damage to the World Heritage values of the reef. From this very clear statement we can see that what we are getting from the Labor Party is nothing but grandstanding.

**Ms LIVERMORE (Capricornia)** (4.12 p.m.)—I support the shadow minister for the environment and heritage in criticising the government's failure to protect the Townsville Trough, located just 50 kilometres from the Great Barrier Reef World Heritage area, from oil exploration. It is now very clear that this government really needs to get some help; maybe it needs to get into some therapy before it does some serious damage to itself and this country. I am talking about the government's gambling problem, because its reckless, risk-taking behaviour is showing all the signs of becoming a compulsion it cannot break away from, with disastrous consequences for our country and, in this case particularly, our natural environment.

We have seen in the last few weeks the Treasurer exposed for losing billions of dollars in currency swaps. He kept rolling the dice for years after he was advised about the risks of continuing the policy in light of new economic circumstances. Now it seems that the Minister for the Environment and Heritage has caught the bug as well. Instead of gambling with taxpayers' money—which is bad enough—he is preparing to gamble with something even more precious: the Great Barrier Reef. The minister has been called on repeatedly to make the government's position very clear to the Australian people. He had another opportunity to do that in question time today. Will he protect the reef from the effects of oil exploration? It is very simple.

This is not a hypothetical question. As we have just heard, there is a proposal for a company to conduct seismic tests in an area just 50 kilometres from the Great Barrier Reef World Heritage area. In light of this proposal, Australians deserve to know how serious this government is about protecting the environmental values of the Great Barrier Reef. Will the minister continue to leave open the prospect of drilling activity near the reef or will he close the door once and for all on drilling for oil near the Great Barrier Reef World Heritage area?

The minister should not try to bluff the Australian people about what is going on here. He has been playing a very tricky



game, choosing his words carefully, in his statements about this issue. We have seen another example of that today. In the minister's press release on 9 March this year, he stated that no exploration will be allowed outside the reef if it significantly impacts on the World Heritage area. We heard the minister today redefining what he means by that. He is now talking about limiting activity outside the World Heritage area that might damage the World Heritage site, so he is changing his tune. He is changing the policy on the run, when what we are asking for is a very clear, unambiguous statement on this issue.

The minister has had a lot of coaching in word games from his predecessor as environment minister, Robert Hill. If you look at the answers that Robert Hill gave in the Senate last year at the time he approved the environmental impact assessment for seismic testing in the Townsville Trough, you can see those word games very clearly being played. For example, he was very careful to only ever refer to activity 'on the reef'. There was no unequivocal rejection of drilling for oil 'near the reef', which of course in the marine environment is just as important to deal with. He was also very dismissive of the threat to the reef because of the distance of 50 kilometres between the test site and the World Heritage area, as if somehow 50 kilometres was going to mean something in terms of the Great Barrier Reef.

Also, he insisted again and again that this is about seismic testing, not drilling for oil—splitting hairs over that distinction. What is seismic testing about if it is not about looking for oil? Does the government seriously expect us to believe that companies go around looking for oil with no interest in ultimately extracting it? The minister knows exactly what he is dealing with here, and that is why it is so important for him to unambiguously rule out drilling for oil near the Great Barrier Reef World Heritage area. Not everyone is as lucky as I am to live near this incredible Treasurer—

*Honourable members interjecting—*

**Ms LIVERMORE**—I mean incredible treasure. It is one of the wonders of the world. All Australians regard it as an icon of our nation. It is a symbol of Australia's natu-

ral beauty that is recognised internationally. In fact, the international community has made it very clear exactly how highly it regards the Great Barrier Reef and consequently Australia's responsibility to protect it. In 1981, the Great Barrier Reef World Heritage area was included on the World Heritage List in recognition of its universal value. The Great Barrier Reef has enormous environmental significance, as well as economic value to our nation, so we are talking about very high stakes here.

The Minister for the Environment and Heritage must be feeling very lucky indeed to entertain any prospect that will allow drilling to take place anywhere near the Great Barrier Reef World Heritage area. Of course the minister says that this is about exploration, not about drilling, but, while he says that drilling will never happen, he has already started the process by which drilling can eventually occur barely 50 kilometres from the World Heritage area. Looking at what happened at the Ranger mine just some weeks ago, perhaps we should ask the people up at Jabiluka how long their luck held out.

If the minister is going to gamble with the Great Barrier Reef, he should at least read the form guide to figure out the odds he is dealing with. TGS-NOPEC Geophysical, a subsidiary of an oil company and an applicant for an exploration permit, had this to say about the likelihood of exploration leading to drilling:

Our technical team is always scrutinising opportunities within this region to lead to potential oil and gas fields.

A company spokesman also said:

Australia's oil self-sufficiency will decline rapidly over the next few years, and we believe the Townsville Trough represents the only major opportunity for significant new oil discoveries.

Yes, clearly, this is all about seismic tests! I would say those are pretty short odds. This is a huge risk. The government has to stop its gambling now. The Great Barrier Reef is too valuable to be put at risk, whether from exploration activities or, heaven forbid, oil drilling.

I will cite an example from close to my electorate in Shoalwater Bay. Quite signifi-

cant defence exercises are conducted in Shoalwater Bay. I was talking today to some of the people who have responsibility for the environmental management of Shoalwater Bay just to see how they conduct themselves when they are in this very precious area. For example, when they are doing exercises involving the transfer of fuel—testing and practising techniques are a part of their exercises—they do not even use fuel. This is quite a long distance from the actual reef itself, but they do not even take that chance when transferring fuel in a defence exercise. They use water to test their expertise in that particular technique. That is how seriously they take their small impact on the Great Barrier Reef area. Meanwhile, we are talking today about an application for seismic testing, for exploration that could potentially lead to drilling for oil. It is not even worth thinking about.

The minister got another opportunity in question time today to clearly put the government's position. I notice that he has been asked by members of his own side. I notice that the member for Herbert is not speaking in this debate today which probably speaks volumes in itself. The member for Herbert has made his own suggestions about how to deal with this issue and to protect once and for all the Great Barrier Reef from the threat of this kind of damage and exploitation. The minister should listen to those calls from his own side of the House. Importantly, he should make it clear to the Australian people and to the world that he takes his responsibility to protect the reef seriously.

As the shadow minister has outlined this afternoon, the minister does have options if he really choses to take the steps and to take seriously his responsibility to the Great Barrier Reef. He has those options under the Great Barrier Reef Marine Park Act and other mechanisms which have been detailed today. I say to the minister: get out of this gambling habit that the government seems to have fallen into; you have to stop having a bob each way on this issue and must send an unambiguous message that the Great Barrier Reef will be protected from the threat of exploration and also drilling.

**Mrs DE-ANNE KELLY (Dawson)** (4.21 p.m.)—We may have a world-class Treasurer and a national icon, but regrettably the opposition does not have a world-class shadow minister for the environment. The reality is that there can be no mining on the reef, no drilling on the reef, no drilling in the World Heritage area and no drilling in areas outside the World Heritage area which impact significantly on the reef. My colleague the member for Herbert, an outstanding member who supports sustainability for the reef and for the region, has said this time after time again. But the Labor Party just does not understand 'no'.

I will deal for the moment with the arguments from the other side about options for the minister. They now claim that there are options under the Environment Protection and Biodiversity Conservation Act 1999 and also the Great Barrier Reef Marine Park Act 1975 to actually monitor activities near the reef. They refer to zones. Those zones have to be in the World Heritage area. The shadow minister for the environment referred to regulating aquaculture. He obviously is not aware of the way in which those regulations are enforced along the Queensland coast. What is regulated, shadow minister—through you, Mr Deputy Speaker—is in fact the effluent from aquaculture if it flows into the marine park. Then the only thing that can be regulated is the treatment of the effluent—there is a permit for that. It is really a very poor argument and it is simply not one that can be carried over to the activities here.

Let us get back to the central point. As the member for Herbert has said time and time again, as well as the minister: no drilling on the reef, no drilling in the World Heritage area and no drilling in areas outside the World Heritage area which impacts significantly on the reef. There is an environmental impact statement called for for the company that is doing seismic work there. The reality is that the ALP does not know what 'no' means. But others do. When the Australian people were asked during the last election, 'Do you want higher interest rates?' they said no and they voted the coalition in. When they were asked if they wanted a blow-out in unemployment they said no and they voted

the coalition in. When they were asked if they wanted a backdown on border protection they said no and when they were asked if they wanted sustainability for the reef and for all of the industries along the Queensland coast they said no to the Labor Party's proposals and voted for the coalition.

**Mr Hartsuyker**—A wise move.

**Mrs DE-ANNE KELLY**—A very wise move. I thank my colleague the member for Cowper for making that point. While the member for Herbert is a very strong advocate of sustainability for the reef and of course for the region, I notice that the Labor Party does not have unanimity in its ranks. There are Labor members who do think and care, like the member for Werriwa, about the overall situation. In fact, there is a Labor member who has put out a courageous media release following the shadow minister for the environment's rather sloppy and inaccurate statements about the reef and drilling. That Labor member says that we need to create more jobs to combat the region's higher than average unemployment rate. This is quite true. She also says that we must not give up on more than 6,000 unemployed people in the region and should focus on employment growth in the area rather than the nation's major cities. She says we need to develop economic policies to benefit all Australians, not just those in Sydney or Melbourne.

The member for Herbert or I could have been saying this, because we agree about this. The Labor member goes on to say that the benefits for North Queensland are hard to see. Absolutely, and they would be a lot harder to see under the Labor Party. I think it is notable that there are members in the Labor Party who are willing to come out after the shadow minister for the environment and defend North Queensland as sustainable—sustainable for the reef and sustainable for jobs and opportunities.

Queensland Senator Jan McLucas was the one who made those comments and I could not agree more. I will be writing to Senator McLucas and asking her to reinforce her statements, which I think everybody on this side of the House would agree with. I will be asking her to protect jobs by endorsing the National-Liberal government policy on

greenhouse gas emissions and our thoughtful approach to Kyoto. I will be asking Senator McLucas to grow jobs—she said she would like to see the benefits for North Queensland—by endorsing the National-Liberal Party policy of no drilling on the reef, no drilling in the World Heritage area and no drilling in areas outside the World Heritage area that impacts significantly on the Great Barrier Reef. Of course, to endorse her call to create jobs and to combat the region's unemployment I will be asking her to reject the Labor Party's proposals, which call for action outside the existing legislation.

It is quite obvious that the Labor Party does not have a unanimous approach to this issue and it is interesting that this was in the paper only yesterday, when the shadow minister for the environment was getting into pretty deep water—even deeper water than the Townsville Trough, as the member for Herbert and I would agree. Senator McLucas is a Labor person from North Queensland who is able to focus on creating jobs, who does not want to give up on the 6,000 unemployed people in the region, as we do not either. I know the member for Herbert has worked incredibly hard in that area.

**Mr Lindsay**—Ask about unfair dismissals legislation.

**Mrs DE-ANNE KELLY**—Exactly, unfair dismissals. I think Senator McLucas will be right behind us because she has had the courage on that day to pinpoint the deficiencies in the shadow minister for the environment. She has been standing up for North Queensland as we do, as the member for Herbert does so ably by getting the medical school for Townsville, ensuring there are opportunities for young people in the area to go on, become doctors, and serve in the region.

I think that Senator McLucas's media release should say 'KISS'—it used to mean Keep It Simple Stupid. I think it should say 'KISS'—Kelvin It's Sustainability Stupid. That is what it should say. 'I am right behind the coalition'—that is Senator McLucas. She is there for sustainability for the reef and sustainability for jobs and opportunities. I think she has done such a fantastic job I am sure that the member for Herbert and I would

welcome her on this side—at least on the other side of the Senate. It is just great to see somebody break ranks, isn't it? It is great to see somebody have the courage to speak out for North Queensland as we do—as the member for Herbert does. She has obviously got a bit more courage and a bit more knowledge of the North than the shadow minister, who is from Melbourne. So keep it simple or, as KISS is, Kelvin It's Sustainability Stupid. It is sustainability for jobs, sustainability for communities, sustainability for industries—for coal, sugar, fishing, tourism—and sustainability for the reef.

So it is great to see somebody on the Labor side going for a win-win for the whole area, as the member for Herbert and I do: win for the reef, win for jobs, win for opportunities. But you on the other side of the House won't get votes going along this line. Let me just quickly go to Kyoto and another one of the Labor Party's proposals at the last election—

**A government member**—Anti jobs!

**Mrs DE-ANNE KELLY**—Yes, but anti jobs in particular areas. Look at the areas where the biggest job losses would be had the Labor Party come into government and had they implemented the Kyoto protocol. Let us just have a little look at this. In the member for Capricornia's area of Fitzroy unemployment would have grown by eight per cent.

**Mr Kelvin Thomson**—So if you get global warming and coral bleaching on the Great Barrier Reef how does that help jobs?

**Mrs DE-ANNE KELLY**—You are happy to stand for unemployment growing by eight per cent! Mackay's unemployment would have grown by 3.5 per cent, but thank goodness we have a coalition government with good fighters for North Queensland like the member for Herbert and, oddly enough, Senator McLucas. In Wide Bay-Burnett unemployment would have grown by two per cent—a disgraceful policy! Let me tell you this: with the shadow minister for the environment, the man from Melbourne, over there you will never ever win Herbert. You will never ever win Dawson. You will not win Kennedy, Leichhardt, Hinkler or Wide

Bay. Do you know why? Because during the last election we ran all of your statements about Kyoto and everybody voted for jobs and opportunities and sustainability for all.

**The DEPUTY SPEAKER (Mr Jenkins)**—Order! The discussion is concluded.

#### DELEGATION REPORTS

##### Australian Parliamentary Delegation to France

**Mr JULL (Fadden)** (4.31 p.m.)—by leave—I present the report of the Australian Parliamentary Delegation to France in October 2001, and seek leave to make a short statement in connection with the report.

Leave granted.

**Mr JULL**—This parliamentary delegation travelled to France in early October for a program of visits and meetings hosted by the National Assembly of the Republic of France. The aims of the delegation were to renew links with the French National Assembly and discuss means by which they could be strengthened; to review trade and investment relations and assess and promote prospects for their further development; to review other aspects of the bilateral relationship and explore and promote prospects for closer relations, including in the cultural and political spheres; to develop a deeper understanding of the French economy and prospects for growth, including in relation to enlargement of the European Union; and to develop a deeper understanding of the political and security situation in Europe, especially in the context of expansion of the North Atlantic Treaty Organisation and the situation in the Balkans.

Unfortunately, the visit ended a day early as the federal election was imminent. The delegation was to travel to Germany but with the dissolution of the parliament that program was cancelled, for which we were very sorry. However, the visit I believe was worthwhile and met most of the objectives to which I have referred.

One of the greatest privileges afforded to a select group of parliamentarians is to visit, in an official capacity, the battlefields of World War I. In France and Belgium 53,000 Australians gave their lives and more than 153,000 Australians were wounded, often

more than once. It was therefore fitting that this delegation visited the Somme River Valley to visit the impressive Australian National Memorial and to pay our respects to those members of the Australian Imperial Force who died on the Western Front between April 1916 and December 1918.

On our arrival in Villers-Bretonneux we were met by the mayor of the town, Dr Hubert Lelieur, by a member of the council Monsieur Yves Tate, as well as by military historian Monsieur Jean-Pierre Thierry OAM, who is President of the France/Australia Friendship Group in Villers-Bretonneux. We were guided through the most impressive ANZAC Museum as well as the military cemetery, where we laid a floral wreath. The mayor told us of the approach by the citizens of Villers-Bretonneux to the Australian Embassy in Paris for the installation of floodlights at the memorial. The cost is estimated at \$40,000, and our report recommends that the government make this commitment, which will add significantly to this impressive structure. We also visited the Australian Corps memorial park and the Victoria School. I am sure all members who have visited the school will remember the sign at the entrance, 'Do not forget Australia', with similar signs above each blackboard in every classroom. That evening, on a visit to Riems and Chalon-en-Champagne, Lord Mayor Jean-Louis Schneider and Mayor Bourg-Broc also spoke most sincerely of the Australian contributions of World Wars I and II.

In recent days there has been great debate in France about the prospect of a new international airport to be built outside Paris, and it would appear that the chosen site could well fall within the area of the war graves. While the two I have mentioned are in no way threatened, the fact is that there are many thousands of Australians who lie in unmarked graves throughout that district. I was pleased to see an announcement yesterday by the foreign minister that discussions would be undertaken today with representatives of the French government, I think in London, to ensure that our concerns regarding the future of those war graves are understood. I do sincerely hope that the French

government does consult closely with the Australian and other governments before any development decisions are made and that priority is placed on protecting Commonwealth war graves in any development that does occur.

Our visits to the Senate and National Assembly of France resulted in comprehensive meetings and discussions over a very wide range of topics. The details are all contained in this report but I must express a special thankyou to our French colleagues for such comprehensive briefings and for their hospitality. September 11 was very much at the front of all minds during that first week of October, and we were privileged to hear the Prime Minister's speech on terrorism during an emergency session of the French Assembly.

May I extend the delegation's thanks to the President of the Assembly, Monsieur Raymond Forni; Monsieur Alain Barrau, the President of the Assembly's delegation to the European Union; Messieurs Rene Mangin and Guy-Michel Chauveau of the Assembly's Foreign Affairs Committee; Monsieur Francois Sauvadet, the President of the Food Safety Committee; Mademoiselle Christine Lazerges, Vice-President of the National Assembly and President of the Assembly's Office of International Affairs. The President of the France/Australia Friendship Group, Dr Alain Calmat, made a magnificent contribution to the success of the delegation's visit. He chaired our meeting with the friendship group, which proved to be very much the centrepiece of our meetings at the parliament. It has always been my contention that, while never undervaluing professional diplomacy, there is nothing more effective than parliamentarians speaking one to another. This was especially so during this meeting.

We also visited Eurocopter, near Marseille, and this brought home the significance of our growing economic relationship with France, particularly now that contracts have been signed and that the first of 22 armed reconnaissance helicopters will be in service within three years, with assembly and maintenance to be carried out in Queensland. Some components of these machines are to be produced in Australia for world distribu-

tion. With 150 jobs being created, this project will keep Australia at the leading edge of technology, and further projects may well follow.

Despite what has been a rocky relationship on occasions over the years, our relations with France have been maintained and certainly strengthened in recent years. I trust our delegation's visit helped that process. Frankly, I found our discussions refreshingly honest. While again thanking our French hosts, may I also thank His Excellency the Australian Ambassador to France, Mr William Fisher, and his team at the Australian Embassy in Paris for their support and advice during this visit.

**Mr MELHAM (Banks)** (4.37 p.m.)—by leave—I wish to be associated with the comments made by the leader of the delegation, the member for Fadden, and I am sure my colleagues Mr Quick and Mr Sercombe would also wish to be associated with all of the comments that have been made.

I was privileged to be part of the parliamentary delegation to France in October last year. The delegation's aims focused on extending bilateral relationships in areas of trade, investment, politics and culture and increasing our understanding of the French economy. While the delegation returned to Australia earlier than planned, I believe that the goals were achieved in the short time available.

For me, the highlight of the visit centred on the time we spent in the Somme region. There we paid tribute to the members of the Australian Imperial Force who died in battles on the Western Front from April 1916 to December 1918. We visited the Australian National Memorial near Villers-Bretonneux overlooking the Somme River towards Amiens. I looked at the names of the almost 11,000 Australian soldiers who died in France and who have no known grave. I viewed this list with both awe and respect.

While we were at Villers-Bretonneux, our hosts paid tribute to the sacrifice of the generation of young Australians who fought in France, many of whom, of course, paid the ultimate sacrifice. The gratitude of the people of France and in the area we visited was,

for me, summed up when we visited the Villers-Bretonneux Victoria Primary School. A permanent banner at the school states: 'Do not forget Australia'. The delegation toured the ANZAC Museum and viewed the large collection of letters, photographs, official documents and relics illustrating the role of Australian soldiers during WWI.

For me, the visit was a pilgrimage on behalf of my constituents, as Banks has a strong representation of returned service men and women. As I examined the items in the ANZAC Museum, I remembered the almost 4,000 veterans living in my electorate. These people experienced first hand the horrors and ravages of war. We remain eternally grateful to them.

Banks expanded substantially with the post-World War II settlement in housing commission and war service homes. Many in the electorate fought or are the descendants of those who fought. There are a number of returned service clubs and organisations in the community, which remind us of their members' contribution to who we are today.

The time I spent on the Somme was particularly poignant given the timing of the delegation's visit. This was during our country's involvement in the first few weeks of the war against terrorism. Since the first Australian soldiers served in the Sudan in the 19th century, our soldiers, sailors and air personnel have contributed to the safety and security of all Australians. Australia's considerable contribution during both world wars was often acknowledged during our visit. Many tributes were paid to our Australian servicemen.

In the light of this, it deeply concerns me that the French government is considering a new airport that might force the relocation of Australian war graves. This is not a political issue; it is one on which, I hope, both sides of the House will be united. To date, Australian veterans and the public have no information on the detail of this \$10 billion proposal. While in France I observed the respect in which the Australian memorials are held. I am sure that the local inhabitants I met would be appalled at this proposal. Our war graves must be maintained with care and respect in recognition of the sacrifice of our

war dead. We must continue to be vigilant on their behalf and preserve their memory for future generations. We owe them the dignity of their final resting place. I commend the report to the House.

**TAXATION LAWS AMENDMENT  
(FILM INCENTIVES) BILL 2002**

**Report from Main Committee**

Bill returned from Main Committee with an amendment, appropriation message having been reported; certified copy of the bill and schedule of amendment presented.

Ordered that this bill be considered forthwith.

Bill, as amended, agreed to.

**Third Reading**

**Mrs VALE** (Hughes—Minister for Veterans' Affairs and Minister Assisting the Minister for Defence) (4.43 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**PROTECTION OF THE SEA  
(PREVENTION OF POLLUTION FROM SHIPS) AMENDMENT BILL 2002**

**Report from Main Committee**

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

Ordered that this bill be considered forthwith.

Bill agreed to.

**Third Reading**

**Mrs VALE** (Hughes—Minister for Veterans' Affairs and Minister Assisting the Minister for Defence) (4.44 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**STUDENT ASSISTANCE AMENDMENT  
BILL 2002**

**Report from Main Committee**

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

Ordered that this bill be considered forthwith.

Bill agreed to.

**Third Reading**

**Mrs VALE** (Hughes—Minister for Veterans' Affairs and Minister Assisting the Minister for Defence) (4.45 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**SECURITY LEGISLATION  
AMENDMENT (TERRORISM) BILL  
2002 [No. 2]**

Cognate bills:

**SUPPRESSION OF THE FINANCING  
OF TERRORISM BILL 2002**

**CRIMINAL CODE AMENDMENT  
(SUPPRESSION OF TERRORIST  
BOMBINGS) BILL 2002**

**BORDER SECURITY LEGISLATION  
AMENDMENT BILL 2002**

**TELECOMMUNICATIONS  
INTERCEPTION LEGISLATION  
AMENDMENT BILL 2002**

**Second Reading**

Debate resumed.

**The DEPUTY SPEAKER (Mr Jenkins)**—The original question was that this bill be now read a second time. To this the honourable Leader of the Opposition 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.

**Mr McCLELLAND (Barton)** (4.46 p.m.)—The facts about terrorism are—and I do not want to overstate the extent of the risk—that it is far more likely that an Australian will confront an assault on their security through a terrorist act than an act of war, and it is important to get it right. However, the other thing we must realise is that the aim of terrorists is to disrupt our societies. Clearly, they are not going to take over our societies by these terrorist acts; their aim is to disrupt our institutions and our social fab-

ric. The most important institution we have in this country is our vigorous and open political system—that is, the accountability of the executive arm of government to this parliament. Parliament represents each and every Australian. So we are not talking about an executive comprising ministers representing the Liberal Party. That is not our system of government; that is not part of the Westminster system. Our system of government is about ministers of the Crown representing and being accountable to the Australian parliament.

The way in which the government has introduced this legislation directly offends that principle of parliamentary accountability, and that is what we are complaining about in the way this government has treated us. At best you would say it is bad manners; at worst, however, it is a fundamental failure to recognise the principle of responsible government where we as parliamentarians—not politicians, not representatives of political parties—have an obligation to the Australian people to get it right and to get what we do right. The risk in what this government has done was shown dramatically in the double slip-up by Mr Slipper, the member for Fisher, when this bill was introduced. Last night, in its haste to push through the legislation without proper scrutiny, the government slipped up by introducing a version of the [Security Legislation Amendment \(Terrorism\) Bill 2002](#), one of the packages, which did not conform with the *Notice Paper*. When the mistake was discovered today, the Parliamentary Secretary to the Minister for Finance and Administration, Mr Slipper, the member for Fisher, was forced to admit the embarrassing mistake. He withdrew the bill and tabled it again shortly before question time, as we saw. The last time the government was forced to withdraw a bill was 17 years ago, in 1985. The member for Fisher, after withdrawing the bill, tabled a new version of the second reading speech previously delivered by the Attorney-General. The speech he tabled referred to schedule 3 of the bill. The trouble is that schedule 3 does not exist: the bill only has two schedules. This comedy of errors—the slip-ups by Mr Slipper, the member for Fisher—shows, when we are talking about

fundamentally important security legislation, just what a farce it is to try to rush through an agenda of the Liberal Party as opposed to what should be the agenda of the government to enable a proper parliamentary process to scrutinise the legislation.

That is all we are asking for. There is no suggestion that we are intending to hold up these bills. As I have indicated and as the member for Banks indicated, last night we offered to agree to an amendment regarding the commencement date of these bills. What we want, however, and what the Australian public are entitled to, is proper scrutiny of the legislation. That was referred to in the High Court in the case of *Egan v. Willis* where this concept of responsible government was spoken of. The High Court said:

A system of responsible government traditionally has been considered to encompass 'the means by which Parliament brings the Executive to account' so that 'the Executive's primary responsibility in its prosecution of government is owed to Parliament'.

That is the concept—'owed to the parliament', not owed to the Liberal Party. Indeed, the High Court referred to the political philosopher Mill, who wrote in 1861 that the task of the legislature was:

... to watch and control the government: to throw the light of publicity on its acts.

Clearly the role of the parliament in scrutinising legislation proposed by the government is a fundamental role. Indeed, that was recognised by Malcolm Fraser in 1977 when he said in respect of this principle of responsible government:

To the extent that it is eroded the people themselves are weakened. If the people cannot call to account the makers of government policy, they ultimately have no way of controlling public policy, or the impact of that policy on their lives.

In no greater or more significant instance is that quote relevant than when we are talking about important security measures. We agree that they are important, but those security measures have the potential to significantly impact on Australian citizens. For instance, we are looking at legislation that applies to the transmission of SMS messages by telephones. I hate to think the number of SMS



messages that are sent by my daughters, and I do not know what goes over these SMS messages—

**Ms Ellis**—You should find out.

**Mr McCLELLAND**—Perhaps I should. But we are entitled to see whether this legislation will impact on our kids who have mobile phones and adopt this craze of SMS messages. Equally, we are entitled to hear from the bureaucrats as to why they are proposing legislation and why they have departed in some instances from the British antiterrorist legislation. We are entitled to hear advice on the legality or the constitutionality of these measures. For instance, those provisions in one item to enable the Attorney-General to proscribe organisations or make them unlawful may well be contrary to our Constitution. The High Court considered in the Communist Party dissolution case that similar measures constituted an exercise of judicial power by the executive and were therefore unconstitutional so they set aside the legislation. We are entitled to see what advice the government has regarding the constitutionality of these provisions. The last thing we want is for someone to be apprehended but then to get off because this law is unconstitutional. This is the irresponsibility of the government. It is a government driven by its desire to promote the interests of the Liberal Party, not a government entrusted with the responsibility of representing the interests of the Australian people.

**Mr BEAZLEY (Brand)** (4.54 p.m.)—The Australian people are at war. We have been at war since the middle of September last year, a week or so after the horrendous events of 11 September. For the first time in the history of the ANZUS Treaty, we invoked the treaty and declared that an attack had taken place upon the metropolitan territory of the United States to which we would respond militarily, and we have. Australian soldiers are now engaged in Afghanistan. Australian ships are assisting the United States by running the quarantine operation in Iraq, freeing them for opportunities in particular to interdict the possible removal of Al-Qaeda people to Somalia and other points by sea. We have freed them for that particular obligation and task. Our FA18s are flying

CAP for the American facility at Diego Garcia. That has resulted in casualties and we should note here in this debate the death of Sergeant Andrew Russell and send to the family our condolences for the death of their father, husband and provider. He will live forever in our memory.

We are at war, and this is the first legislative response to the fact that we are at war—six months since the day! This is a dilatory government. I responded enormously to the excellent speech made by the Leader of the Opposition when he spoke in detail on the legislation itself and our general approach to the issue of terrorism. I note again his continuation of the offer that we made when I was Leader of the Opposition of bipartisan support to this government. It has largely been spurned. There have been begrudged briefings but little else.

We heard only two contributions made by the Liberal Party and National Party to this debate. What a disgrace it is that when Australian lives are at stake they cannot shift themselves into this chamber to talk about the conflict as the second reading part of a debate permits them to do. We have heard from one of them, of course, a piece of gratuitous nonsense in regard to the attitude of the Australian Labor Party on the issue of terrorism. The honourable member for Mitchell is one of many on the other side of the House who take Uriah Heep as their role model in debates in this chamber, and it was another Uriah Heep type performance that we saw from him in this chamber. But even more offensive than his performance is the fact that there is no-one else bar one who is prepared to stand up in this chamber and talk about the contribution that the Australian services are making to the defence of this nation and the appropriate tasking of those armed services and our police forces in what has been described by George Bush, the president of our ally, as a very long-term conflict likely to lead us down many different paths, many of which are now unanticipated, with many legal conundrums to confront, many security conundrums to confront and many economic conundrums to confront, as we go down that path. The Australian people and the Australian armed services and

police forces that put their lives on the line are entitled to hear a view from the government on these matters—in detail and at length. They have heard none of it.

There is a complaint by the opposition about the haste with which these things are being discussed and I share that complaint. But it is as nothing compared to the complaint I have that it has been six months before most of this legislation has arrived here while Australians are fighting. Australian police forces have been engaged, of course, in building up our own capabilities to deal with issues of terrorism here. I have a complaint about that. And I have an overwhelming complaint about the performance of the Prime Minister in the United States. Remember again the background: Australian armed forces are engaged, the United States is considering where else it must go and what else it must do in taking up its role as leader of the international coalition against terrorism. The Prime Minister visits the United States—a magnificent opportunity. He does not see President Bush. He does not see Vice-President Cheney. He does not see Secretary of Defense Rumsfeld. He does not see the chairman of the joint chiefs of staff. He does not see their new Secretary for Homeland Security—though, particularly given this legislation, one would have thought he might have. He does not see any of the underlings associated with them. He does not see the overall commander of our forces located in Tampa, Florida—none of them! He has a holiday in New York.

The only thing that is slightly less disgraceful than the performance of the Prime Minister in that regard is that of the Australian media which accompanied him. Only one of them—Greg Sheridan—bothered to point any of this out. People like Menzies or Holt would never have behaved in such a dilatory fashion. Then he took a holiday in Singapore on the way to Jakarta, flying over the Australian commander in Bahrain, whom he should have stopped to see. Imagine Menzies doing that—flying over Blamey to visit the Orkneys or the Shetlands, or wherever, in the United Kingdom. 'I could not stop by to see Blamey. No, I am going to go for a holiday in the Orkneys and the Shet-

lands. That is what I'm going to do.' The man who is commanding our armed forces did not rate a visit. The Prime Minister flew over him. The dilatory attitude that is reflected in that behaviour is represented again here in the way in which this legislation has finally arrived before us.

Before I get on to that, let us recap where we are at in the war on terrorism. We have the situation of our principal ally thinking about other directions in which they ought to go, thinking about whether they have dealt with Al-Qaeda sufficiently or if that is sufficient to deal with the international terrorist threat and arriving at conclusions that this is not so. We have a Prime Minister who does not bother to visit them, saying yesterday in a throwaway line to the Liberal party room, 'Perhaps we ought to follow them further down that path.'

There is a great deal to be done. President Bush has been quite right to say that this is a very long-term issue that is now on our plate in the international community and there are many facets in the solution to it. The backers of Al-Qaeda, the Taliban—that horrendous, oppressive government—have been removed in Afghanistan and a shaky government has been put in its place. Clearly a deal of work needs to be done for the people in Afghanistan to find themselves in the circumstances where their own lifestyles do not permit internal military developments that provide harbour in future for the sorts of operations that Al-Qaeda has undertaken.

We know that while many Al-Qaeda foot soldiers and supporters have been captured and killed, only a very small number of their leaders have been captured or killed. We know that probably their leadership is out of Afghanistan now. We are not sure where they happen to be. We know that there are good intelligence reports that there are 12,000 to 15,000 Al-Qaeda members or supporters in Europe.

As I am sure most honourable members understand, Al-Qaeda is an umbrella network. It is a base for many organisations, most of which have the word 'jihad' in their title, but effectively all of them operate coordinated by Al-Qaeda. There are 12,000 to 15,000 members in Europe now—some

thousands—with growing apparent Al-Qaeda influence in one or two operations in the immediate vicinity here in South-East Asia. There are Al-Qaeda escapes to Somalia and to Yemen. There are reports of additional new Al-Qaeda activities in Lebanon. There is an understanding that there are still probably hundreds, if not 1,000 or 2,000, Al-Qaeda sympathisers and operators inside the United States.

A great deal is going to have to be done if this threat is to be dealt with. In terms of how these issues impact immediately on the public mind now, we know the past performance of Al-Qaeda. It is not a new operation on the international scene; it has been going for a decade. It has had some successes in terrorist assaults and it has had some failures. One of Al-Qaeda's past characteristics, which we need to think about now, is that they rarely respond within a day or two to the things that they find most offensive. Generally speaking, their response takes 12 to 18 months to build up. What is now known of that horrendous operation on 11 September is that it was 18 months in the planning and that therefore their retaliation for what they think might have happened to them in Afghanistan probably will not be seen this year; it will be seen next year.

That is what makes all this legislation so important. We do not know where that response will be or against whom. We do not know their capability. Maybe they have been badly wrong-footed by these activities. They have certainly had a few failures in recent times. One thinks of the so-called shoe bomber on board the American Airlines flight and of the successful interception by the Italian police of an attempt to poison the waters of the American embassy in Rome as an indication that perhaps they are being wrong-footed by the activities which are being pursued. All countries like ourselves who have entered into this conflict have seen fit to start a legislative response to it, and finally we have one from this government.

Three days after the horrible events of 11 September, on behalf of the opposition, I put down a 10-point response. I remind honourable members of that. The first point was that a Labor government would upgrade interna-

tional agreements against terrorism so as to undercut support provided by some national governments. In particular we identified ratifying the International Convention for the Suppression of Terrorist Bombings 1997 and the International Convention for the Suppression of Financing of Terrorism 1999. The second point was that we needed to consider specific antiterrorism legislation, comparable to the UK Terrorism Act 2000. We said that we would join a strong international coalition to fight terrorism and foreshadowed a preparedness to take part in military activity in that regard. We immediately looked at the security of our airports and airways, and that meant a strengthening of our capacity to deal with visa applications and a review of regulations on entering into this country.

We said as an additional point that we would upgrade the effort of Australia's various intelligence security agencies in tracking transnational criminal organisations which threaten our way of life. A further point was to enhance our human intelligence capabilities in our foreign and domestic intelligence security agencies. A further point was to put the issue of fighting terrorism high on the agenda in Australia's regional security dialogues, including with Indonesia and specifically at the ASEAN regional forum. We said further that we should establish an Australian coastguard to more effectively protect our borders. We said, as well, that we would completely overhaul our border protection laws as they relate to vessels, persons and goods entering Australia to make sure they can deal with contemporary threats and, finally, that we would establish an integrated national security policy approach by broadening the focus of our cabinet National Security Committee.

Since that time, two days after the horrible events of September 11, the government has very slowly been ticking off on one point after another—all, I think, bar the suggestion we put forward of the Australian Coastguard. But it has been terribly slow in coming. We have rushed into this House, for example, two pieces of legislation related to the ratification of those two UN conventions that I referred to. We get them now. I asked John

Howard a question on 27 September last year. My question to the Prime Minister was:

... can you advise the House why the government has still not signed the 1997 International Convention for the Suppression of Terrorist Bombings or the 1999 International Convention for the Suppression of the Financing of Terrorism? Is it not the case that the United States has signed both conventions and that President Bush has signalled his desire for Senate ratification as quickly as possible?

Howard's reply was:

I would agree that the signature of that treaty would be an important symbolic contribution to that fight. I think it is also the case, as I am sure the Leader of the Opposition would agree, that specific practical measures taken by governments are also very important in the fight against terrorism. My understanding—and I will check that understanding with the Acting Foreign Minister—is that the failure to sign that treaty, if that is the case, is not the result of any opposition to the principles of it.

Well, bully for him! He could have had these two pieces of legislation, which are included in this cognate debate, through the parliament four months ago—before the parliament rose. There were still a couple of weeks of sitting left. We were quite prepared to facilitate the consideration of those particular items, quite prepared to have them in place then. For four months now we have not provided ourselves with the sort of legislative backing that we need to deal with our capacity to make a contribution to tracing the moneys and decisively acting against the moneys which may be underpinning the activities of terrorist organisations or those of their affiliates. We left for another four months dealing with the issues of terrorist bombings.

I have words of praise for the member for Banks. He came up with a proper solution as to how we should conduct this debate. He said, 'Don't make the start-up date of this legislation that of royal assent, which is what is currently incorporated within it; make it yesterday when these bills were first introduced. That gives us a proper chance to give due consideration to this. Everybody who wants to breach the provisions of these various acts knows that the vast bulk of them will get through as a result of these Senate

considerations, and they know they are in trouble from this point on if they are taking any action which would be in breach of the basic provisions of the acts that are before us.' The government should seize that, get into the debate and then start the process of sharing in the working through of this legislation.

It is an extraordinary thing that the government have taken so long to reach this point when they have been given by us such advice and such strong bipartisan support to encourage them down the road of developing a sensible legislative, military and policing response. It seems to me that they have sought product differentiation politically and not effectiveness militarily. It seems to me, when I look at the Prime Minister's visit to the United States and the extraordinary performance he put on there, that, as far as he is concerned, all the Australian armed services are about as a farewell political pic-fac and that once they are out there in the field, they are on their own. It seems to me that this is not a Prime Minister who wants to work, that this is a Prime Minister who sees every piece of legislation as a wedge opportunity and then is disappointed when it falls flat on its face.

I cannot think of a Liberal Prime Minister confronting a conflict who saw things that way. As I recollect, they were prepared to play an enormous wedging game during the Vietnam War back in the 1960s when the Labor Party was in fact in opposition to them. But I tell you this: when they introduced legislation related to any facet of that war, it was not introduced on the basis that it was out of the House of Representatives in the course of five hours with two government speakers and as many opposition speakers as they could get through in the time limit. They did not do it that way in those days. You could expect a week or two in which everybody had a chance to state on the record where they stood in relation to a commitment that involved not just Australian treasure but Australian blood.

There are many reasons why we need to consider all this legislation in detail. Some of it is catch-up legislation and way too late. Some of it is best represented by absence

rather than by presence. There are other pieces of legislation which should be before us now—for example, amendments to the Weapons of Mass Destruction (Prevention of Proliferation) Act 1995 to impose increased sentences of up to 25 years imprisonment for persons who supply materials or otherwise assist activities they believe, or may reasonably suspect, relate to the development of weapons of mass destruction. That is what the Americans really fear. They fear the radiation bomb in New York.

We have a piece of legislation put in place by the previous Labor government but the penalties are not good enough. Where is that in this legislation? There are other pieces of legislation as well. Where is the legislation to ratify and enact the Convention on the Marking of Plastic Explosives for the Purpose of Detection—a 1991 UN Convention? It is not here. Where is the commitment to an international court—an international court already established and which is capable of dealing with terrorists? It is okay if terrorists come into our jurisdiction—we can deal with them—or American or European jurisdictions. But what if they are not surrendered from the Middle East? At least there is a chance that you can get them before an international court if you have the appropriate legislation, but where is that legislation? All of this is an essential legislative part of a comprehensive approach on the issue of terrorism.

There are absent friends at this particular feast, as well as other things here that have absolutely nothing to do with the fight against terrorism. We can pick our way through that in the Senate, but we cannot pick our way through an attitude of a government that simply will not seize itself with the urgency of the fact that we are at war and respond accordingly. (*Time expired*)

**Mr SNOWDON (Lingiari)** (5.15 p.m.)—It is a great pleasure to be following in this debate my friend and colleague the member for Brand. I want to go to the contribution of another member of the House this afternoon—that is, the member for Mitchell. The reason I want to do that is illustrated well by the contribution made by the member for Brand, because the member for Mitchell to-

day accused members of the opposition of lacking patriotism. In the context of this debate in this place at this time, given the events of the last six months, I find that personally offensive. I have had phone calls from members of the opposition who have indicated to me that they found it most offensive as well and who wanted me to raise it in this debate.

No point of order was taken at the time; the member was not asked to withdraw anything. But it is clearly not a commonsense approach to what we believe to be a very important national and international issue—that of international terrorism—especially when there has been strong bipartisan support on the floor of this chamber from the opposition. As was pointed out earlier this afternoon and most recently by the member for Brand, the opposition outlined its response to the issues of September 11 two days after that very sad event and put forward a 10-point plan to fight terrorism, a plan which was not taken up by the government. As the member for Brand so cogently put, here we sit today debating legislation that could have been debated months ago but for a tardy government out of touch with the priorities of this nation, a tardy government which hosts people like the member for Mitchell, who had the gall to walk into this chamber in this very important public debate on this issue of great public moment in public policy, to ascribe motives to the opposition and to say that members of the opposition somehow or other lack patriotism.

I hope the member for Mitchell heard the member for Brand's speech. I am glad that the member for Brand mentioned the Vietnam War. One of our members in this chamber is a veteran of the Vietnam War. What does the member for Mitchell say to that member? Mr Edwards, a prominent member of the Labor Party in this chamber and a former parliamentary secretary, obviously a veteran—a person who fought for this country—has been accused by the member for Mitchell of lacking patriotism. I suggest that the member for Mitchell come into this chamber and apologise firstly to Mr Edwards and then to the chamber. I suggest he apologise to the chamber for putting these offen-

sive words on the public record and for asserting that members of the opposition lack patriotism because we have the temerity to have concerns about the nature of this legislation and the way it has been put forward in this parliament and because we have concerns about the process which the government has undertaken to ensure that we get no real time for perusal and examination of, and real discussion about, this legislation in this parliament.

The member for Brand pointed to my friend at the table, the shadow minister Mr Melham. Mr Melham has come up with a proposal which the government should take on board. This proposal will assist us by allowing us to have a full debate in this parliament and not affect the date of application of that legislation; indeed, it will guarantee that the legislation will apply from the date it was introduced into this place. I would have thought they would have grabbed it with both hands, but there is no indication at all that the government are hearing this. They are certainly not listening to us, but they do not even appear to be hearing this.

We had the Leader of the House coming to us at eight o'clock last night and introducing this piece of legislation of 100-odd pages, and we are expected to respond on this matter of great national importance in a trice—without the opportunity to peruse it, to properly discuss it or to put it out into the public domain and let people who are concerned or who have an interest express a view about it before it is rushed through this place. That is not an appropriate way to deal with matters in this chamber, and we in the opposition are getting fed up to the back teeth with this House and its members being taken for granted. It is an absolute abuse of power.

Whilst the executive arm of this place clearly dictates the terms under which the House operates, it is very important that the people of Australia understand what is happening here. We are being prevented from undertaking a proper, forensic examination of this legislation prior to it being debated in this parliament—a purposeful exercise—when these issues could have been debated six months ago, when the member for Brand

offered the government an opportunity. The member for Brand, as the then Leader of the Opposition, offered the government an opportunity which it refused to accept. Now we are lambasted and insulted by the government and attacked by government members for having the temerity to raise issues which may be of concern to us and to the general public.

I know that there are a number of issues in this legislation which we should be worried about, not because we do not support the intent of the legislation or its direction but because we need to raise some very serious questions. It is important that we do so in this place. I want to refer members to a very good research paper which has been released by the Department of the Parliamentary Library, entitled *Terrorism and the law in Australia*, which was edited by Nathan Hancock in the Law and Bills Digest Group. I know we do not normally ascribe to these people what they do in this place or give them the credit they are due, but this is a very good document. It canvases a whole range of issues, some of which are relevant to this debate. One of the relevant issues is the whole question of how we define 'terrorism' under the [Security Legislation Amendment \(Terrorism\) Bill 2002 \[No. 2\]](#)—remembering, of course, that the 'No. 2' had to be written into the legislation, because they had made a mistake in its original introduction—and another is the question relating to the power to proscribe an organisation.

Let me make it very clear that we in the Labor Party regard terrorism as abhorrent. We believe that we should take the strongest possible measures to defeat terrorism. We acknowledge the international leadership which has been taken by the United States in this regard and the United Kingdom in the case of Western Europe. It is very important that we understand the context of our discussion. We are all very concerned about the events of September. Yet that does not lead us to accept ipso facto every piece of legislation which is put into this place on the basis that it happens to deal with terrorism, or to say that every aspect of that legislation ought to be agreed to. We need to examine what the legislation says and how it might

impact upon the community. We must ask ourselves whether an appropriate balance has been struck.

We do have to protect the civil liberties of all Australians. We do have to protect those basic principles that underpin our democracy: free speech, freedom of association and freedom of religion. We cannot abrogate our responsibility to uphold those civil liberties. We need to be concerned that, because community awareness of this debate has been limited since the introduction of the bill yesterday evening, there will be some suspicion in the community, whether we like it or not, about the intent of this legislation and its impacts. A spectre of suspicion will hang over our approach to this legislation unless we are allowed to debate it fully and properly, unless we are allowed to examine it clause by clause, as we should be able to do.

The Prime Minister, the Attorney-General and the other government frontbench ministers want us to take it on trust that they would be able to use this legislation responsibly. This legislation allows the Attorney-General, under the declaration of proscribed organisations, to delegate powers and functions under this section to a minister. Just imagine if the Attorney-General, at the request of the previous Minister for Defence, had decided that he would give him the delegation to proscribe an organisation. Of course we need to comprehend that none of us now trust the words of the previous Minister for Defence. This is a person who got on the Australian media and said that anyone who questioned him about the 'children overboard' issue was actually questioning the defence department and the Defence Force personnel. We have subsequently learned that he was directly advised prior to that speech, prior to him making his assertion on the media, that the 'children overboard' incident did not in fact happen. Yet he had the gall to go on the media and assert that anyone who questioned whether it happened was actually undermining the defence forces. How could we trust the Attorney-General to delegate any powers to that man? And that man was the Minister for Defence.

So I have concerns about some aspects of this legislation, and the issue of proscribed

organisations is one such concern. After all, as is cogently put in this document by the library, one person's proscribed organisation is another country's group of freedom fighters. We ought to be a little bit understanding about this. Let us ask this question, as it is put by the library's document. It says:

Few Australians would dispute that hijacking commercial aircraft and flying them into a city skyscraper, killing thousands of civilians, is an act of terrorism. But any national, let alone international, consensus over what is or is not terrorism rapidly evaporates as one moves away from the shocking immediacy of the events of September 11. Are Chechens engaged in armed conflict with Russia 'terrorists'? Is India engaged in a war on 'terrorism' in Kashmir? Did Australians who, before 1991, donated money to the African National Congress (an organisation committed to the overthrow of the apartheid regime in South Africa) help to finance a terrorist organisation?

Was my support for the freedom fighters of the Falintil and Fretilin in East Timor support for a terrorist organisation? Would the government have been able to proscribe me and any organisation I had belonged to which financially supported Fretilin or Falintil as a terrorist organisation?

We need to be very careful about the breadth of this and the proportionality between the proposed measure and the perceived threat to Australian society. We must be conscious of our responsibilities as legislators. It is appropriate that we respond properly to the issue of terrorism, but it is also appropriate that we have due regard to proper processes, to the whole question of how we deal legitimately with the rights of Australian citizens. We need to deal properly with this issue and make sure there is a balance between our national interests, our international obligations under various United Nations treaties and conventions, procedural fairness for Australian citizens and the whole question of natural justice.

It is worth acknowledging, and it is important to acknowledge, that we do have a responsibility under our membership of the United Nations to accept the legitimacy of a number of United Nations resolutions in relation to terrorism. We have a responsibility to do something about it, particularly in relation to regulations which were moved by this

government on 8 October pursuant to the Charter of the United Nations Act 1945 and the United Nations Security Council resolutions 1267 and 1373.

These resolutions are important. Under resolution 1373 the Security Council consolidated its previous comments on the need for stronger and more cooperative measures amongst states. It decided that all states should prevent and suppress the financing of terrorist acts, and criminalise the wilful provision or collection of funds by their nationals or in their territories. It also required states to ensure that terrorists, their accomplices and supporters are brought to justice and that terrorist acts are established as serious criminal offences in domestic laws and that the punishment duly reflects the seriousness of such terrorist acts. On 17 November 2001 the International Monetary Fund backed this move by expressing grave concern at the use of the international financial system to finance terrorist acts and to launder the proceeds of illegal activities. It called on all member countries to ratify and implement fully the UN instruments to counter terrorism, particularly resolution 1373.

There is no doubt that the eventual passage of this legislation will put us in a position where we will have acted on resolution 1373 comprehensively through this parliament. But before we finalise this discussion let us have the debate that we must have. Let us have the debate not only in this chamber but also in the public domain to allow those with an interest to examine this legislation and to ensure that our interests are properly served.

Let me conclude my remarks by again referring to this research paper from the Parliamentary Library. It says:

If Parliament is satisfied that legislation is the way to go (or an appropriate part of the response), the next logical question is one of proportionality, specifically proportionality between the proposed measure and the perceived threat to Australian society. This requires a critical assessment of the specific suspected or perceived threat, using means appropriate to Parliament's central role in our constitutional system while paying due regard to considerations of secrecy and national security.

We have an obligation as a parliament to do exactly that. The paper goes on:

It then requires a careful balance between the possible responses to that threat and their potential impact upon civil liberties. Parliament is entitled to ask whether the gains to security from enacting new laws that enhance the state's coercive powers outweigh the costs to civil liberties.

Why can't we have that discussion in this chamber? Why can't we have a deliberative debate which allows us, across this chamber, to come to some agreement about the balance to be struck in this legislation? Instead, we have had it foisted upon us in the dead of night and the government asks us to pass it within the space of 16 to 20 hours on the following day without allowing us to deliberate over it properly.

The Labor Party has moved an amendment. I urge the government to support that amendment. I request that the government accept the suggestions made by Mr Melham that the government make the date of application the date that this legislation was introduced in the parliament.

I request you, Mr Deputy Speaker, to think seriously about the role of the member for Mitchell in this chamber in making accusations that an individual on this side of the chamber somehow acted in an unpatriotic way. I ask you to request that he come into this chamber and apologise to the opposition and the Australian community for labelling us in that manner. It is not appropriate, given the importance of this debate, the very important nature of our discussion and the importance for us to come to terms with the threat of international terrorism, for us to have this sort of acrimony thrown across the chamber by the member for Mitchell.

Lastly, let me endorse wholeheartedly the comments which have been made by the member for Brand, who put comprehensively the position as to why the government should have acted earlier and responded to the suggestions of the opposition. (*Time expired*)

**Mr ANDREN (Calare)** (5.35 p.m.)—I have risen to speak in this debate on this package of terrorism bills briefly to support the second reading amendment moved by the Leader of the Opposition. I wish this were



not necessary but it is necessary because of the passing to the Senate the responsibility for amending legislation and therefore real debate on legislation as important as this. It makes this House, the people's house, a paper tiger when it comes to making the laws of this country rather than the house of legislators it is supposed to be. As an Independent this is my only opportunity to speak on bills. I cannot refer it to my own committee in the other place or indeed take part in the legislative program that defines the final shape of these bills. You might ask: where are our legislation committees in the lower house? They do not exist.

The non-government members have simply had no time to even begin considering amendments to these bills. The government in fact tabled one bill it was forced to withdraw and resubmit, so rushed was the process from the government's point of view. Bills of such importance cannot be seriously considered in less than 24 hours, and in light of the government's so-called *Tampa* debate last year it is disturbing that this sort of behaviour is becoming more prevalent.

There is no doubt the events of September 11 have changed our world forever and require laws to protect our country and society from acts of terrorism. I have no problem with this, apart from wanting to see terrorism redefined to include certain reactionary military behaviour especially, say, in the Israeli-Palestinian tragedy. It must be remembered that Nelson Mandela was once defined as a terrorist. We may well ask: in the absence of helicopter gun ships where does freedom fighting begin and end?

I have got some reservations about some of the provisions of these bills relating to the extension of existing and the creation of new powers for the government and its agencies. I have certain concerns in relation to the provision that gives the Attorney-General the power to declare an organisation to be a terrorist organisation and outlaw it as such. I recognise the need for this type of decision to be made quickly in genuinely extreme situations. I recognise that the bill outlines reasonable grounds on which this type of declaration may be made, but it remains a strong concentration of power in the hands of

one minister. I would want a greater investigation of and debate on this provision and its potential consequences, but we do not have the opportunity here. I am pleased that any declarations are subject to judicial review but, in the scheme of things, a review may be conveniently and politically too late if action against a group is possible once the declaration is made. Certain episodes—the Franklin Dam protest, for instance—have been mentioned in this context.

In relation to the [Suppression of the Financing of Terrorism Bill 2002](#) and the [Criminal Code Amendment \(Suppression of Terrorist Bombings\) Bill 2002](#), I again do not have a problem with the general intent of the legislation. The suppression of financing of terrorism places obligations on cash dealers to report suspected terrorist financing transactions to the Australian Transaction Reports and Analysis Centre, which can then pass this information on to ASIO or the AFP to provide vital and timely leads in the investigation of the activities of suspected terrorists. It also allows for the freezing of assets provisions to be taken out of regulations and placed in the primary act. But how is the privacy and confidentiality of the information—a matter that concerns the rest of this country—going to be guaranteed in light of these powers being granted to government agencies? These are the types of questions that need to be raised and debated in this House in regard to such important legislation.

I do not have any problems with the provisions of the [Criminal Code Amendment \(Suppression of Terrorist Bombings\) Bill 2002](#). The [Border Security Legislation Amendment Bill 2002](#) is similarly uncontentious, amending a range of Customs activities and powers in relation to border surveillance and the movement of people and goods.

In the [Telecommunications Interception Legislation Amendment Bill 2000](#), the offences for which interception warrants may be sought have been broadened to include terrorism. This bill was initially introduced in relation to child pornography and serious arson offences. It also extends the existing interception powers to email, SMS messaging and voice mail services, and adds the WA

Royal Commission into Police Corruption and the Queensland Crime and Misconduct Commission as eligible authorities for the purposes of this act. These changes will be of benefit in countering terrorism in this country, but yet again there is a vagueness. There is nothing in this bill to define terrorism, and there is no reference to a definition of a terrorist act contained anywhere, as far as I can see, in any of the bills. This raises questions as to how widely this bill might be applied and as to the potential that this act might be used in, for example, instances of legitimate protest, dissent or lawful advocacy. What assurances are there to guard the privacy of law-abiding individuals or to guarantee freedom of access to information or freedom of political association?

I am happy to support almost all of the provisions in these bills, provided I see the results of any inquiry—which should occur in this House—into the details and implications of their provisions. That inquiry will not be carried out in this House, and I therefore support the opposition's second reading amendment. There is a question that hangs over this debate. If it was such important legislation after September 11, surely it was possible for parliament to be recalled before mid-February for these bills to be introduced and scrutinised and for amendments to be prepared, considered and debated properly, rather than their being pushed through in 24 hours. It is my duty to support well-considered law. That consideration has not yet occurred.

**The DEPUTY SPEAKER (Mr Hawker)**—The question is that the words proposed to be omitted stand part of the question.

**Mr Williams**—Mr Deputy Speaker—  
*Mr Melham interjecting—*

**The DEPUTY SPEAKER**—No, I understand it will not close the debate, because the Attorney has not yet spoken in this debate.

**Mr Melham**—Mr Deputy Speaker, I raise a point of order. My understanding is that protocol in relation to these matters is that the minister does not rise to close the debate if another member is standing.

*Mr Williams interjecting—*  
*Mr Hockey interjecting—*

**Mr Melham**—The protocol, as I understand it, is that if there are other members seeking the call there are other procedures.

**The DEPUTY SPEAKER**—There is no point of order. The Attorney-General has the call.

**Mr Beazley**—Mr Deputy Speaker, I ask for clarification from you on the situation with the Attorney-General. This is the Attorney-General's legislation. He did not move it; a person moved it on his behalf. Nevertheless, that person was the Attorney-General's agent as he moved it. The Attorney-General, as I understand it, is exercising a ministerial right of reply. A ministerial right of reply automatically closes the debate. If he is going to suggest that he is not closing the debate and that other speakers will be permitted to be heard, it is an unusual procedure but is not one to which we would have an objection. Is it the intention of the minister, therefore, to close the debate by rising? And, if it is, then the convention which would normally be observed by the person who is occupying the chair would be to see whether anyone—government or opposition—was choosing to intervene in the debate, prior to calling the minister.

**The DEPUTY SPEAKER**—I rule that, since the Attorney has not spoken in this debate, he does not necessarily close the debate. He would have to actively close it himself. I call the Attorney.

**Mr Williams**—Mr Deputy Speaker, I think you should understand the true situation. There is one bill that I did not introduce. I introduced all the others in the cognate debate. And I certainly intend to close the debate, because my understanding was that there was an agreement as to the number of speakers to be heard, and that agreement has been observed.

**Mr Edwards**—Mr Deputy Speaker, I rise on the point of order. Given the minister's revelation just now, I wonder whether you are in a position to give the call to the opposition.

**The DEPUTY SPEAKER**—It is the normal practice that the call alternates between government and opposition. Therefore, if the Attorney stands, he gets the call.

**Mr Brereton**—Mr Deputy Speaker, I rise on the point of order. Given that the Attorney has just advised the House that he is rising to close the debate—it is certainly his intention, in his own words—I would ask you to afford me my opportunity to address the House. That opportunity will be denied should you refuse to recognise me and allow the Attorney to do what he has declared he will do, and that is close the debate. I ask you to uphold my right to speak in this debate.

**The DEPUTY SPEAKER**—It is normal practice that speakers alternate from one side to the other. Therefore, if the Attorney stands, he gets the call.

*Opposition members interjecting—*

**The DEPUTY SPEAKER**—If the Attorney is not standing, the member for Kingsford-Smith has the call.

**Mr BRERETON (Kingsford-Smith)** (5.45 p.m.)—I am very pleased to have this opportunity to speak on the **Security Legislation Amendment (Terrorism) Bill 2002 [No. 2]**.

**Mr Abbott**—Mr Deputy Speaker, I rise on a point of order. There was a discussion between the Manager of Opposition Business and I, and it was agreed between us that there would be five speakers a side on this debate. To assist the House, the government has accommodated the wish of the member for Calare to speak. It is now appropriate that the debate be wound up. It is perfectly appropriate that the Attorney, as the principal minister responsible for these bills, should speak, and after the Attorney has spoken I will move the closure.

*Mr Brereton interjecting—*

**The DEPUTY SPEAKER**—I have given the member for Kingsford-Smith the call.

**Mr BRERETON**—Mr Deputy Speaker, further on the point of order, having served for 5½ years as the foreign affairs spokesman, I have a very strong interest in matters relating to Australia’s national security. Last year as deputy chairperson of the parliament’s Joint Select Committee on the Intelligence Services, and again in the media last month, I have argued strongly that this parliament not shirk its duty in subjecting the government’s new national security bills to rigorous scrutiny.

**Mr ABBOTT** (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (5.46 p.m.)—Because of the opposition’s breach of the agreement, I move:

That the member be not further heard.

The House divided. [5.50 p.m.]

(The Deputy Speaker—Mr Hawker)

Ayes.....	75
Noes.....	62
Majority.....	13

AYES

Abbott, A.J.	Anderson, J.D.
Anthony, L.J.	Bailey, F.E.
Baird, B.G.	Baldwin, R.C.
Barresi, P.A.	Bartlett, K.J.
Billson, B.F.	Bishop, B.K.
Brough, M.T.	Cadman, A.G.
Cameron, R.A.	Causley, I.R.
Charles, R.E.	Ciobo, S.M.
Cobb, J.K.	Costello, P.H.
Downer, A.J.G.	Draper, P.
Dutton, P.C.	Elson, K.S.
Entsch, W.G.	Farmer, P.F.
Gallus, C.A.	Gambaro, T.
Gash, J.	Georgiou, P.
Haase, B.W.	Hardgrave, G.D.
Hartsuyker, L.	Hockey, J.B.
Hull, K.E.	Hunt, G.A.
Johnson, M.A.	Jull, D.F.
Kelly, D.M.	Kelly, J.M.
Kemp, D.A.	King, P.E.
Ley, S.P.	Lindsay, P.J.
Lloyd, J.E.	Macfarlane, I.E.
May, M.A.	McArthur, S. *
McGauran, P.J.	Moylan, J. E.
Nairn, G. R.	Nelson, B.J.
Neville, P.C. *	Panopoulos, S.
Pearce, C.J.	Prosser, G.D.
Pyne, C.	Randall, D.J.
Ruddock, P.M.	Schultz, A.
Scott, B.C.	Secker, P.D.
Slipper, P.N.	Smith, A.D.H.
Somlyay, A.M.	Southcott, A.J.
Stone, S.N.	Thompson, C.P.
Ticehurst, K.V.	Tollner, D.W.
Truss, W.E.	Vaile, M.A.J.
Vale, D.S.	Wakelin, B.H.
Washer, M.J.	Williams, D.R.
Worth, P.M.	

## NOES

Adams, D.G.H.	Albanese, A.N.
Andren, P.J.	Beazley, K.C.
Bevis, A.R.	Brereton, L.J.
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.
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.	King, C.F.
Latham, M.W.	Lawrence, C.M.
Livermore, K.F.	Macklin, J.L.
Martin, S.P.	McClelland, R.B.
McFarlane, J.S.	McLeay, L.B.
McMullan, R.F.	Melham, D.
Mossfield, F.W.	Murphy, J.P.
O'Byrne, M.A.	O'Connor, G.M.
O'Connor, B.P.	Plibersek, T.
Price, L.R.S.	Quick, H.V. *
Ripoll, B.F.	Roxon, N.L.
Sawford, R.W.	Sercombe, R.C.G.
Sidebottom, P.S.	Smith, S.F.
Snowdon, W.E.	Swan, W.M.
Tanner, L.	Thomson, K.J.
Vamvakinou, M.	Wilkie, K.
Windsor, A.H.C.	Zahra, C.J.

\* denotes teller

Question agreed to.

**Mr WILLIAMS** (Tangney—Attorney-General) (5.58 p.m.)—In closing this debate I point out to the House that these five bills form a package of important counter-terrorism legislation that is designed to ensure that we are well placed to respond to a post September 11 security environment in terms of our operational capabilities, infrastructure and legislative framework. The measures in these bills reflect the government's commitment to ensuring that our law places us in the best possible position to detect, prosecute and penalise those involved in terrorism and its financing. They will assist our domestic intelligence law enforcement and border protection efforts and will also support our cooperation with like-minded countries internationally.

I want to comment on some of the contributions made by members in the debate. Firstly, the Leader of the Opposition referred to proscribed organisations and said that the proscribing of organisations could result in a crackdown on free political communication. I respond to that by saying that the proscribed organisations provisions are subject to strong safeguards.

A proscription will have to be based on objective, reasonable grounds concerning the terrorist connections of the organisation. A decision to proscribe an organisation will have to be published in the *Gazette* and newspapers and will be quite specific so there is no doubt about the organisation being proscribed. A decision to proscribe an organisation will be subject to judicial review. Only organisations can be proscribed, not individuals. A person who is connected with a proscribed organisation will need to be prosecuted and convicted in a court of law before any penalty will attach to them.

The bill also provides defences so the truly innocent will not face conviction. If it were to happen that an organisation was incorrectly proscribed, the legislation provides for a revocation to be published in the *Gazette* and a newspaper circulated in each state and territory. The details of the publication would be determined in consultation with the organisation to which it relates. An organisation which had been incorrectly proscribed would be able to seek an act of grace payment from the government to compensate for any loss incurred as a result of the proscription. An application for an act of grace payment could be made to the Attorney-General. The government would determine whether a payment were appropriate in all the circumstances.

The members for Banks and Barton referred to the possibility of the terrorism bills being retrospective to the date of introduction. It was suggested this would be consistent with the approach to the antihoax bill and would make the provisions effective from now and allow time for parliamentary inquiry and debate. In response to that, retrospectivity is only appropriate in rare circumstances, as the government pointed out in connection with the antihoax bill. The gov-

ernment considers that terrorism offences, which are more complex and carry a maximum penalty of life imprisonment, should be prospective only. New powers need to be prospective only to ensure a secure basis for their exercise. The special circumstances in the case of the antihoax bill do not apply here.

The Leader of the Opposition and the members for Banks and Brand both referred to the rush of getting the bills through after a wait of six months. This legislation is very important. We do need to move quickly to strengthen our antiterrorism framework and to ratify international treaties. The legislation has been framed carefully and includes safeguards and balances. The government seek the opposition's support to move quickly. We have introduced this important package of bills as soon as possible in this first session of the new parliamentary sitting. In response to particular comments from the member for Brand, I point out that the government made regulations under the charter of the United Nations in October last year to implement requirements under Security Council resolution 1373 to freeze terrorist assets.

The member for Banks, along with the Leader of the Opposition, raised the question of ensuring civil liberties are properly protected. The member for Banks suggested that the bills could be undermining liberties. In response to that, let me say that we do need to make sure we have strong modern offences and powers to combat the serious threat of terrorism. At the same time, the government has ensured proper limitations and safeguards are included. For example, the terrorism offences require proof of culpability and contain appropriate defences. Another example is that the treason offence can only be prosecuted with the Attorney-General's consent. The bills are consistent with international models and treaties and will allow Australia to implement key terrorism treaties. As a package, these bills and other measures by the government are designed to bolster our armoury in the war against terrorism and deliver on our commitment to enhance our ability to meet the challenges of the new environment. I commend the bills to the House.

Question put:

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

The House divided. [6.08 p.m.]

(The Deputy Speaker—Mr Wilkie)

Ayes.....	79
Noes.....	<u>60</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.     | Brough, M.T.    |
| Cadman, A.G.     | Cameron, R.A.   |
| Causley, I.R.    | Charles, R.E.   |
| Ciobo, S.M.      | Cobb, J.K.      |
| Costello, P.H.   | Downer, A.J.G.  |
| Draper, P.       | Dutton, P.C.    |
| Elson, K.S.      | Entsch, W.G.    |
| Farmer, P.F.     | Forrest, J.A.   |
| Gallus, C.A.     | Gambaro, T.     |
| Gash, J.         | Georgiou, P.    |
| Haase, B.W.      | Hardgrave, G.D. |
| Hartsuyker, L.   | Hawker, D.P.M.  |
| Hockey, J.B.     | Hull, K.E.      |
| Hunt, G.A.       | Johnson, M.A.   |
| Jull, D.F.       | Kelly, D.M.     |
| Kelly, J.M.      | Kemp, D.A.      |
| King, P.E.       | Ley, S.P.       |
| Lindsay, P.J.    | Lloyd, J.E.     |
| Macfarlane, I.E. | May, M.A.       |
| McArthur, S. *   | McGauran, P.J.  |
| Moylan, J. E.    | Nairn, G. R.    |
| Nelson, B.J.     | Neville, P.C. * |
| Panopoulos, S.   | Pearce, C.J.    |
| Prosser, G.D.    | Pyne, C.        |
| Randall, D.J.    | Ruddock, P.M.   |
| Schultz, A.      | Scott, B.C.     |
| Secker, P.D.     | Slipper, P.N.   |
| Smith, A.D.H.    | Somlyay, A.M.   |
| Southcott, A.J.  | Stone, S.N.     |
| Thompson, C.P.   | Ticehurst, K.V. |
| Tollner, D.W.    | Truss, W.E.     |
| 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.
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.
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.	King, C.F.
Latham, M.W.	Lawrence, C.M.
Livermore, K.F.	Macklin, J.L.
Martin, S.P.	McClelland, R.B.
McFarlane, J.S.	McLeay, L.B.
McMullan, R.F.	Melham, D.
Mossfield, F.W.	Murphy, J. P.
O'Byrne, M.A.	O'Connor, G.M.
O'Connor, B.P.	Plibersek, T.
Price, L.R.S.	Quick, H.V. *
Ripoll, B.F.	Roxon, N.L.
Sawford, R.W.	Sercombe, R.C.G.
Sidebottom, P.S.	Smith, S.F.
Snowdon, W.E.	Swan, W.M.
Tanner, L.	Thomson, K.J.
Vamvakinou, M.	Zahra, C.J.

\* denotes teller

Question agreed to.

Original question agreed to.

Bill read a second time.

### Third Reading

**Mr WILLIAMS** (Tangney—Attorney-General) (6.16 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

### SUPPRESSION OF THE FINANCING OF TERRORISM BILL 2002

#### Second Reading

Debate resumed, on motion by **Mr Williams**:

That this bill be now read a second time.

Question agreed to.

Bill read a second time.

#### Third Reading

**Mr WILLIAMS** (Tangney—Attorney-General) (6.18 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

### CRIMINAL CODE AMENDMENT (SUPPRESSION OF TERRORIST BOMBINGS) BILL 2002

#### Second Reading

Debate resumed, on motion by **Mr Williams**:

That this bill be now read a second time.

Question agreed to.

Bill read a second time.

#### Third Reading

**Mr WILLIAMS** (Tangney—Attorney-General) (6.19 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

### BORDER SECURITY LEGISLATION AMENDMENT BILL 2002

#### Second Reading

Debate resumed, on motion by **Mr Williams**:

That this bill be now read a second time.

Question agreed to.

Bill read a second time.

#### Third Reading

**Mr WILLIAMS** (Tangney—Attorney-General) (6.20 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

### TELECOMMUNICATIONS INTERCEPTION LEGISLATION AMENDMENT BILL 2002

#### Second Reading

Debate resumed, on motion by **Mr Williams**:

That this bill be now read a second time.

Question agreed to.

Bill read a second time.

#### Third Reading

**Mr WILLIAMS** (Tangney—Attorney-General) (6.20 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**APPROPRIATION BILL (No. 3) 2001-2002**

Cognate bills:

**APPROPRIATION BILL (No. 4) 2001-2002**

**APPROPRIATION (PARLIAMENTARY DEPARTMENTS) BILL (No. 2) 2001-2002**  
**Second Reading**

Debate resumed from 14 February, on motion by **Mr Slipper**:

That this bill be now read a second time.

**Mr McMULLAN (Fraser)** (6.21 p.m.)—These three bills comprise the additional estimates for 2001-02 for annual appropriations. The bills seek total annual appropriations of \$2.633 billion, which is a very large amount compared with last year. Last year it was \$2.258 billion. The increase in spending over the budget appropriation is even greater than appears from that rather large number where it is \$375 million more. It is even more substantial than that because there are essentially no savings from the budget appropriations, so these bills involve a huge net spending increase.

Comparative figures for the previous two years are, in gross terms, \$2.49 billion for 1999-2000; \$2.25 billion for 2000-01; and \$2.63 billion for 2001-02. But when you take savings into account the net spending goes from \$1.54 billion and \$1.42 billion to this year's leap to \$2.57 billion—an 80 per cent increase in the budget impact. Measured another way, in the previous two years it was an increase over budget spending of 3.7 and 3.3 per cent respectively. This year it has leapt to 5.6 per cent. This indicates a huge increase this year in the net budget impact of additional estimates—as I have said, over 80 per cent—essentially driven by a large pre-election spend up by the Howard government.

It is my intention, therefore, to move the following second reading amendment, which the member for Perth will then second. 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:

- (1) pre-election spending spree;
- (2) speculation in currency derivatives at a cost of nearly \$5 billion over the life of this Government;
- (3) blatant disregard for the application of Australian accounting standards in compiling its own accounts;
- (4) failure to recognise the GST as a Commonwealth tax and this Government as the highest taxing Government of all time;
- (5) complete lack of disclosure and accountability in relation to the escalating costs of the so-called 'Pacific Solution';
- (6) breaking its election promise to make health insurance affordable by approving a premium increase at twice the rate of inflation;
- (7) misleading the public about the real cost of its defence commitments prior to the election;
- (8) woefully inadequate support for the development of the broadband infrastructure integral to Australia's participation in the information economy;
- (9) inadequate attempts to remedy chronic under funding of research and innovation; and
- (10) failure to address the significant investment needs in the areas of education and the provision of social services".

This is a very comprehensive critique of the current circumstance in which Australia finds itself as a consequence of the failures of this government. I want to use this appropriation legislation to talk about what the opposition will be looking for in the next set of appropriation bills to come before this House, which will be the budget. In the light of the blow-out in spending reflected in these appropriation bills, let me therefore take this opportunity to make a few comments about that.

The Labor Party—the Labor opposition, the federal parliamentary Labor Party—recognises the importance of a rigorous budget as a key element of sound macroeconomic policy, a key element of achieving the outcomes of low inflation and disciplined fiscal policy. Macroeconomic policy is not an end in itself but it is a means to an end. It is an

important element in a series of policies aimed at improving the living standards of Australians. Sound budget policy is also important in contributing to the achievement of a goal with direct impact on most Australian families—keeping interest rates low.

Keeping interest rates low is a key element in achieving both our economic and our broader social objectives. Low interest rates are one of the main drivers of economic growth. Low interest rates encourage businesses to invest and create jobs and provide the right incentives and opportunities for people to accumulate assets. But the most important benefit of low interest rates is to lower the cost of servicing debt. This benefits not only business, although that is vitally important to promoting investment, but also other borrowers who benefit from low interest rates, including young families struggling with highly geared mortgages and families struggling with credit card and other debts. On this point I want to refer to the worrying trend of acceleration of household debt that was referred to recently by the Reserve Bank in its quarterly statement of monetary policy when it indicated a strong desire to see a deceleration in the rate of increase of household debt. I think it is an important point that the Reserve Bank is making.

**Mr Hockey**—Did it take into account asset appreciation?

**Mr McMULLAN**—On some elements. They are talking about aggregate household debt, but there is a serious problem also with regard to a debt that is not significantly reflected in relation to assets, which is credit card debt. People essentially do not use their credit card to buy assets. There is also the question that debt tends to be fixed and the value of assets tends to be variable, and if they should fall it will leave a lot of families very exposed.

I thank the minister for his interjection because it leads me to my next point. The Reserve Bank itself has commented, as have a number of columnists recently—I think, correctly—that the concern that it raises, and we may start to see it sooner than we would wish, is that this changes the relationship between interest rate movements and the response in the economy. I think that, as

people are more exposed to debt and as household debt goes up, smaller increases in interest rates will achieve a bigger behavioural response. If we do move back into a cycle of increases in interest rates, as the market is clearly expecting and factoring in—in fact it is factoring in increases that I find surprisingly large and disconcertingly large in the circumstance in which we find ourselves, but that matter will unfold in the weeks and months ahead—the impact on families will be significant.

The impact will not be significant on every family; many of them have entered into high gearing very consciously on the basis of intelligent family decision making, planning for the future about what they can do in the accumulation of assets, or just the investment in their skills that will generate greater income earning capacity in the future. On the whole, my view is that, while one can look at the macroeconomic consequences of increasing debt of this sort and be concerned, the public policy response is essentially that in the main those are decisions by intelligent individuals and households making decisions in their own interest, and it is not a matter for the government. But it does start to influence judgments that are made about monetary policy, and I hope that it is taken into account and that we see that reflected in the decisions of the authorities, because it will not take a big shift in interest rates to place many households under pressure.

Policy makers will have to perform a very fine balancing act to ensure that inflationary pressures are contained without causing households to get into financial difficulties. This reinforces the priority of trying to achieve and maintain low interest rates. That is a priority about which I will continue to speak, it is a priority on which I will continue to focus elements of economic policy, and it is an issue that I think we will have cause to speak about during the remainder of this calendar year—if the markets are to be believed, perhaps sooner than we would wish. That is the background of one key economic issue that we want to see reflected in the approach of the government when the appropriation bills next come before us.



In broader fiscal terms, the budget should be framed in the context of the so-called golden rule—the objective of balancing the budget over the economic cycle—and the related but separate question of not borrowing to finance recurrent expenditure. There is a lot of detail behind those two propositions and they will be developed in the weeks and months ahead. But fundamentally, those remain the proper priorities that are articulated by social democratic parties and governments around the world and that we will continue to apply.

As the Auditor-General has pointed out, with the GST included in revenue calculations—as it properly must be if the government is to apply accounting standards to its own behaviour—Commonwealth revenues are at their highest level in Australia's history. That has two consequences. The first that I want to comment on—it is mentioned in the amendment—is the blatant disregard of the Treasurer, Mr Costello, for application of Australian accounting standards in compiling the accounts of the Commonwealth.

The Auditor-General says time and again—he is right—that accounting standards require the GST to be considered a Commonwealth tax. If a company so blatantly misrepresented their revenues in breach of the advice from their auditors, the directors would be in jail, but the Treasurer continues to do it. If it was Australia Inc. and he was a director who was misrepresenting the revenues against the correct advice of the auditor and in breach of the accounting standards, he would be in jail. We should not forget that. That is not something to take lightly. The accounting standards are there.

Recent national and international experience—highlighted by HIH and Enron, but not exclusive to them—shows that playing fast and loose with accounting standards is serious. It is something that governments should be setting a high standard about, because we are moving to a period in which we are going to have to strengthen the legislative or regulatory framework as it applies to auditors. The Treasurer will not come to that necessary task with clean hands as he continues blatantly to ignore the accounting standards in the presentation of his own ac-

counts. I hope that in the forthcoming budget we will see an honest set of accounts that meet those standards.

The second consequence of that matter of the GST inclusion in revenue calculations is that it leads to a recognition that Commonwealth revenues are at their highest level in Australia's history as a percentage of GDP. In the coming budget, with the economy growing strongly and with revenues at that level, the government should be able to deliver a healthy budget surplus without resorting to a horror budget. What sort of economic management do we have if we record 4.1 per cent economic growth yet we talk about major cuts? The signs are that with good economic management, if the government make the right decisions, if they keep the focus on low interest rates, if they continue to deliver reforms to provide productivity growth and if they focus on the sustainability of that growth, we can have growth—probably not of that level against the forecasts that the Treasurer himself referred to at question time, but significant growth—for the next couple of years.

We are hearing reports about horror budgets. What sort of economic management is this? What sort of wasteful spending must there have been, what sort of profligacy, over and above the gambling at the roulette table of the international financial markets? That leaves an economy where a government has record revenues, current year strong economic growth, and prospects—subject to their good management—of continuing strong economic growth, yet they cannot deliver a surplus without threatening benefits that are fundamental to the future of the country.

Traditionally, modern Western economies and societies, in priorities reflected by their governments, use the benefit of economic growth to provide extra benefits to the people. What stage have we come to if, with the economy growing at four per cent a year, we cannot afford to provide next year the benefits that we are providing this year? But the stories of these impending cuts, these threats to programs, are spreading. There were reports in the *Financial Review* of 11 March that the government was planning to cut

spending on education, training, hospitals and pensions and that the big-spending portfolios of health, education and family and community services were being targeted as the government was seeking to protect a slender budget surplus. There is speculation that the Pharmaceutical Benefits Scheme will be cut by a billion dollars. There is speculation that disability support pensions will be attacked. The education portfolio has also been directed to meet large savings targets.

What have we come to when, at a time of significant economic growth, people in need of support in the pharmaceutical benefits area are going to suffer cuts and people with disabilities—some of the Australians in greatest need—find new attacks on their access to support from their government? Of course, the reasons come down to pre-election profligacy, inefficiency and incompetence in financial control and public administration.

The Pacific solution is a classic example of the government's mismanagement. Before our eyes, we are seeing the Pacific solution come apart. Yesterday we had the announcement of more spending for a new detention centre on Christmas Island. Why? Because the government knows that the Pacific solution is unsustainable. It was correctly interpreted in this morning's media as the beginning of the end of the Pacific solution. Now we have legislation introduced into the parliament this morning which reinforces the fact that the government has to repair the damage done by its incompetent introduction of the Pacific solution.

But my concern on this occasion, in this debate, is the short-term and highly expensive nature of that bandaid solution. The announcement yesterday of a new permanent detention centre shows it is falling apart. Already its cost has been significant. The government has admitted half a billion dollars—\$500 million—for 2001-02, and it is likely that the true extent of the costs of the policy has been hidden in other parts of the budget. It will ultimately be very difficult, if not impossible, to have the situation fully revealed, even with all the forensic rigour of estimates committees and public scrutiny in the parliament and in the media. This is a serious

example of waste. We have had the egregious examples of Dr Wooldridge's \$5 million, former Minister Bishop's self-promotion during the election and the fiasco to which I will return concerning the Treasurer at the international roulette wheel.

During last year—and it is reflected to some extent in these appropriations, although some of the expenditure requirements will come home to roost later—the Treasurer wasted money in an attempt to buy votes while the needy suffered. The government has portrayed itself as a responsible fiscal manager. But, as in the case of the 'children overboard' fiasco, the truth is being thrown overboard. In the lead-up to last year's election, we saw the government undertake pork-barrelling on a scale previously unseen in Australia. That is why, as a consequence, we have seen the budget surplus almost completely disappear, despite healthy economic growth. Let me illustrate that.

In each budget we publish forward estimates. It is an important initiative for disclosure. One of the things disclosed when the first time the budget for 2001-02 appeared in the forward estimates, which was in 1998-99, was the government's forecast of an underlying cash surplus for this financial year, 2001-02, of \$14.6 billion. That was its starting point. By the time of the MYEFO, the Mid-Year Economic and Fiscal Outlook, delivered in October last year—that is, by the time of the election, after the government had splurged on making itself the biggest advertiser in Australia, more than Coca-Cola and more than McDonalds; John Howard is the biggest advertiser and he leaves McDonalds for dead—the surplus had almost disappeared to stand at half a billion dollars. Let us think about that. It is not very complex arithmetic. Over that period, \$14 billion disappeared from the surplus, making a tragic lie of claims of fiscal rectitude by the man who is coming to be known as Casino Costello—the Treasurer.

Another point that needs to be made is how the government have spent this money. They have spent the money in pursuit of short-term electoral benefit, but they have been cutting the essential services that are the drivers of productivity improvement and

therefore of sustainable economic growth. I will name a few. We have seen reductions in labour market programs. They have important social benefits, but my point for today is that they are an important part of the process of maximising the skill level in the work force that is important in a successful modern economy. They have cut education and training. Every modern economy is focusing on increasing skills development—the jargon is investing in the development of human capital—to invest in the future of their economy. The efficiencies of modern economies are driven by skills and ideas. The government are cutting labour market programs, education and training, and research and development. We are the only country in which public expenditure on education and research and development is going backwards.

One of the most blatant and irresponsible elements of the government's fiscal mismanagement has been the Treasurer's handling of its foreign debt portfolio. For four years, the Treasurer was asleep at the roulette wheel. His appalling management of the foreign currency swaps program has left Australian taxpayers exposed to losses of \$4.8 billion. That is \$4.8 billion that could have been spent on hospitals, schools, roads, bridges and drains—all those infrastructure projects that are important in a modern economy. Instead, it is money that has gone down the drain—\$1,000 poured down the drain by the Treasurer for every household in Australia.

In 1987, it was decided to end the practice of borrowing directly in foreign currency, but the Treasury decided it still wanted to maintain some foreign currency borrowings—in particular to take advantage of the lower interest rates it could achieve by borrowing in US dollars instead of Australian dollars. So in early 1988 the Treasury began to make use of another form of US borrowing known as foreign currency swaps. But there was a risk in this arrangement: the risk that the Australian dollar would fall against the US dollar so far as to offset the benefit of lower interest rates and also that the interest rate differential would narrow. Prudent management of the currency swaps program required careful scrutiny of its management and of its underlying assumption. Under Labor, the currency

swaps program was prudently managed, and in the years that Labor was running the program it achieved a total profit of \$2.1 billion.

But in 1997, the underlying rationale for the program collapsed. The gap between US and Australian interest rates, which at times had been as great as five percentage points, disappeared altogether. Soon afterwards the Australian dollar fell substantially against the US dollar, from above 80c in late 1996 to below 60c in 1998—and ultimately, of course, to below 50c at times during 2001. Not only was there no longer any benefit to borrowing in US dollars to take advantage of lower interest rates; the repayment of the principal on the loans had suddenly become a lot more expensive.

In 1996 and in 1997, Treasury reviewed the assumptions that lay behind its target of maintaining 10 to 15 per cent of its borrowings in US dollars. In these two reviews it made what turned out to be a serious misjudgment. Treasury concluded that, over the long run, the interest rate gap between the Australian and US dollars would remain and, as a result, the foreign currency swaps program would continue to deliver savings in debt repayments. The Treasurer confirmed those decisions.

In 1997-98, the swaps program reported its first serious loss: \$2 billion. Its previous biggest loss, in 1990-91, was one-sixteenth of that: \$120 million. So it was 16 times larger than any previous loss. This is the time when warning bells should have begun to ring in the Treasurer's office. The Treasurer has persistently evaded our questions as to whether he was advised of the losses, but it is obvious that he was.

It is inconceivable that he was not informed. The Auditor-General tells us that there was annual approval of the strategy, and the Treasury tells us that the figures are recorded in the respective annual reports of the Treasury and the Australian Office of Financial Management, which are presented to the Treasurer each year. It is inconceivable that he was not informed. His apparent failure to respond to the warnings was a gross dereliction of duty for which, unfortunately, he is not paying; the Australian taxpayers are paying.

There were further warning signs as the crisis deepened. As the Treasurer has been at pains to explain in his efforts to pass the buck for the bungle, there were numerous reports from Treasury and outside consultants but there was still no action by the Treasurer. As a consequence of his failure to act, \$4.8 billion of taxpayers' money was lost. This period of profligacy at the currency casino is just the latest manifestation of the government's confused priorities. The coming budget gives the government a chance to change direction, to undo the damage it has caused.

Labor believes economic growth should be inclusive. We believe that all Australians should have the opportunity to participate in the nation's economic life and so fulfil their aspirations. A recent report by the economic consultancy NATSEM, commissioned by AMP, shows a growing disparity in income between the richest and poorest regions of Australia. This report confirms what many Australians have already come to believe: that the benefits of economic growth have been captured disproportionately by a few, concentrated in a few areas.

Using data on taxable income grouped by postcode, NATSEM ranked taxpayers by their average taxable income and then divided them into 10 equal groups. Every one of those deciles showed some growth in average taxable income, but the increases in the richer postcodes were much greater than in the poorer areas. This growing disparity in income is another reason the government should change direction. The budget will give it a chance to do so.

If we have been growing so quickly, at four per cent over the past year, why is it that we cannot afford this year the things that we could afford last year? Why can't we deliver a surplus on the back of four per cent growth without further punishing the most disadvantaged groups in the community? Usually, when things are growing well, you can take new measures. As the NATSEM report indicates, the gap between these groups and the richest in the community is growing wider. These are the people who should be benefiting from potential new measures.

We urge the government to take advantage of this opportunity to redress the pain it has caused for disadvantaged groups and regions. The government should be able to deliver a surplus on the back of four per cent growth without major cuts to the benefits people enjoy now. There is no serious reason why there should have to be a horror budget to deliver a surplus when the economy is growing at four per cent.

The budget must also ensure that economic policy takes account of environmental and social dimensions of policy. This need not be a drag on the economy. Promoting environmental sustainability and social cohesion will help our long-term economic performance. The challenge for governments is to resist pressure to run away from the policy changes that will promote productivity improvements. To do this, we must ensure that changes happen in ways that spread the benefits as widely as possible. I am not opposing the second reading, but I have moved a second reading amendment.

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

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

Debate (on motion by **Mrs Vale**) adjourned.

#### **BILLS REFERRED TO MAIN COMMITTEE**

**Mr LLOYD** (Robertson) (6.52 p.m.)—by leave—I move:

That the following bills be referred to the Main Committee for further consideration:

Appropriation Bill (No. 3) 2001-2002

Appropriation Bill (No. 4) 2001-2002

Appropriation (Parliamentary Departments) Bill (No. 2) 2001-2002

Question agreed to.

#### **TRANSPORT AND REGIONAL SERVICES LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL 2002**

##### **Report from Main Committee**

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

Ordered that the bill be considered forthwith.

Bill agreed to.

### Third Reading

**Mrs VALE** (Hughes—Minister for Veterans' Affairs and Minister Assisting the Minister for Defence) (6.53 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

### ROAD TRANSPORT CHARGES (AUSTRALIAN CAPITAL TERRITORY) AMENDMENT BILL 2002

Cognate bill:

### INTERSTATE ROAD TRANSPORT CHARGE AMENDMENT BILL 2002

#### Second Reading

Debate resumed from 14 February, on motion by **Mr Tuckey**:

That this bill be now read a second time.

*(Quorum formed)*

**Mr MARTIN FERGUSON** (Batman) (6.57 p.m.)—Clearly we are dealing with two bills as part of a cognate debate. Those bills go to an agreement reached at a Commonwealth and state level with regard to road transport charges. However, having made that point, I want to clearly bring to the House's attention the fact that the work of the House was just interrupted because of the failure of the current government to organise its legislative program. I simply say to the current government that it has problems because it does not have a third-term agenda. If you look at the time between when the parliament last met in 2001 and when it met for the first occasion during 2002, and also at the sitting pattern through to August this year, it is almost as if this government is absent when it comes to a legislative program. Despite the light workload, it is unable to organise its work to ensure that the House is able to conduct its work in a manageable and efficient fashion.

I apologise on behalf of the government to the members of the government who were forced to leave the important work that they were undertaking to ensure that a quorum

was present, so as to delay the workings of the House to enable the government to organise its legislative program. It is about time the government got its house in order. It is about time the government accepted that when it says a bill will not be brought on the bill is not brought on. It is about time that it actually organises its work so that it is not caught short having to rearrange people's programs for the purpose of facilitating its own inactivity in performing the work that this parliament expects.

I welcome the opportunity, having made those points about the disorganisation and lack of a third-term agenda, to speak on the bills. The **Road Transport Charges (Australian Capital Territory) Amendment Bill 2002** provides for the automatic annual adjustment to the level of registration charges in the ACT for vehicles over 4.5 tonnes. The annual adjustment is calculated using a formula that has been devised by the National Road Transport Commission. All states and territories, I am pleased to say, have agreed to the formula.

The bill is an integral part of the national road transport reform agenda. It provides a model for nationally consistent charges. By enacting legislation on behalf of the Australian Capital Territory, the Commonwealth provides the basis for all states and territories to reference or adopt the substance of the ACT legislation in their own legislation. On behalf of the opposition I indicate that we support the plan for nationally consistent charges. We believe it will assist in increasing efficiency in the road transport industry by decreasing distortion within the market. This review of charges by the National Road Transport Commission is part of a regular review program. This review is the second in the current program and will be followed by another review in 2004.

The second of these bills, the **Interstate Road Transport Charge Amendment Bill 2002**, extends the nationally consistent charges to those heavy vehicles registered federally under the Federal Interstate Registration Scheme. This scheme is an alternative to state or territory based registration for heavy vehicles engaged solely in interstate trade and commerce. It was not easily

achieved. Having achieved it we must work together at the Commonwealth and state levels to make sure we maintain it in the future.

We should also note that there is no financial impact on the Commonwealth as a result of these bills. Under the Federal Interstate Registration Scheme, registration charges are returned to states and territories under an agreed distribution formula that accounts for their estimated proportion of road usage by Federal Interstate Registration Scheme vehicles. The derivation of the formula for determining the charges is indeed an interesting one. I am sure it took many long hours to dream this one up. To ensure that charges do not drop, the charges have a floor of zero. Conversely, if the calculated amount is greater than the CPI indexation factor then the ceiling of the increase in charges will be that CPI indexation factor.

The formula makes reference to road construction and maintenance costs. As funding for road construction and maintenance increases then so does the registration charge for heavy vehicles. The amount of increase is, however, discounted by a road user factor that seeks to quantify changes in road use. This factor implies that the percentage of road use by heavy vehicles will decrease by 1.5 per cent per year as compared to other vehicles. One wonders if that is a fair estimate based on the amount of work undertaken by the industry at this point in time.

These road transport charges are part of the total tax take from the heavy vehicle industry. A further 20c per litre of diesel fuel is paid by the heavy vehicle owners as tax. Some in the industry would suggest that the revenue gained from these two charges equates to the proportion of roads funding attributable to these heavy vehicles. I am not so sure. In fact, I await the report of the current fuel tax inquiry to see if any comment is made on this issue. The fuel tax inquiry will, I believe, report by the end of this month. Time will tell whether that is another report that, because of the inefficiency in government, is moved out in time.

But what of the inquiry? In announcing the inquiry the Prime Minister said that it will consider all matters concerning fuel taxation, including the development of an

energy credits scheme. The minister has previously stated that he will introduce an energy credits scheme to replace both the Diesel and Alternative Fuel Grants Scheme and the Diesel Fuel Rebate Scheme. In fact the record of the House will show the sunset clauses for these two schemes have been extended by 12 months to enable proper analysis of the report of the fuel tax inquiry and the appropriate introduction of the energy credits scheme.

With respect to the work surrounding the energy credits scheme, the government entered into this agreement to develop such a scheme as part of its GST package in association with undertakings given to the Democrats in return for a majority in the Senate. Our problem was that, despite the fact that that undertaking was given some years ago, we found late last year that the work had not been undertaken by the government for the purpose of progressing in a constructive and cooperative way, in consultation with the various players in the industry, the various aspects of the energy credits scheme. It is for that very reason that we had to propose an extension in the sunset provisions relating to the credits that were put in place as part of the GST arrangements.

I believe that this again proves to this House that the Howard government is big on making promises but when it comes to the work related to the implementation of those promises more often than not the work is not completed. This was reinforced for me when, during the last election campaign, I was entitled as a shadow minister, because the government was in caretaker mode, to a detailed briefing by the department about the various aspects of my shadow portfolio. Amongst a range of issues I questioned the department on during those consultations one weekend afternoon in Canberra was the energy credits scheme. I compliment the departmental representatives in attendance that afternoon—led by the secretary of the department—on the honest and frank fashion that they were able to answer the questions that I posed to them during those discussions. I suppose that was because during the caretaker period you do not have a ministerial adviser trying to

hold departmental representatives back from a full and frank discussion.

But what they disclosed during that Sunday afternoon discussion confirmed my view, leading up to the last election, that they had not done the work necessary to develop an energy credit scheme. I have said on a number of occasions in the House—and I have also made my view available to the Australian transport association—that, frankly, the department has not done the work necessary to develop an energy credit scheme. But, more importantly, one should understand that the work involved in the development of such an energy credit scheme is not confined to the portfolio responsibilities of the Minister for Transport and Regional Services. It is actually a complex debate that extends across a range of portfolios. It is, for example, a revenue issue, which brings in the Treasurer's portfolio. It is also an issue that touches on the Environment portfolio. But, despite an agreement relating to the GST which effectively bought off the Democrats in the form of a commitment to an energy credit scheme with a sunset clause, the government has not, in essence, done its homework. Therefore, irrespective of the election looming, the government was fast approaching a sunset date which it could not deliver on, because it had not done the work.

That reminds me of the disorganisation and inefficiency that we saw prior to this debate, going to the government's inability to organise its work program to manage the operation of the House. Some things do not change. Yes, the government does not have a third-term agenda, but it is also inefficient in its own administration.

What about the bills before the House, the [Road Transport Charges \(Australian Capital Territory\) Amendment Bill 2002](#) and the [Interstate Road Transport Charge Amendment Bill 2002](#)? A large number of people are eagerly awaiting the report from the fuel tax inquiry. They are also eagerly awaiting an opportunity to be fully consulted on the outcomes of the inquiry, in particular what exactly the energy credit scheme will look like. This mess is entirely of the government's own making. It was the Howard-Costello-Anderson government—as they like to call

it, though we are not sure which is the dog and which is the tail—that introduced the Diesel and Alternative Fuels Grants Scheme and the Diesel Fuel Rebate Scheme in June 1999. I know the member for McEwen is a close friend of the dog. There was also a condition as part of the GST deal with the Democrats and the trucking industry that the grants would expire. In that legislation the government planned to sunset the schemes in June 2002 and replace them with an energy credit scheme. The sunset date has now been extended to 30 June 2003.

**Fran Bailey**—Mr Deputy Speaker, I raise a point of order. I have actually just realised what remark the member for Batman made. The remark that the shadow minister made is, I think, unparliamentary, unfair and unacceptable. I would ask him to apologise for it.

**The DEPUTY SPEAKER (Hon. I.R. Causley)**—It was obviously angled at a person. I am not sure that I would ask the member to withdraw it.

**Mr MARTIN FERGUSON**—I withdraw my reflection on the Treasurer. At the time of the original legislation, the Howard government said that the new scheme would maintain the equivalent benefits of the old schemes. The Minister for Transport and Regional Services, Mr Anderson, also said that the new scheme would provide 'active encouragement for the move to use of cleaner fuels'. The road transport industry need to know the nature of the new energy credit scheme, as it is likely to impact directly on operating costs, decisions about capital investment—which are not made overnight—business expansion and market and technology choices for their businesses and families. This is exceptionally important, because this industry is changing overnight.

We now have a huge challenge to Australia as a nation with regard to the movement of our goods and services. No longer do we have people involved in the trucking industry who regard the trucking industry as the primary source of their work. Events of recent months have seen a complete change to the face of the transport industry in Australia. You need only look at the Patrick group. We have seen their successful purchase of FreightCorp and National Rail. That group is

now at the leading edge of the transport industry in Australia. In the last couple of days we have seen the same group invest in the aviation industry. That is further integration of that company's activities when it comes to the movement of goods and also people. That requires leadership at the Commonwealth government level, because it actually requires us to pay more attention to the issues of logistics and the integration of the different transport modes in this country. We have something to learn from the achievements on this front by some countries overseas.

We have to make sure that we now sit down and work out with the transport industry how we can overcome the existing backlog of infrastructure requirements which will enable that integrated transport industry to work in a more efficient fashion. For that very reason, the Labor Party support the establishment of an infrastructure advisory council, largely driven by the private sector. We need to work out with the assistance of such an organisation not only how we involve them in prioritising the infrastructure work that needs to be done in Australia but also how we can work in a closer partnership with the private sector to attract investment to bring forward some of those infrastructure investments that are required sooner rather than later. They spread across all aspects of the transport industry.

Take, for example, the rail freight corridors. Last year we had an independent audit report on the need to invest in our railway track upgrade. That report suggested that we needed the immediate investment of half a million dollars in the Brisbane to Melbourne line. We have just sold the National Rail Corporation in association with FreightCorp. That has returned \$220 million to government at a Commonwealth level. For the initial rail investment, \$500 million is required, and that is only for a part of the track around Australia. About \$111 million has already been committed for a number of years. The sale of National Rail saw the purchasers in association with FreightCorp give a commitment to about another \$50 million. We are therefore about \$300 million short of our requirement to achieve the target set out in

the Australian Rail Track Corporation audit report.

I believe that when we sell infrastructure which is owned by Australian taxpayers we should not just use it to retire debt; we should also make a decision as a community to invest some of the proceeds of those sales in new infrastructure so as to overcome the backlog that exists in Australia. If we do not do that, we actually reduce our capacity to achieve higher economic growth and jobs growth in Australia. If you do not get the infrastructure right, you do not get investment from the private sector which has the capacity to increase the level of economic growth and to create further jobs in Australia.

The rail industry is just one example. With the support of the opposition, we are soon to see the sale of Sydney airport. The independent authority SACL has the responsibility for that sale in association with the Minister for Finance and Administration and the Treasurer. The proceeds from that sale are going to represent a huge windfall to the Commonwealth government. Obviously a serious debate for the government to have goes to the question of whether or not the sale of Sydney airport should be done in association with the administrators of Ansett and also of Qantas for the purpose of selling it as a job lot. I think that is a serious question that we ought to investigate. It goes to whether or not selling it as a job lot will bring a bigger return to the Australian taxpayer, which can then be used for priorities determined by the government. Again, I suggest to the House that the proceeds of the sale should be used for not just retiring debt but also new infrastructure investment.

There is a variety of proposals around the Commonwealth. In Townsville, there is a requirement to upgrade port access, be it road or rail. We have difficulties paying for the orbital in Sydney and the Deer Park bypass in Victoria. You and I both know, Mr Deputy Speaker Causley, about the need to upgrade and improve the Hume Highway at Currie, building a Currie bypass. Every member can nominate major infrastructure requirements that are evident around their seats, including what I regard as an impor-



tant infrastructure issue: the quality of water and overcoming problems with regard to salinity in Australia.

I simply believe that, as part of this debate about the transport industry, the Commonwealth now needs—in the same way in which the players in the industry are moving beyond seeing themselves as road, aviation or railway—to take a lead in pulling all the different aspects of the transport industry together, with the assistance of, or in partnership with, the private sector, and to create a process for infrastructure investment. In doing so, this will make some headway on the huge infrastructure requirements evidenced in the report card of the professional engineers association which is produced on a regular basis for our consumption and debate.

I trust that the government takes this challenge seriously. If we do not take the challenge seriously, we will go further backwards on the infrastructure front. I also trust that, in the debate about the energy credit scheme, the government will consult in a constructive way with the players potentially affected by this scheme. They range across a number of industries. I simply believe that we ought to go out of our way to consult them and to get it right, rather than come back, as we have again today, to clean up the government's mess with regard to the operation of the *Tampa* migration bills. Do it properly; get it right; do not mess the Australian community around.

When it comes to a debate about rebate schemes, the environmental challenges we face in the transport industry are serious. Mr Deputy Speaker Causley, you know that as a very serious environmentalist. So too are the economic ones, and sometimes they actually all work in the one direction. I do not suggest that those who support the forest industry are anti-environment. I identify with you on that front, Mr Deputy Speaker. One example of the environment and economic debate is the issue of rail. As I have said, there is a clear need to both invest in our national track and sort out the access issues that this government has simply given up on. Rail is critical to the freight challenges we face, particularly for our primary producers. Rail infrastructure

work is desperately needed to bring our national track to an efficient standard. The Australian Rail Track Corporation audit report has cut through the maze and given us a target for the purpose of investment to upgrade the track that we as taxpayers still own. It is our responsibility to work out how we upgrade that track, and \$507 million is needed to achieve that.

The opportunity is there for the government to take a big step. Increased investment in rail will have economic, social and environmental benefits for all Australians. This work is needed to ensure that rail can play its part in an integrated transport system that is needed to improve transport efficiency. If the Minister for Transport and Regional Services is serious about improving the efficiency of rail and logistics in Australia, he will ensure that the proceeds from the National Rail Corporation sale are put into the rail industry and therefore improve logistics infrastructure. As I have said, the Commonwealth stand to pocket \$220 million. If they do not do anything for the railway industry—and the budget is not that far off—then it proves that they have no long-term commitment to Australian industry, to improving our rail freight corridors and to improving efficiency in industry. It is needed for regional Australia and, more importantly, it is needed for Australia as a nation.

I say that because if our transport policy is to meet the economic, social and environmental needs of those who rely on it then we must take an intermodal approach, in the same way in which the Commonwealth has now got to start pressing and prodding some of our state governments on the all-important issue of urban rail transport. I refer especially to the outer suburbs of our major capital cities. We should not accept that access to public transport, highly subsidised by state governments, is confined to inner-city seats. There is a challenge for rail freight; there is also a challenge for the Australian community at a local, state and federal level to do a better job on urban transport. It is a very important challenge. I believe it is intimately related to the debate about the environment and how we make an impact on

achieving our greenhouse standards, which we ought to make an impact on.

Unfortunately, having made those points, I am not sure that the challenge can be seriously taken up by the Deputy Prime Minister and Leader of the National Party—your own caucus party, Deputy Speaker Causley. I know he is a very dear colleague of yours. Sometimes it is difficult to lead, but time and time again the Deputy Prime Minister has proven that he is incapable of leading when it comes to hard decisions. I say on this occasion—despite the fact that I know he believes he is overworked—that he has got to get this right because it is about our economic competitiveness and we will depend on it as a nation.

I say in conclusion—because I have been asked to finish early because of the inefficiency of the government yet again—that the Labor Party opposition support the bills before the House. We recognise that all states and territories have supported the introduction of these road transport charges and advise the Speaker that the opposition will support the passage of these bills. But we also critically call upon the minister to get serious about his portfolio responsibilities and to not only deal with road transport charges—which are of benefit to state governments—but also try and start working out how we bring forward the logistics debate in Australia and investment in infrastructure.

**Mr WAKELIN (Grey)** (7.24 p.m.)—The [Road Transport Charges \(Australian Capital Territory\) Amendment Bill 2002](#) is obviously supported by both sides of the House. I make the observation that our transport industry is going through profound change and that there is a very exciting future. As the Deputy Prime Minister said during question time, the contribution to our national wealth and the improvements that have been made are something we are yet to see the full benefits of. It is a very exciting period to be involved in the transport industry.

I thank very much the people that have been involved in the background of a lot of the work that has gone into the new road user charges: the National Road Transport Commission, the Standing Committee on Transport and Regional Services and the Austra-

lian Transport Council, of course—the council of ministers. I think everyone is to be commended for the work that has gone in over the last couple of years, particularly, to get to this stage and for the way it has come together. There were at least three proposed methods looked at and quite a debate ensued. I will not go into the detail of that.

The point I conclude on is the consideration that was given to remote areas. There was very significant debate and discussion about how you could apply these charges fairly to the more remote areas. That is an issue which is dear to my heart and there is this issue around the B-doubles and the road trains and how you get the balance right there. That is all I wish to say this evening. I wish the bill a speedy passage.

**FRAN BAILEY (McEwen—Parliamentary Secretary to the Minister for Defence)** (7.27 p.m.)—In summing up this legislation I wish to place on record that the [Road Transport Charges \(Australian Capital Territory\) Amendment Bill 2002](#) amends the Road Transport Charges (Australian Capital Territory) Act 1993 and is used as a reference by the states, the Northern Territory and the Commonwealth to deliver nationally uniform heavy vehicle registration charges. The amendment sets out an automatic adjustment formula to be applied to registration charges that takes into account changes in road expenditure and usage attributed to heavy vehicles. The [Interstate Road Transport Charge Amendment Bill 2002](#) amends the Interstate Road Transport Charge Act 1985 to provide the same outcome for vehicles registered under the Federal Interstate Registration Scheme.

Nationally consistent heavy vehicle charges are an essential component of the road transport reform agenda being put in place by Commonwealth, state and territory governments. Major differences in charges between states and territories can hamper efficiency and distort competition in the road transport industry, which is a vital sector of the economy. The road transport industry supports the concept of paying a fair charge for their road use. This is reflected in the mechanism set out in the [Road Transport Charges \(Australian Capital Territory\)](#)

**Amendment Bill 2002.** I want to assure the House that there has been wide consultation on this issue.

In conclusion, I commend these bills. The annual adjustment approach has widespread support and provides a transparent, consistent and fair updating mechanism for the national heavy vehicle charging regime. I know that the minister would want to thank those who have participated in the debate.

Question agreed to.

Bill read a second time.

### Third Reading

**FRAN BAILEY** (McEwen—Parliamentary Secretary to the Minister for Defence) (7.29 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

### INTERSTATE ROAD TRANSPORT CHARGE AMENDMENT BILL 2002

#### Second Reading

Debate resumed from 14 February, on motion by **Mr Tuckey**:

That this bill be now read a second time.

Question agreed to.

Bill read a second time.

#### Third Reading

**FRAN BAILEY** (McEwen—Parliamentary Secretary to the Minister for Defence) (7.30 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

### ADJOURNMENT

**The SPEAKER**—Order! It being 7.30 p.m., I propose the question:

That the House do now adjourn.

#### Centrelink: Family Payment Debts

**Ms JACKSON** (**Hasluck**) (7.30 p.m.)—I rise tonight to raise my concerns about the family payments system and the debts that have been incurred by a number of families in my electorate of Hasluck. They are continuing to suffer as a result of the Howard government's bungling of the family tax and child-care benefit system. You may remem-

ber that, when the government introduced the GST package of legislation, it introduced the new family payments system. The new system that was imposed forced families to effectively develop powers of prediction and estimate their income a year in advance. To make this task even more difficult, the Howard government removed at the same time the 10 per cent buffer between the estimated and actual income, frankly making it a zero tolerance policy system for families.

If you are a family struggling to make ends meet—and many are in my electorate of Hasluck—and are dependent upon wages that vary from fortnight to fortnight or are running a small business and relying on basic family tax and parenting payments, this system of reporting is a nightmare. For many Australian families, predicting the household income 12 months in advance is totally unrealistic. Even the leaflet recently prepared by the Office of Family Assistance *Estimating your income* illustrates the very problem that I see with this legislation. It sets out a list of questions that a family should ask itself to perhaps help determine what it should include on its estimate of income. One of them is quite a picture. It says:

“Will you or your partner receive lump-sum payments such as bonuses or termination payments and is any part of these amounts taxable?”

In other words: ‘During the next 12 months are you likely to be made redundant, lose your job and receive termination pay?’ Perhaps the government should have sent out crystal balls as well as information about the family payments system. It seems beyond me how a family could make such an estimation. Another question seeks to ask families whether it is likely that they or their partner will receive superannuation payments during the year or compensation payments for injury and the like. Again, it is asking people questions that they could not possibly answer at the beginning of a year.

I know many other Labor members have raised these issues with the minister and have acted in their electorates on behalf of families who have been slugged by these debts. However, these complaints seem to have fallen on the deaf ears of the Prime Minister, John Howard, and his responsible minister,

Amanda Vanstone. This government refuses to admit that the system is flawed, and it is failing in its responsibility to address these problems. Frankly, I do not think it cares what happens to ordinary families. Indeed, the only response we have had from government to the list of debts that have been received by many Australian families has been a \$1,000 one-off waiver which applied to overpayments in the 2000-01 financial year. This response just happened to coincide with the then upcoming federal election. But where does it leave families now, four months after the federal election? Still stuck with the burden of a complex tax system and a government that refuses to listen to the community's concerns.

Tonight I want to tell you about one family in my electorate—Linda and Peter Cox. They run their own small business and are raising two young children aged three and seven. In April 2001, Peter's regular contract work was finished and his family was earning a much reduced—smaller—income. For the first time Linda and Peter needed the family assistance benefit. They began dealing with Centrelink. They dealt with Centrelink on a regular basis. They were told by officers of that department that every month they had to contact the department and advise it of their profit and loss for the month, to ensure their payments were correct. They did that. However, during a telephone call that Linda made to Centrelink in February 2002, she was informed that her estimate should also have included her parent payment, another payment administered by Centrelink, another payment that is included as part of the family system. She asked why this payment had not been included in Centrelink's own calculations. They said the responsibility was hers, their computer systems did not talk to one another and it was entirely her fault. It was her fault that Linda and Peter will be facing a debt of between \$400 and \$1,000 at tax time this year, a debt that many families cannot afford! (*Time expired*)

#### **Western Australia: Voting**

**Mr HAASE (Kalgoorlie)** (7.35 p.m.)—I rise this evening to bring to the attention of the House the question of legislation in respect of one vote, one value being passed in

Western Australia by the ALP government there. I have long been opposed to the one vote, one value electoral model being forced on country people in WA by the Labor state government. Kalgoorlie-Boulder City Council have proposed and then postponed a decision whether to contribute \$10,000 of rate-payers' funds towards a fighting fund against this electoral reform. However, their mere consideration of providing funds has sparked an uproar from the local subservient ALP, which has accused the mayor of politicising the debate, and has resulted in the Premier, Dr Geoff Gallop, jumping up and threatening to cut funding to country areas that fight the electoral reform. Dr Gallop said in the *West Australian* on 8 March:

The State Government is entitled to take into account any wasteful or blatantly political expenditure by local councils when considering requests for state funding by these same councils.

This kind of response is typical of a government that is determined to take representation away from the bush and hand it on a silver platter to the city. Eight seats in rural WA will be lost. An additional eight seats in the city will make their stranglehold on numbers even more savage. An ALP state government will not ever have to worry about country services again. The country voice is being stifled, and the last thing country people should be expected to do is merely stand back and be steamrolled. For Dr Gallop to respond in such a manner is nothing less than bullying tactics.

Our Kalgoorlie-Boulder Mayor, Mr Paul Robson, is not playing politics; he is displaying leadership. The fact is that the Liberal and National parties are part of the WA Country Alliance, which has had to resort to fundraising to fight the reform legislation. ABC Goldfields-Esperance quoted state Labor member for Eyre, John Bowler, as saying that \$140,000 of taxpayers' funds would be spent to present both sides of the argument. In fact, \$70,000 has been supplied from the Legislative Council budget to procure advice for a neutral case, while the government case supporting the legislation is being taxpayer funded through the Solicitor-General's office. The government refused to help fund the opposition case and then stoops to threats

when the WA Country Alliance is forced to approach shire councils for funding.

John Bowler has of late come forward and stated that he will fight any moves to cut funding to areas that contribute to this fight. He realises his leader Dr Gallop has stepped over the line and says he will not tolerate the threats and will fight it in the party room—commendable, but this is from the same member who, during the state election campaign one year ago, said he would not support the proposed legislation but, almost immediately after being elected, turned around and voted for reduced country representation.

Any leader of a country based population who does not oppose this legislation is either very stupid or treacherous. Is it a matter of party interests being placed above those of the people one is supposed to represent? Why should country ratepayers stand idly by and be swamped by city based powerbrokers blatantly using their numbers to ride roughshod over country values? I know first-hand of the effect of one vote one value, as this is the federal system that we have adopted. I have an area of 2.3 million square kilometres, or 91 per cent of Western Australia, as my electorate, and this is supposedly equality on the basis of one vote, one value!

The state government would endeavour to replicate this system from a state perspective. It is not equitable; there is no way that access or representation for country constituents will, in the future, be anything like equal to city constituents. I give those opposing this legislation my utmost support, because my strength lies behind the rural people of WA who, if this legislation stands, will again be the ones getting a raw deal.

#### **Newcastle Electorate: Steel Industry**

**Ms GRIERSON (Newcastle)** (7.40 p.m.)—I rise to speak on a matter that is of great importance to the electorate of Newcastle. I draw the House's attention to the recent actions of the United States of America in introducing a 30 per cent tariff on steel imports. This protectionism by a country that has always been a champion of free trade and a supporter of the survival of the corporate fittest shows that it has turned its back

on the needs of Australia, a military ally and a trading partner of long standing.

The trade agreement that the United States introduced gave full exemption to Turkey, Argentina and Thailand, but not to Australia, who stands shoulder to shoulder with America in the war against terrorism. The government did introduce and negotiate a rescue deal—one that rescued perhaps their political skins more than the steel industry alone. That has brought about 85 per cent of our exports to the United States being exempted, but \$70 million of exports still stand at risk, and that, of course, means jobs.

Too little too late has been done again by a government that shows very little interest in strategic industry policy or in developing genuine global trading partnerships. It is those sorts of strategies that will support ongoing economic development and growth in this country and create ongoing employment. Perhaps this attitude was typified today when the Minister for Industry, Tourism and Resources rose to gloat about our increasing exports of resources to the rest of the world. This country can no longer afford to keep selling off our natural resources without any value adding—it is value adding that creates growth in the manufacturing and IT industries, that adds jobs that are clever and skilled and that creates that cycle of success that this country needs to go forward into the future.

The other part of the rescue deal concerns me very much. A summit will be held next week to discuss the future of the steel industry. BHP-Billiton will attend, OneSteel will attend, Smorgon will attend and the Australian Industry Group will attend; but not all stakeholders have been invited. The great steel regions of Newcastle and the Illawarra will not be represented through their civic leaders; nor will the people who apply their skills, their experience and their labour be represented through their unions or professional associations. The proponents of a new steel industry who are willing to invest in this country have not been invited to this summit either. In Newcastle we have three proponents currently putting forward projects and looking at ways to invest in our region. They want to contribute to the future of

the steel industry in Australia, but they will not be participating in this summit.

In Newcastle we have experienced what happens when you neglect a steel industry, but we have also experienced what can happen when there is commitment and loyalty from a region. OneSteel has its key focus, fortunately, in the domestic market, so it will not be affected by the introduction of tariffs in the US and the unsatisfactory response by the government as much as perhaps our neighbours in the Illawarra will be. It is rather sad to see regions pitted against each other. In fact, Newcastle buys steel from the Illawarra and supports the industry there as well.

It is my very strong view that it will take regional cooperation and that it will take industry cooperation. Competition is healthy. Competition creates new endeavours, new processes and an interest in new technology which will certainly allow industry to keep growing. However, we are fearful that we will experience a secondary effect from this measure—that is, that other countries that will no longer have access to the US market will attempt to dump cheap steel products on Australia.

So we do need this government to get World Trade Organisation action, we do need enforcement of anti-dumping legislation, we do need some scrutiny of our imports, and we certainly do need trade negotiation. The other thing we need is a policy approach that supports the steel industry. We need industry support, we need infrastructure development, we need major capital projects in this country and we need government investment that will see a manufacturing industry, our steel industry, boom. We need research and development support and IT and innovation support. We need better training programs to keep our skills here. We certainly need support for Australian content in all government contracts and projects. We do need to advantage our industry; we do need to show genuine support for the steel industry. We need genuine trade relationships with America and genuine local strategies in industry policy. (*Time expired*)

### Hastings: HMAS *Otama*

**Mr HUNT (Flinders)** (7.45 p.m.)—I rise to speak on a matter of importance to my electorate, the electorate of Flinders, and in particular to the town of Hastings. A proposal is currently afoot to establish an Oberon submarine, the HMAS *Otama*, as a tourist attraction of major importance in the town of Hastings. The Oberon submarine project has been put together by the Westernport Oberon Association, which comprises a group of volunteers who have made a significant contribution to the community. They have given their time, they have forgone their own private incomes, and they have worked assiduously for a number of years now in order to make this project a reality. In October last year they were given due reward for their efforts when the Commonwealth government announced, through an announcement in Hastings by the then Parliamentary Secretary to the Minister for Defence, the Hon. Brendan Nelson, that it would make a gift of the submarine to the Westernport Oberon Association, and that, in addition, it would provide \$500,000 for the association to transport the submarine from its current base in Fremantle, Western Australia, to Hastings. It will come along the Great Australian Bight, through Westernport to Hastings. The \$500,000 is intended to cover the full cost of transport and installation. Beyond that, of course, funds will need to be raised in order to establish a first-class museum.

I want to take this opportunity to talk about this project of importance to my constituents, to outline the benefits of it and to congratulate those who have worked to bring it to fruition. The benefits are threefold. Firstly, it provides a tourism focus for a town which over the years has done it hard but which is making a real recovery. It is interesting that Hastings is a steel town. It operates the Westernport steel plant, which is expected to weather the current storms with tariffs and prosper under the new arrangements. Beyond that, Hastings has had to work hard, and what is proposed here will put the town on the map as a tourist destination. Secondly, it will provide an educational opportunity and an employment opportunity

for younger members of the community. It is expected that some tens of people will be employed in the project. Thirdly, it is a source of pride. It is about working together as a community to create a sense of hope, a sense of vision and a sense of what could be for the town. That is something of which the organisers and those who have worked to create the project should be proud.

The next step is for it to go before the Mornington Peninsula Shire Council. Obviously councillors will have to give it due consideration, but I urge all those who are considering their decision to note that this is a project created by the community, generated by community representatives, with the sole beneficiaries being the community, given that it is a non-profit project. In those circumstances I urge councillors to approach the final decision with open minds, to put aside any political affiliations and to focus on the benefits to the town of Hastings. Perhaps more importantly, the project fits within a broader vision for the maritime front at Hastings. It fits with the concept of a maritime college, which would also help with education. It fits with plans to build a new aquatic centre, to establish an Anzac park, and then to upgrade the marina. Taken together, all of these steps—along with the beautification of High Street—will create a new heart, in a sense, in an area which has suffered for many of the last 20 years. On all of those grounds I commend the project to the House, and I thank the government for the decision it made to provide Centenary of Federation funding.

I call upon those councillors who are to make their decisions to do so with open minds and to embrace the work that is being done. Finally, I thank those people who have been involved in generating the project: Max Bryant and the members of the Westernport Oberon Association; the Chamber of Commerce, led by Suzanne Johnston and Brian Stahl, who have contributed to the project and lent it their support; and also Councillor David Renouf, who, amongst others, has made a significant contribution over the years to bring this project about. On that note, I would like to commend the project to the House. I hope that those people with re-

sponsibility for deciding its future do so with open minds and look to the long-term benefits for Hastings.

#### **Terrorism: Legislation**

**Mr EDWARDS (Cowan)** (7.50 p.m.)—Before the House rises tonight, I want to put on the record my disgust over the government's treatment of this House regarding both the war on terrorism and the raft of bills which the government gagged debate on today. I was one of those members of the House who wanted to speak on those bills. It is now on the record that the rights of members on this side to speak on these important bills were denied. So, too, was our responsibility to make this government accountable to the House and to the people of Australia denied. The legislation which passed through this House today was not legislation which members of this place, government or opposition, should treat lightly. I am aware that the bills have been dealt with privately by the internal workings of the Liberal and National parties. I understand that various members opposite raised considerable concern over the process and the content of some of the legislation. None of those government members, however, chose to present their concerns in the parliament today. Neither were members of the opposition given the opportunity to properly scrutinise these bills. The difference is that, whilst government members may be happy to see this place treated as a rubber stamp, we on this side are not.

It is my view that the fight against terrorism is one which must recruit all members of our community. No issue is more important to our nation than the issue of public safety and the issue of public security. Bipartisanship on these issues is paramount. Did we have government members come into this House reflecting the once great spirit of the traditional Liberal Party? No. Instead we saw members like the member for Mitchell, Mr Cadman, come into this House and accuse members of the ALP who sought but were denied the right to speak to these bills of being unpatriotic simply because we chose to debate these bills and because we chose to question the government over aspects of these bills which we believe needed scrutiny.

I believe the member for Mitchell made a foolish and cowardly speech. I believe his speech fitted him well.

I also want to reject this Prime Minister's discourteous treatment of the parliament of Australia. Australian troops have been committed to Afghanistan and we have not received as much as a statement to the parliament by the Prime Minister explaining or justifying such a momentous decision. Just as with the legislation that was gagged here today, he took his decision to the party room but not to the parliament of this nation. It is my strongly held view that if Australian troops are to be committed to a war or conflict then the announcement should be made to the Australian people via their house of parliament. If the parliament is not sitting, it should be recalled at the earliest possible opportunity after such an announcement. That the Prime Minister should be able to gain bipartisan support for such a decision and at the same time be accountable for that decision is in my view the minimum requirement of courtesy and respect due to the people of this nation and due to the proper process of democracy.

It is not good enough for the Prime Minister—any prime minister—to simply report in private to his party room. This parliament, the people of Australia and, above all, the members of our defence forces deserve better. It is, after all, the members of the defence forces whose lives are placed on the line. As Kim Beazley, the member for Brand, said today, Australians are at war. There have been casualties and the Prime Minister has warned his party room that there could be more. We expect the members of the Australian Defence Force to conduct themselves in the best tradition of the Anzac spirit and I have no doubt that they will. The least they should expect of us is that we conduct ourselves in the best traditions of our parliamentary democracy, yet today the members of the Australian Defence Force were sadly let down by what happened in this parliament. Members opposite may be comfortable with that, but I assure the people of Australia that we on this side—members of the ALP—are not.

**The SPEAKER**—Before I recognise the member for Kalgoorlie, I would indicate to the member for Cowan that I have some disquiet about his reference to the member for Mitchell as cowardly and would ask him to withdraw that reference.

**Mr EDWARDS**—Mr Speaker, I will withdraw. By way of explanation, can I say—

**The SPEAKER**—The member for Cowan may continue.

**Mr EDWARDS**—that I used the reference simply because members on this side wanted to speak and could not respond to the allegation that was made. I am sorry that he was not asked to withdraw at the time.

**The SPEAKER**—I have made the point, as the member for Cowan would be aware, that I have allowed some criticism of the member for Mitchell but I felt that was criticism that was going beyond the pale.

#### **Leukaemia Foundation**

**Mr HAASE (Kalgoorlie)** (7.55 p.m.)—I rise this evening in order to warn the House that, come the budget sittings, I will be sporting a new look. The reason is that I shall have a shining dome because I am taking part in the Leukaemia Foundation's 'World's Greatest Shave for a Cure' on 23 March. I will be able to equal the member opposite in his splendour here in the House.

This is thanks to an inspiring young lady, a 12-year-old, Megan Grealy of Kalgoorlie. Not only has she managed to inspire me to sacrifice my golden locks; she has also talked a shift of 30 miners from Bulong Mine in the goldfields to have their heads shaved. She is very passionate, and rightly so, about this worthy cause and must be commended for her initiative and contribution. I did have the option of recolouring my hair, but I thought the official shave would be my first choice. Because we are made of tough stuff in the goldfields, I have opted to have the full-blade shave and polish—not a strand of hair shall remain.

All fun aside, you all know there is a serious aspect to this promotion, and that is about raising funds for further research as well as support for leukaemia patients and their families. There are 6,400 adults and



children diagnosed with leukaemia, lymphoma, myeloma or a related blood disease each year in Australia. That is each year. Many of you will know of somebody in your electorate affected by one of these diseases.

The Leukaemia Foundation hopes to have more than 40,000 people take part in the World's Greatest Shave this year, and to raise more than \$7 million for leukaemia research and patient support. Its motto is 'Vision to cure, mission to care'. The foundation provides patient support, counselling, education courses and accommodation near the major haematological treatment centres in New South Wales, Queensland, South Australia, Victoria and WA for patients who live outside metropolitan areas. Anyone in my electorate who needs treatment at any of the major haematological treatment centres has to travel at least to Perth. They will benefit from the Leukaemia Foundation aim to provide purpose-built accommodation and support centres in all states, in proximity to these centres, within five years. The foundation also funds medical equipment and hospital facilities, and has its own medical research program, which is working at the cutting edge of international science, and strategies to treat and cure leukaemia.

In its history, the Leukaemia Foundation has raised more than \$40 million, largely through the generosity of individual donors in the community. The foundation's key initiatives include establishing three bone marrow transplant units at a cost of \$2.7 million. In 1993 the Leukaemia Foundation appointed Australia's first professor of experimental haematology. The research program, at its laboratory, the Leukaemia Foundation Research Unit, is recognised world wide as being at the forefront of the search for a cure for bone marrow cancer.

The price on my head was set at \$3,000. I believe we can raise at least \$5,000, but there is a fair way to go yet. I would like to thank those members who have contacted my Kalgoorlie office and pledged funds or sent cheques. It is much appreciated. To those who have not, it is not too late. We accept money from both sides of the House, members, senators or staff. I invite you to call into, fax, phone or have your pledge deliv-

ered to my Canberra office during sittings. Do not forget that donations over \$2 are tax deductible.

**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 Truss** to present a bill for an act to amend the Quarantine Act 1908, and for related purposes.

**Mr Truss** to present a bill for an act to amend the Horticulture Marketing and Research and Development Services Act 2000, and for related purposes.

**Mr Tuckey** to present a bill for an act to amend or repeal certain legislation relating to aviation, and for related purposes.

**Mr Anthony** to present a bill for an act to amend the Social Security Act 1991 and the Veterans' Entitlements Act 1986 in relation to the effect on social security and veterans' benefits of the disposal of assets, and for related purposes.

**Mrs Vale** to present a bill for an act to amend the Veterans' Entitlements Act 1986, and for related purposes.

**Mr Slipper** to present a bill for an act to amend the Commonwealth Electoral Act 1918, and for related purposes.

**Mr Slipper** to present a bill for an act to amend the law relating to elections and referendums, and for related purposes.

**Mr Baird** to move:

That this House:

- (1) registers its concern that the proposed construction of a third international airport for Paris will result in Australian war graves being disturbed;
- (2) notes the huge significance of these sites to all Australians, and particularly the families of those soldiers whose graves are affected; and
- (3) calls upon the French Government to do everything in its power to ensure that Australian war graves are not disturbed.

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Wednesday, 13 March 2002

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The **DEPUTY SPEAKER (Hon. I.R. Causley)** took the chair at 9.40 a.m.

### STATEMENTS BY MEMBERS

#### Electronic Voting

**Mr RIPOLL (Oxley)** (9.40 a.m.)—In November 2000, I moved a motion in the House regarding greater participation in Internet democracy and electronic voting, e-voting. It is again time to say a few words for the record on this matter but probably for different reasons to those that I spoke about in 2000.

A number of things have taken place since that time—one in particular is the recent ACT elections, where a system of electronic voting was put into place so that people could use a non-paper based system of voting. I was quite encouraged by this progress. Since 2000 I think there has been a wider acceptance of electronic voting or non-paper voting. There is better technology, and a whole range of changes have taken place. We are probably still a long way from reaching what I would call an optimum solution, but one day we will have a universal system of e-voting—a system whereby greater participation can be had by all members of the community. That is why I particularly wanted to raise this matter again today.

A number of constituents in my electorate of Oxley have raised the issues of privacy, anonymity and also dignity in terms of voting. These issues were raised by people who have specific disabilities, particularly those with vision impairment. These people do vote and they take quite seriously their responsibilities and duties to participate in our democracy. What they find objectionable, though, is that there is still no proper procedure in place to give them the same right as every other citizen: that they can cast a vote completely privately without any other person knowing what vote they are casting. As yet, there is really no mechanism for this to take place.

I believe the time for change is now. It is time the government seriously took on board the task of investigating ways in which not only people with vision impairment but other people can do this. This would assist those with disabilities or the frail, the aged, people who may not be able to get to polling booths and people who might be working on that day. For whatever reason it may be, we need another system of voting.

I believe that now the technology is right, that the integrity of the system could be maintained and that people could be given a greater opportunity to participate in our democracy if those changes were made. There is a variety of ways you could do it: through email, through the Internet, through the phone, through touch screens at all polling booths. We actually have the knowledge. I believe that this system is something that will occur eventually. It will reduce things like paper waste and all of the problems that we have with our current system, even though our current system is very solid. (*Time expired*)

#### Paedophilia

**Mr DUTTON (Dickson)** (9.43 a.m.)—I rise this morning to discuss a particularly important issue to our society—and I suppose it has been highlighted in recent times for many reasons—and that is paedophilia. The matter was raised in the Senate last night. I wish today to extend my support to, I think, the growing number of calls for some sort of an inquiry in this country to more broadly examine the issue of child sexual abuse within our society.

This issue has been raised and it will continue to be raised because the victims of sexual abuse feel that they have been let down by many levels of institution within the Australian society. I think it is a widely held view that they have been let down—as many other victims of crime have been in our society—by no institution more so than the judiciary. Certainly within my electorate of Dickson there is a growing number of calls for a complete review of the way in which we deal with the judicial system, particularly in the area of crime but also in the area of civil liabilities, as we have seen in recent debate as well.

There needs to be greater support for families as well, and that obviously is a significant platform of this government. We need to do more for families, because in many cases the offenders in this heinous crime are known to the victim—and in many cases that comes essentially from the breakdown of the family unit. So we have some societal changes that I think we need to explore in more depth in the years to come. A good starting point for us would be to investigate the very real possibility of an inquiry and the conclusions that may come out of some sort of an independent inquiry.

In my home state of Queensland, we have a government which is particularly weak in the area of law and order. That is widely accepted in Queensland. I think that at this point in time the question needs to be asked: why? What does the Beattie government have to hide? Why are they afraid to listen to the people of Queensland and implement some sort of a view which is representative of the majority of Queenslanders?

The Beattie government in Queensland has been negligent, to say the least, in the way in which they deal with criminals. We have a revolving door system, and paedophilia offenders are only a part of that—obviously the most significant part, because in my opinion there is no crime more abhorrent than child sexual abuse. I think the Beattie government in Queensland needs to get serious and listen to the people in Queensland and start on a process of investigating some of these matters. *(Time expired)*

#### **Ballarat Electorate: Aged Care**

**Ms KING (Ballarat)** (9.46 a.m.)—I wish to raise the difficulties rural towns in my electorate appear to be having in getting government assistance to build aged care beds for which they have licences. This creates the inequitable situation where there is reasonable access to aged care facilities in the township of Ballarat, but in the smaller towns of Ballan and Stawell, where there is less capacity to raise capital, there is a shortage of real aged care beds. On 30 January 2002, the Minister for Ageing released the names of successful applicants for the 2001 aged care approvals rounds. Not one facility of the three I want to talk about received funding for capital grants to build the aged care beds for which they have licences. This is despite constant empty rhetoric from the government on its commitment to aged care in rural Australia.

In the last federal election, Bronwyn Bishop promised \$100 million in additional capital funding that was supposed to result in more beds being built in the bush, and promised that additional funds would assist providers by contributing to the cost of upgrading or replacing existing small aged care homes. The Helen Schutt nursing home in Stawell put forward a quality proposal to the minister for \$200,000 to build the facility for five aged care beds for which they had licences. This nursing home is doing all it can to work with the community of Stawell to provide quality aged care facilities. It has raised \$300,000 of its own money, and now its application for a capital grant to build the five aged care beds for which it has licences has been refused.

The CEO of Stawell Regional Health, Mr Delahunty, wrote to me and stated that the reason for rejection given by the minister was that it is deemed that the facility could raise or borrow the capital needed. Stawell Regional Health has yet again had to ask the people of Stawell to dig deep. The previous Minister for Aged Care, Bronwyn Bishop, attacked the Labor Party over our interest-free loan policy, arguing that grants were more valuable than Labor's interest-free loans, as providers would not be required to pay any money back. I guess you could argue this if you are actually lucky enough to receive a grant.

What happens in the case of Ballan and Stawell? What we have now is the minister rejecting the application for a grant and telling applicants to borrow the money for themselves. These are in small, rural communities that are on low incomes and that do not have the capacity to raise the capital. It is complete hypocrisy.

This is not the only applicant in my electorate that has been given the same offhanded response. Applications by the Ballan and Districts Soldiers Memorial Bush Nursing Home and

Eventide Nursing Home in Stawell have also been rejected. The CEO of Stawell Regional Health and I have been seeking an immediate meeting with the minister for over a month to pursue our case. I would like to extend an invitation to the minister to visit Stawell and Ballan to discuss the issue. Dorothy dixers to the Minister for Ageing at question time last session may satisfy the people in some electorates, but all they did was insult the people in mine.

#### **Flinders Electorate: Medical Services**

**Mr HUNT (Flinders)** (9.49 a.m.)—I rise to speak on issues of health and aged care within my electorate of Flinders. Let me begin by saying that I am delighted to be able to announce to the committee that the Australian Locum Medical Service will be commencing on 28 March; a new service within my electorate. This is the result of discussions held between my office and the Australian Locum Medical Service—in particular Mr Bruce Richardson, a senior executive of the Locum Medical Service. This means that, as of 28 March, constituents from within the areas of Mount Martha, Somerville and Hastings will all be able to access a service which they were previously unable to access. After hours they will be able to call a number, which will be provided within the next week, and be able to speak directly to doctors or to staff from the Locum Medical Service. As a result of that, they will be provided with after hours coverage and, if necessary, they will be provided with home treatment. That is a great benefit for the people of those areas.

I wish to look further, beyond Hastings, Somerville and Mount Martha, all of which are communities that are going to benefit. This service is to be extended before mid-year to the area of Koo Wee Rup. Koo Wee Rup is an area within our electorate which has a significant array of health and ageing needs. By cooperation with Terrona Ramsay, the CEO of the Koo Wee Rup Hospital, the Australian Locum Medical Service is also going to extend its services there. That is a development of great significance to the people of Koo Wee Rup and Lang Lang, both of which have suffered from a significant shortage of medical facilities. I want to praise the staff of the Koo Wee Rup Hospital and the medical service. They continue to provide an extraordinary service despite significant challenges.

This leads to a final question within the electorate of Flinders: the issue of aged care. I am fortunate to be able to say that I met with the Minister for Ageing, Kevin Andrews, this morning. He has agreed to visit the electorate to discuss ageing needs. In the recent funding round there were approvals made for 40 beds at Warley hospital on Phillip Island, which has a significant impact for the people there—20 high-care beds, 10 veterans' beds and 10 low-care beds. On that basis, I would say there is much to be done within the electorate, but that there are significant strides being made in terms of health and ageing.

#### **Greenway Electorate: Dean Park Neighbourhood Development Committee**

**Mr MOSSFIELD (Greenway)** (9.52 a.m.)—I would like to advise the House of a number of activities of the Dean Park Neighbourhood Development Committee. This committee is one of a number of such organisations spread throughout the electorate of Greenway, which provides the community with social and practical support. I had the pleasure of attending the AGM of this committee last year, and I congratulate all committee members on their election. On that occasion I presented a number of appreciation certificates to volunteers who were part of the community and who had assisted local residents during the previous 12 months. I want to commend Evelina Flores, the president of the committee, and her outstanding team of committee members and volunteers who work so tirelessly for their local community.

Some of the activities of the Dean Park committee during 2001, as identified in the annual report, were the introduction of new group activities including senior groups, folk art, competitions, cultural, recreational and social activities. Ongoing support was also provided to people with disabilities and carer support groups. Other group activities at the centre included the Arabic Women's Group and the Blacktown Roving Child Care Group. Some practical work of the committee over the past 12 months has been the refurbishment of the neighbourhood centre and the acquisition of new and more modern office equipment to resource the many ac-

tivities of the centre. This has enabled the committee to do in-house much of the work that was previously outsourced, at a considerable saving.

One of the major achievements of the committee has been greater involvement in the activities of local communities. Part of the role of the management committee has been to facilitate the work of local organisations such as Neighbourhood Watch, park committees and resident action groups, who have all utilised the facilities of the Dean Park Community Centre. This has enabled the local community to be self-reliant regarding home and personal security, the local environment and also to be proactive in influencing appropriate development in the area.

Public meetings on issues affecting the whole community, such as the Western Sydney Orbital, were also held at the centre. Arising out of the orbital meeting, representations were made to the RTA concerning the need for sound barriers to be installed around the Dean Park flyover, the beautification of sound barriers and the need to plant mature trees. A major concern for local residents is the increase in carbon monoxide fumes as a result of the heavy traffic expected on the orbital. The RTA has recognised that these genuine concerns of local residents need to be addressed in the early planning stages of the orbital. The Dean Park Neighbourhood Development Committee is a great example of locals working hard for the betterment of their local communities. I wish them every success in their endeavours in the future.

**Cutler, Sir Roden, VC, AK, KCMG, KCVO, CBE**

**Mr KING (Wentworth)** (9.55 a.m.)—I rise to pay tribute to Sir Roden Cutler, VC, AK, KCMG, KCVO, CBE, who, sadly, passed away on Thursday, 21 February 2002—an outstanding Australian and a former resident of my electorate of Wentworth. Sir Roden, as the Prime Minister noted in his moving address in the House on Monday, 11 March, at page 827 of *Hansard*, was born at Manly in New South Wales in 1916 and attended Sydney Boys High School and Sydney University. He first made his mark publicly when in 1941, having joined the Second AIF in 1940. In 1941, while serving in Syria, he won the Victoria Cross for his gallantry.

Apart from Sir Roden's record of gallantry, which is perhaps unparalleled, certainly amongst those of my acquaintance—and bearing in mind there remain alive only two of the 17 Victoria Cross recipients—he was perhaps one of the greatest Australians of his day.

I especially wish to mention his public service and his record as a family man. He contributed greatly to the RSL, as the state secretary in New South Wales, and was president of the boy scouts movement. I refer also to his diplomatic service in our high commissions; eventually he served as Ambassador to the Netherlands. Most importantly, he served as Governor of New South Wales under four state premiers. Mr Deputy Speaker Causley, you would have known him well in that capacity. He was highly regarded by all and greatly esteemed in that role.

In particular, I note that every Saturday afternoon at Sydney University he would come out, stride across the oval and watch the students play in the first division of the rugby competition in Sydney. He loved his sport. He was an avid watcher and a great supporter of the students. I know they would be very pleased if I recorded that point.

Finally, I mention his record as a family man. He had a very close and loving family. I know the family well. I was at school with his son Richard. It is a great loss not just for them but for the whole community. I express my condolences to Lady Cutler, who remains a resident of my electorate. I will end my remarks by saying this: we have lost a great Australian. We may never see the likes of him again but we can be very grateful for the service that he gave to our community. (*Time expired*)

**The DEPUTY SPEAKER (Hon. I.R. Causley)**—Order! In accordance with standing order 275A, the time for members' statements has concluded.

**TAXATION LAWS AMENDMENT (FILM INCENTIVES) BILL 2002****Second Reading**

Debate resumed from 14 February, on motion by **Mr McGauran**:

That this bill be now read a second time.

**Mr KERR (Denison)** (9.58 a.m.)—Labor supports the **Taxation Laws Amendment (Film Incentives) Bill 2002**. I speak today with the authority of the Hon. Carmen Lawrence, who has carriage of this matter as the shadow minister but who, unfortunately, cannot be with us this morning due to a conflicting obligation. Labor believes that it is a step in the right direction in restoring Australia's film industry to its previous important position in the arts in Australia and, indeed, as a very important part of the cultural life of all Australians. In the past our film industry told our Australian stories and interpreted our culture and beliefs to us as Australians and to the rest of the world. Labor wants that to happen again.

Under the Howard government, the Australian film industry—like other areas of cultural and creative activity—is struggling. Indeed, some would say it is in crisis. I say this conscious of the magnificent achievements of some of our film-makers—our actors, screenwriters, directors and cinematographers—in the face of incredible difficulties in getting their films, our stories, to the screen. For every Russell Crowe, for every Baz Luhrmann, there are many more struggling artists and technicians who cannot make a go of it, not because of their lack of talent but because the value of their contribution to our cultural life is not recognised by this government. For every young actor or director who leaves Australia for opportunities overseas or whose career remains stalled while waiting on tables or typing interview reports, we are all the poorer.

At this point it is appropriate to mourn the passing and celebrate the work of Robin Anderson, one of our great documentary film-makers, who died on 8 March. Who, on this side of the House at least, can forget her unflinching view of local politics as portrayed in *Rats in the Ranks*. With her husband, Bob Connolly, she also produced *First Contact*, *Black Harvest* and *Joe Leahy's Neighbours*, about Papua New Guinea, and most recently *Facing the Music*, about the difficulties experienced in Australian universities and particularly the University of Sydney's music school. The relevance of Robin Anderson's work to our consideration of this bill is twofold. First, she has interpreted what it means to be Australian; she has told our stories. Second, she has done it through her own very hard work but also with government assistance. If we are serious about the importance of cultural life in this country, film-making is not an activity that can be left to the market alone. I am sure all members would join with me in expressing their sympathy to Bob and to their daughters, Katherine and Joanna.

Labor welcomed the government's film industry package announced in September last year, and we undertook to implement it if elected. We saw it, though, as an admission of failure by the government, an admission that by its neglect and inactivity over almost six years the film industry was in crisis. At that stage the industry had fragmented into two unconnected parts: the big-budget productions, through which we were running the risk of becoming a Hollywood back lot with very little connection to Australian cultural life; and the low-budget, 'scrimp and save' productions running on deferred payments, credit card debt and wages earned in totally unrelated employment. Whatever is one's view of the merits of artists producing their best work while starving in garrets, this production model does not suit the film industry, particularly the modern, high technology film industry. The Australian film industry does need and deserve government support. It does need a targeted incentive scheme such as the one contained in this bill, and we on this side of the House support the measure. As I have said, it is a step in the right direction.

Labor went to the last election supporting the film industry package. We thought it did not go far enough. We thought that the damage that the Howard government had done to the Australian Film Commission and to the Film Finance Corporation needed urgent remedy. We were concerned, and still are concerned, about the government's apparent willingness to use

our television local content rules as bargaining chips in trade negotiations with the United States. Finally, we are very concerned about the government's funding cuts to the ABC, which has been, amongst its other great qualities, a flagship producer of high quality Australian screen entertainment and culture. So this measure is important and we support it, but there is much more that can and should be done.

Turning to the detail of the bill: the bill amends the Income Tax Assessment Act 1997 to create an offset for film production in Australia. It allows an offset of 12.5 per cent for film production in Australia for films which have an Australian production expenditure of greater than \$15 million and less than \$50 million to spend and which spend 70 per cent of their total expenditure on production in Australia. If the Australian production expenditure is greater than \$50 million, the proportion of the total budget spent in Australia is disregarded. The films cannot have received other tax deductions under divisions 10B or 10BA or Film Finance Corporation funding.

We note that the financial impact of this measure, as set out in the explanatory memorandum, is considerable, rising from \$4.7 million this year to over \$53.4 million in 2005-06. As we have indicated, this measure is part of the government's film industry package. This particular refundable tax offset scheme aims to attract the production of larger foreign films to Australia. The necessity for this arose following rulings of the Australian Taxation Office, which found films such as *Moulin Rouge* and *Red Planet* were not eligible for income tax deductions under division 10B.

Under division 10B, the cost of a film can be written off over two years and the investor is eligible for tax deductions for securing copyright for an Australian film. It is a measure designed to encourage film investment in Australia. But the ATO found that films funded under arrangements such as these were not eligible for tax deductions because they included tax avoidance features: investors received guaranteed returns while not having their money at risk. Widespread media coverage was given to concerns by the industry and the premiers of Victoria and New South Wales regarding possible detriments to the film industry. With an election approaching, and following \$100 million worth of cuts to the film industry since forming government, the Howard government announced the film industry package.

We support the broad objectives of the bill, which aims to provide an incentive to attract large budget film production to Australia. We were concerned, however, that the bill as originally drafted provided no mechanism to ensure that the incentives actually support workers in the Australian film industry. It was possible that an overseas film producer could receive the rebate regardless of whether local crew members and cast were employed. There was nothing to prevent producers from bringing more personnel from overseas and reducing local work in the industry. Similarly, the pressure to bring equipment from overseas could increase. Industry groups such as the Australian Media and Arts Alliance expressed similar concerns to us.

I commend the minister and his staff for their willingness to consult on the bill and to address Labor's concerns. We, therefore, suggested, and of course now support, the government's amendments, which will go some way towards evaluating the effectiveness of the scheme, encouraging the production of big budget films in Australia and examining whether the measure delivers benefits to the Australian film industry. I commend this legislation to the House and am pleased that on this occasion it receives the support of both sides of the parliament.

**Mr GEORGIU (Kooyong)** (10.07 a.m.)—The **Taxation Laws Amendment (Film Incentives) Bill 2002** will enhance the incentives available to the Australian film industry. It will amend the Income Tax Assessment Act 1997 to create a tax offset designed to attract expenditure on large-scale film production in Australia. All members will be aware of the importance of the film industry to Australia. I am very gratified that the member for Denison has endorsed the bill on behalf of the opposition in one of those important acts of bipartisanship that we so rarely see.

In 2000-01, \$608 million was spent on total film production in Australia. Annually, the film and television industry is estimated to contribute close to \$1.5 billion to the economy. It employs, both directly and indirectly, in the order of 25,000 Australians. It enhances the cultural life of this nation and is, by any measurement, a very successful industry of which Australians can be proud. Australians do share a sense of pride when Australian films, Australian actors, Australian production staff and Australian writers are recognised at events such as the Golden Globe or the Academy Awards as being the equal of or more accomplished than others in their particular fields.

The government does recognise the importance of the film industry to Australia. The refundable tax offset measures outlined in this bill will enhance the global competitiveness of the industry and its capacity to maintain a high level of local input. It is worth noting that the speedy introduction of this bill reflects the government's undertaking to the relevant stakeholders in the film industry that these measures would be introduced as expeditiously as possible. The refundable tax offset will be applied at a fixed rate of 12.5 per cent to qualifying Australian production expenditure on a film project provided directly to the film production company. The offset amount will be applied to any Australian tax liabilities of the producer. Consequently, a film with a qualifying Australian expenditure of \$100 million, for instance, would have an offset amount of \$12.5 million. If, for example, a film's production company has an Australian tax liability of \$2 million, this figure will be deducted from the offset amount and the producer would receive a cheque from the ATO for \$10.5 million.

The bill includes eligibility criteria to ensure that the Australian film industry benefits in tangible ways. As such, the key requirement for access to the tax offset incentive will be minimum Australian production expenditure of \$15 million. Films with qualifying Australian production expenditure of at least \$15 million and less than \$50 million will have to spend 70 per cent of their total expenditure in Australia to qualify. Films with qualifying Australian expenditure of \$50 million or over will not have to meet the 70 per cent requirement. In addition to putting the minimum Australian expenditure requirement of \$15 million in place, the bill also proposes that the offset measure applies only to feature films, miniseries and telemovies.

These requirements have been put in place in order to maximise the flow-on benefits to the local production industry by encouraging producers to spend more in Australia on Australian casts, crew, post-production facilities and other services. Australian casts and crews will have increased exposure to the new skills and methods used in big budget film productions, as will a number of other people working in the industry. The eligibility requirements will also ensure that a key objective of the offset measure is addressed; that is, to attract large-scale films to Australia rather than, as the explanatory memorandum puts it, 'a large quantity of projects that may impinge on some existing sectors of the Australian production industry.'

The government has circulated an amendment to the bill which provides for a review of the incentive after five years. I welcome the opposition's support of this amendment. I think the amendment is important in order to confirm that the incentive's objectives are met. The review will examine the benefits and the opportunities that the incentive has delivered to the Australian film industry and, in particular, will look at the number of large-scale productions attracted, the opportunities provided for growth in the Australian film industry sector and the extent to which the offset has resulted in opportunities for the employment and skills development of Australian film industry personnel. I feel that this amendment is worth while, in that it will assess whether or not the incentive is having the desired effect whilst not undermining certainty for industry stakeholders. The offset incentive recognises that many large-budget film productions, despite having a significant amount of production expenditure in Australia, are not in a position to access other tax benefits such as those currently available through divisions 10BA and 10B of the Income Tax Assessment Act.



The timing elements of the bill are generous. Any film that was not completed as at 4 September 2001—the date that the offset initiative was announced—can, regardless of whether or not it has applied for certification under division 10B, apply for the offset rebate. The offset measure provides a level of certainty to film producers because it is uncapped, and this fact means that film producers will not have any financial grounds to unnecessarily restrict the level of their Australian production expenditure.

Not least amongst the benefits flowing from the tax offset proposed in this bill is the simplicity of the initiative. A simple calculation based on a fixed rate of 12.5 per cent will be all that a production company will require in assessing the level of rebate they may receive on their eligible production expenditures. The offset initiative outlined in the bill should attract increasing levels of eligible productions in coming years. The explanatory memorandum estimates that the value of foreign production in Australia will grow by up to \$850 million in 2005-06, based on a sizeable increase in the number of large and medium sized productions each year.

The initiative will enhance Australia's capacity to compete with countries like the United Kingdom, Canada and Ireland, which are all benefiting from 'runaway' US productions. All three of these countries have taxation incentive schemes designed to lure large-scale offshore productions. Australia currently attracts around six per cent of runaway productions from the US, whereas Canada's share is around 81 per cent. These figures would indicate that the potential for growth in the multimillion dollar runaway industry is substantial. Even a slight increase in Australia's percentage share of it would see the overall level of our production expenditure rise significantly, with the resultant flow-on benefits.

The offset measures outlined in the bill should also assist Australian films in enhancing their capacity to move from small or medium sized productions to those of a larger scale, consequently improving the quality of locally made films and their chances of commercial success. The offset measures have met with widespread support within the Australian film industry. They have been applauded as a proactive policy that will make Australia a preferred production destination and will enhance the capacity of our talented local film industry to make an even larger mark on the world stage. I could reel off any number of quotes outlining the support of the government's tax offset incentive from the Australian film production industry, but I will just refer to two. The chief executive of AusFILM said in the *Sydney Morning Herald* immediately after the announcement of the incentives:

The tax offset incentive was fundamental in order to attract more foreign production to Australia.

The executive director of the local industry group the Screen Producers Association of Australia said:

The industry is thrilled with the package. It will be a boost for domestic film makers and it puts us on a more competitive footing when bidding for offshore productions.

This is a bill designed to enhance the capacity of an already successful Australian film industry to capitalise on its strengths. It offers simplicity and certainty to our domestic film industry and to foreign film producers with large Australian production expenditures. I commend the bill.

**Mr HATTON (Blaxland)** (10.16 a.m.)—The [Taxation Laws Amendment \(Film Incentives\) Bill 2002](#) is part of a series of measures announced by the government prior to the last election in relation to support for the film industry in Australia. In particular, this bill goes to the question of providing a taxation regime to support large-scale productions from overseas in Australia. One of the concerns of the industry, which I think is partly addressed within this bill, is that, if there was going to be support for large-scale overseas productions here with the hope that the benefit would come to Australia in jobs and extra work generated in the production process, there should be equal treatment for Australian productions. That is a significant issue which needs to be borne in mind not just now with the introduction of the bill but after a period of time when it is set down for review.

I note that the initiative in regard to the review process resulted entirely from the urging of the opposition. I am pleased that the government amendment to this bill addresses the question of a formal review mechanism. Initially, the government was minded to simply leave it to an administrative decision as to whether or not there should be a review process, but, significantly, the government has taken up the argument strongly put by our shadow minister that there had to be a formal review process. Why is that important? It is important for a number of reasons, but the critical one is this: if you look at the 10B and 10BA propositions in the tax act and the expenditures that over the last number of years the government has made through rebates through those two schemes, you are looking at up to \$35 million a year.

There were two significant cases recently where the tax office knocked back—under the provisions, I think, of 10BA—concessions for two major films which had a large foreign content but which also had a strong Australian content, the most significant one, of course, being *Moulin Rouge*. The ATO's assessment was that, due to the manner in which the arrangements were constructed, there was effectively no basis of risk undertaken by those investors. The ATO determination that the production should not get the benefit of 10BA was based on the fact that, if there was no risk assessment—if there was a guaranteed return—then, properly, that production could not be eligible. Those problems with the application of the tax act, and problems arising out of a broader situation not associated with that film where tax lawyers have discovered schemes where they attempt to rip out Commonwealth moneys to provide tax incentives in major mass marketed schemes, always have to be guarded against.

When you actually look at the projections forward in the schedules attached to this bill about the amount of money that it is proposed will be forgone by the Commonwealth by giving a 12½ per cent rebate, on films of up to \$50 million 70 per cent of the production has to be done in Australia and on those films over \$50 million there is no specific provision in either the explanatory memorandum or the bill that a certain amount of production has to be done in Australia. I note that in only one place is it clear that giving a 12½ per cent rebate for films over \$50 million specifically relates to all of the production activity taking place in Australia. Only at one point in the material I have read is that point made. I discussed this with the shadow minister last night. She said that in discussion with the departmental officials that point had been strongly made. I would appreciate it if, in the minister's response in regard to this, that point could be absolutely clarified, because in the presentation of these materials it is absolutely clear for under \$50 million but it would seem to be almost open-ended when you go to productions beyond \$50 million.

If you look at the year-on-year costs up to 2005-06, I think that by the time we get to 2006 they are of the order of about \$52 million. For a period of about five years the tax concessions are about \$168 million. That is a significant amount of Commonwealth rebate directed towards reboosting this entire industry. The film package that the government put forward before the last election was necessary, given the fact that they really had not been up to the game since 1996. The pressure that had come on from the movie industry within Australia had been building and was significant. It was related not just to the tax problems that occurred with *Moulin Rouge* and with one other production but also to the fact that the basic support—apart from rhetorical support—was not there to run the engine of this industry as fast as it should be running.

During the period of the previous Labor governments, particularly during the four years of the Keating government, much significant support was given to the arts in Australia and to the foundation of the Fox Studios network in Sydney. The ongoing effect of that has been such that moves have been made in Queensland and Victoria to establish the same kinds of movie production facilities. I hope that the work that has been done there will be strongly built on.

This bill will allow a taxation regime that will be successful in that overseas productions of some magnitude—either under or over \$50 million—will be able to be brought into Australia. They will not overshadow the domestic industry but will in fact complement it. But of key

importance is that this is done in such a manner that we are sure of the outcome. That is why the review process, as outlined in the government's amendment that the opposition pushed for, is very important—that is, that at the end of a five-year period there is a full, open, transparent review process to ensure that we are getting value for our money and that the film industry and the rebate incentives delivered to it do deliver the goods to Australia.

There is a particularly significant problem in relation to this. I have read the minister's second reading speech, and it is full of joy and wonder from his point of view about how wonderful this bill is, how much work went into it and how fabulous it is, but it is short on the detail. It is short on the key factors that need to be taken into account not only at the end of a five-yearly review process but in actually dealing with the realities of this bill. If you go to either the *Bills Digest* or the explanatory memorandum and look for information that is solid, complete and concrete about the expected effects of this on Australian film industry employment and production, it is just not there, except for one paragraph. There is no real solid foundation except a few statements where the wish, the expectation and the hope is that we will have a greater production capacity and that, if these major films are attracted to Australia in competition with the other major areas of production in the world, we will get work here for Australians and it will be significant work. But there is no assessment at all. There is no real economic assessment of what the impact of this should be. It would be significant if the minister, in returning to this, could give us some clear, concrete notion of whether or not there is any palpable evidence, for the expenditure over five years of up to \$168 million worth of taxpayers' funds, of what we expect to get in return—not just rhetoric; clear, open, planned evidence.

So, one, we support the bill. Two, we ensured that the review mechanism was completely laid into place. Three, the foundations for the extension and entrenchment of the Australian film industry were strongly reinforced during the period of the Keating government, and we support this reinvigoration of the film industry. But it has to be done on a concrete and sensible basis and it has to be pursued vigorously. The value for the \$168 million over five years has to be ensured by that review process.

**Dr WASHER (Moore)** (10.26 a.m.)—Australia has enjoyed something of a renaissance period in the film industry over the past decade. The bill I am speaking in support of today will be another feather in the cap of this thriving business. The [Taxation Laws Amendment \(Film Incentives\) Bill 2002](#) seeks to encourage film production within Australia by way of tax offsets with the cost of film-making. The offset will be provided by a 12.5 per cent rebate against expenditure for productions that spend at least \$15 million in Australia making a movie, telemovie or miniseries. Films with at least \$15 million but less than \$50 million will have to spend at least 70 per cent of their total expenditure within Australia to be eligible. Films with qualifying Australian production with costs of more than \$50 million will not have to meet the 70 per cent requirement.

Part of the federal government's integrated film package, this tax incentive will provide a significant boost to the Australian film industry. It will apply to both Australian productions and foreign productions and will provide tremendous opportunities for employment within the film industry, from actors to the technical support used in post production. This tax break is a fundamental part of the Australian film industry having the ability to be a strong competitor on the global stage for film dollars. Australia is not the only country interested in attracting film-makers away from Hollywood to take advantage of cheaper production costs, and we have a long way to go to compare with stronger film industries of the likes of those we mentioned earlier—Canada and the UK. In fact, Canada attracts around 80 per cent of all American films made outside the United States. But as a smaller player we can do well simply because of the size of the movie business. In the United States alone it generates \$US50 billion a year and directly employs over half a million people.

Last year Australia's reputation as a viable alternative to Hollywood was put under a cloud when the tax office denied tax breaks to the backers of *Moulin Rouge* and *Red Planet*. The ATO disallowed tax breaks under division 10B of the tax act, which had previously helped attract millions of dollars worth of film productions to Australia. I am hoping this new bill will bring back a level of certainty and confidence that was shaken since the ATO's decision last year. These incentives provide a transparent and simple system that removes the murky situation that has existed for investors since the ATO's decision. We will all be crossing our fingers on Oscar night that *Moulin Rouge* will do better in the award stakes than it has with the ATO and break the drought of a musical taking out the best picture award—one of the goals that Baz Luhrmann set out to achieve when making this Australian film.

This piece of legislation enjoys fortuitous timing for a number of reasons. Firstly, Australian actors and technical experts are enjoying unprecedented accolades on the world stage at present. Financially, the low Australian dollar makes it an attractive destination for overseas investors, and this new tax incentive will provide an additional attraction as it basically provides a 10 per cent discount on the cost of the film. Overseas films made in Australia have also recently enjoyed considerable financial success. *The Matrix* and *Mission Impossible 2* were notable moneymaking ventures. *Mission Impossible 2* was filmed in the Fox Studios in Sydney, as well as in many locations around New South Wales, including Broken Hill, on a budget of \$US125 million. To give you an idea of how much this film grossed, it recouped \$US70 million on its first weekend of opening in the United States—in other words, more than half of the cost of the film.

Currently, the new *Star Wars* film, *Attack of the Clones*—sounds great!—is being filmed mostly in Australia. Incidentally, this is the first film ever to be shot entirely in digital, without the use of conventional film. This film will no doubt be a huge financial success for its backers and bring millions of dollars into the local economy. Australian actors are also enjoying big breaks because of these films being produced in Australia. The new *Star Wars* film features not only stalwart Jack Thompson but also local favourites, such as Claudia Karvan and Susie Porter.

The use of tax breaks to attract film-makers to a particular country is not just gaining attention in Australia. The Canadian parliament are looking at dropping their tax incentive, making Australia's plan look even better, and production companies looking at the bottom line of deciding on the location of a film should now look to Australia. Furthermore, the United Kingdom have raised the prospect of reforming their tax breaks, which are due to expire in the middle of this year. Tax incentives introduced in 1997 provided 100 per cent write-offs for films costing up to £15 million, which is about \$A40 million, and 33 per cent write-offs for those costing more. These incentives encouraged a record £750 million being spent in the UK on the movie industry in 2000 alone. Apparently, the UK Treasury believe that tax incentives are attracting undesirables looking at using tax breaks as a way to make money on films that were always going to be a flop. This is a common and often justified fear from governments. Certainly, we are not offering a tax deduction for money spent on high risk investments. I trust that this piece of legislation, with the creation of the Film Certification Advisory Board, will provide sufficient safeguards, so that we do not have the same debate as the UK are having after introducing tax incentives five years ago.

We have an ideal opportunity here to take the best initiatives from our competitors to develop the most effective scheme. It is interesting to note that the United States is planning its own tax incentive scheme for the movie business. The US plan is to offer a wage based tax subsidy that would amount to 25 per cent of the wages of an employee working on a movie. This is in direct recognition of so-called runaway films travelling to countries like Canada and Australia. The United States sees overseas competition in the film industry as not being based on market forces but, quite correctly, being based on the level of government subsidies countries are willing to provide. Of course, governments are willing to pay these subsidies because of the huge benefits these productions bring to the local economy. Uncertainty as to whether

the generous tax incentives will remain in the UK and Canada will no doubt contrast to Australia's enthusiasm to offer tax incentives in this legislation. There is no way we could attract another big budget film like *Mission Impossible 2* without them. I commend this legislation to the House, which I understand today has support across the board, and I look forward to witnessing both local and foreign films thrive in this new tax environment.

**Mr CIOBO (Moncrieff)** (10.34 a.m.)—It gives me great pleasure to speak to the **Taxation Laws Amendment (Film Incentives) Bill 2002** today although, having a look at the speakers list and those scheduled to speak on it, I wondered whether it might be a little bit like a *Rocky* film—that is starting to wear on the audience as each successive sequel is released. The most interesting aspect of this bill—and it is a bill that is very near and dear to me—is that it directly relates to and has a direct impact on an industry that is very important on the Gold Coast. As the new federal member for Moncrieff elected at the last election, I am keen to see this industry on the Gold Coast continue to move forward, to build and to grow from strength to strength.

The bill directly addresses the uncertainty that previously existed with the operation of provisions 10B and 10BA of the Income Tax Assessment Act. This bill introduces a refundable tax offset, or rebate, set at a level of 12½ per cent for those companies that satisfy the minimum film production expenditure in Australia. It is part of the government's overall film industry package and it is one that I know will move the industry forward very strongly.

This total package will directly address and benefit the film industry on the Gold Coast. It is a large, dynamic and growing industry. On the Gold Coast it is directly responsible for employing hundreds, if not thousands, of people directly and indirectly. It comprises a number of different components and incorporates local television and feature film productions as well as overseas financed productions which are principally built on feature films. What is clear from this is that we have, through this government's film incentive package, the opportunity to continue to attract big budget Hollywood blockbuster films—the type of film that has been seen recently and increasingly commonly on the Gold Coast at Warner Bros studios at Helensvale. This industry on the Gold Coast not only incorporates the feature film industry but also includes those ancillary services that involve the co-production of both television and feature films and those services associated with co-production including, for example, editing, special effects, set building and catering services.

Historically, the focus on the role that Australian studios play in the production of foreign feature films has been around Hollywood blockbusters. The types of movies we have heard mentioned in this chamber today are things such as *The Matrix I, II and III*, *Moulin Rouge*, and *Mission Impossible II*. Specifically on the Gold Coast it has also included feature films such as *Scooby Doo*. But the reality is that this bill not only will assist and encourage foreign runaway productions from the US but also will assist the local Australian industry in the production of film and television series. The Australian Film Commission has demonstrated, and its records show, that between 1994-95 and 2000-01, Australian production exceeded 50 per cent of the value of feature productions in all but two years and reached a maximum of 71 per cent in 1996-97. This clearly demonstrates that the introduction of this bill will ensure the Australian film industry will continue to prosper.

I listened with interest as the member for Blaxland spoke about an industry that was, as he alleges, apparently flailing around on the rocks. Quite to the contrary, under this government's leadership it is an industry that has continued to prosper, and that is best evidenced by the high budget productions *The Matrix* and *Mission Impossible*. These kinds of films would not be attracted to Australia if the industry was as bad as others have portrayed it. Quite clearly it is an industry that will continue to grow and to prosper. It is an industry that will benefit from the certainty that is being brought about through the introduction of this bill. It is an industry that currently Australia-wide employs approximately 15,000 people and it is growing. Feature films contribute approximately \$149 million out of a total industry value of \$1,792 million.

The real need for this bill has arisen through the operation of 10B and 10BA, which effectively turned into a mass marketed tax incentive scheme. What was clear from the uncertainty that arose was that there was an incentive for various companies to engage in the mass marketing of tax incentive schemes such that the real return that was provided to investors was the tax deduction rather than the actual profit or return from the success of the film. To this extent the introduction of this bill will directly address the incentive and, indeed, go to the heart of why people should be investing in an industry that is a wealth generator for our country. The 12½ per cent rebate operates so that any company expending more than \$15 million in Australia is eligible for the rebate. For those that have expenditure of between \$15 million and \$50 million, at least 70 per cent of that expenditure must be Australian based. For those that invest over \$50 million, that ratio is disregarded, meaning the 70 per cent need not be complied with.

What is clear though is that this bill is part of the central element of the Howard government's integrated film package, a package aimed at providing increased opportunities for Australian casts, crew, post production and other services to participate in large-budget productions and to showcase Australian talent. There are also the concomitant benefits that employment and skills transfer relate to. These are what drive my particular interest today. For the Gold Coast, this bill will directly ensure that not only do we have *Scooby Doo* but we have a long list of high-value feature films moving through studios and fuelling these ancillary services. Special effects will benefit from this bill. Those investing in building sets will benefit from this bill. It provides the type of competitive advantage this country needs to ensure that we can leverage off our low Australian dollar and continue to attract runaway productions.

The provision of the refundable tax offset will also allow Australia to compete, as I mentioned before, on a global basis. Currently we receive about six per cent of the total investment from Hollywood, with the vast majority of it still going to Canada. If we are going to ensure that we continue to build on this six per cent and if we are going to ensure that we continue to remain cost competitive, then this package is just one part of the overall increase that we need to have in our competitive advantage—an advantage built on a cost structure that is associated with having a labour market that is not hampered by too high wages or that is not pricing Australia out of the market. This will ensure that we continue to build on this six per cent, so that in the years to come we might have a total market share that is approaching 20 per cent or 30 per cent. In total, I commend this bill to the House. I believe that it will benefit not only the Gold Coast economy and the Gold Coast film industry but the overall film industry throughout Australia.

**Mr PEARCE (Aston)** (10.42 a.m.)—Australians are richer for the access that they have to a diverse and world standard arts sector. There is no doubt about that: when you think about music, literature and the performing and visual arts, these all make important contributions to Australia's cultural tapestry. But, more than that, the arts sector provides important and valuable employment opportunities for all Australians. Australia is fast becoming one of the most popular destinations for film-making in the world, and I guess this is no accident either. Our technical production and post production services are world class. Our crews are skilled and flexible, and our creative teams have garnered an international reputation. These are qualities which we need to build on.

This bill, the [Taxation Laws Amendment \(Film Incentives\) Bill 2002](#), clearly demonstrates the coalition's support for taking a coordinated approach to all aspects of the Australian film industry, from training through to development and ultimately into production and archiving. The government's approach is designed to provide greater cultural and economic benefits for Australia from the outstanding work of our arts sector. This bill creates a refundable tax offset for film production in Australia and was announced last year as part of the Howard government's integrated film package. This local industry package also included increased funding of \$92.7 million for development to improve the quality of Australian film-making, drama

production, training for film-makers, infrastructure for the local industry and improved information for offshore producers. As well as the obvious cultural benefits, the economic aspect of the arts is often overlooked. The film and television production industry currently contributes an average of \$1.1 billion annually to the Australian economy. It employs over 29,000 Australians. It also earns valuable export revenue. In considering this bill, it is important to recognise that foreign productions contribute substantially to this total. In fact, the value of productions shot in Australia under foreign creative control has increased from \$144 million in 1996-97 to \$325 million in 1999-2000. Under this new offset, the value of foreign production in Australia is expected to grow to up to \$850 million in 2005-06.

The offset proposed in this bill will provide a 12½ per cent rebate on qualifying expenditure for productions that spend a minimum of \$15 million in Australia. For productions with expenditure of between \$15 million and \$50 million, 70 per cent of the total budget needs to be spent here in Australia. There is no minimum proportion required for productions with an expenditure of over \$50 million. In terms of genre, we are talking about feature films, telemovies and television drama miniseries. They are all eligible for this offset. Eligible films must have been completed on or after 4 September 2001, which was the day on which the initiative was announced.

These eligibility requirements for the offset are designed to maximise the flow-on benefits to the local production industry by encouraging offshore producers to spend more here in Australia. But this initiative does more than that. Australia's domestic film and television industry also benefits directly in accessing this tax offset. As the name of the bill suggests, the offset is a tax incentive. The process involves the company making the film applying for the offset in its tax return for the income year in which the film is completed. The first films will be able to begin claiming the offset from the income year ended 30 June 2002.

Tax support for the film industry is not new. Tax incentives for investing in Australian film-making are currently, and will continue to be, available. However, a film cannot generally receive both the new tax offset and the existing tax deductions. While this support will be available to all qualifying productions and will not be capped by budgetary totals, the initiative is estimated to cost around \$168 million in revenue over the next five years.

As we know, film is a global industry. The production and broadcasting of modern film crosses national boundaries on a daily basis. Australia is playing an increasingly important role in runaway productions. This initiative is designed to ensure that we as a nation continue this trend. Runaway productions are US film and television productions which are filmed in foreign locations and are estimated to be worth some \$US2.8 billion worldwide. Australia is competing against a number of countries, including Canada, Ireland and the UK, for these productions. We currently attract about six per cent of them.

Studios and production houses, like any other private sector business, are driven by economic imperatives. For the film industry to prosper and grow, it is vital that they consider their cost structures. This means that, if Australia is to attract such investment, it must have a simple and transparent tax incentive system that can compete in the global marketplace. The refundable tax offset is very competitive internationally and takes on board the lessons learned overseas in terms of providing simplicity and certainty for film producers. But, importantly, and unlike some of our competing nations, the Howard government's tax offset is designed to ensure complementary growth of our foreign and local production sectors within Australia. We want two vibrant sectors working side by side, not just a single foreign industry.

Certainty is an important element of all business. Risk, of course, is the adversary of certainty. Film studios are no different. The offset will enable those planning new film productions and considering investing in Australia to know clearly the level of support available from the government. This means that all eligible companies will receive the offset regardless of the number and cost of applications that they make. In other words, films will not be competing against each other for support.

We have to look at all of the beneficiaries in this regard, but I believe the real winner from this legislation is our Australian film industry. This bill provides a real incentive and encouragement for the development of large-budget Australian films. It also increases employment and skills transfer opportunities for Australian casts, crew, post production and service industry personnel in large-budget productions, both Australian and foreign. These opportunities will help to showcase Australian talent internationally, building on the excellent global reputation that our film industry currently enjoys.

Following the announcement of this initiative, the government has consulted with domestic and international film studios, producers and industry peak bodies. The consultation process involved the release of a discussion paper on the proposal. This consultation has demonstrated that there is strong support for the refundable tax offset. It also provided some very constructive suggestions that have been incorporated into the final legislation presented to this House.

The Howard government will provide additional budgetary funds across the whole art sector. For example, we are increasing our budget allocation in this financial year to the National Institute of Dramatic Art, Australia's premier training institute for theatre, film and television. The government has also increased funding for the Australian Film, Television and Radio School, which provides advanced education and training for Australia's best and brightest aspiring film-makers. Supporting our local industry has always been a priority for the coalition. In this term the Howard government is continuing this support by increasing funding for the Australian Film Commission by around 30 per cent and also significantly increasing funding for the Australian Film Finance Corporation. The government is keen to deliver this new tax incentive as quickly as possible so that companies planning upcoming productions have access to this important incentive. The Howard government is committed to an Australian film industry which is recognised for the quality of its product and the excellence of its people. Australia's film talent is second to none. This bill will help maintain an environment in which this sector can develop and present its excellence to the world. I commend this bill to the House.

**Mrs BRONWYN BISHOP (Mackellar)** (10.52 a.m.)—Today I rise to speak on the [Taxation Laws Amendment \(Film Incentives\) Bill 2002](#) along with other members. We are doing so in a climate that sees Australia's reputation and success in the film industry riding higher than it ever has before. With the Oscars about to come up and the plethora of awards achieved by people such as Nicole Kidman and Russell Crowe, who have become superstars in the current environment, we can be enormously proud of the work that Australians do in the film and television industry. I would like to give a special mention to Baz Luhrmann because he has not received his fair share of awards in my view. I think his contribution to the arts scene here in Australia as a whole is enormously important, whether it is with regard to Australian opera or to things like *Cloud Street* or *Moulin Rouge*.

We are debating this bill in the Main Committee chamber because there is so much support for this initiative of the government. It results from an adverse ruling by the Australian Taxation Office which adversely affected both *Moulin Rouge* and *Red Planet* and put in jeopardy future productions that would not be attracted to coming to Australia if something had not been done. Basically, the so-called runaway productions done by people running away from the heavy cost structure in the United States provide a very lucrative body of work for Australia. Currently we are the second largest destination for such runaway productions. That sounds terrific, but there is great room for improvement because Canada gets 80 per cent of that work. They have very strong incentives and are over the border from the United States. But Australia gets six per cent of the runaway productions that are available.

In making this amendment to enable the adverse ruling of the tax office not to affect this growing industry, we are creating an offset for film production in Australia which will have the following features: films with qualifying Australian production expenditure equal to or greater than \$15 million and less than \$50 million will have to spend 70 per cent of their total



expenditure on production activity in Australia to qualify; films with qualifying Australian expenditure equal to or greater than \$50 million will not have to meet the 70 per cent requirement. The offset is to be applied at a fixed rate of 12½ per cent. A film, however, may not receive both the new tax offset and the existing divisions 10B or 10BA deductions or FSC funding. A film licensed investment company will not be able to invest any of its concessional capital in a film production seeking the offset.

This is a prudent amendment, targeted to achieve the outcome that we wish to have. One of the very pleasing outcomes of the way in which the preparatory work and the consulting was done is that the amendment enjoys the support of the industry as a whole—particularly of the Screen Producers Association of Australia. The New South Wales Film and Television Office is also strong supporter, and of course individual production houses are also voicing their support.

Film and television production contributes significantly to our economy. The latest data from the Australian Film Commission indicates that almost 2,000 businesses are involved in the production industry, generating overall income of \$1.5 billion and an operating profit of \$77 million. The industry has grown since 1996-97, but there have been significant shifts in income. The provision of production services has almost doubled, while income from feature production and commercials has fallen.

The production of commercials is particularly important to the industry, because it is here that the nurturing of talent begins. It is here that many directors, animators, camera operators, grips, gaffers and designers can in fact learn their craft. Many suppliers and auxiliary industry spin-offs from this industry are wide and varied. The amount of income has dropped because we have allowed more competition into the market by allowing overseas commercials—that is, commercials without Australian content—to be shown in Australia.

At the end of June 2000, the ABS reported that 15,195 people were employed in the film and television production industry. In the area of feature film, Australia has built a solid production industry, averaging 14 films a year in the 1970s and around 28 to 30 since then. Over the last decade, foreign films have played a major role in the amount of feature film activity. These films include *Star Wars II*, *The Matrix* and *Red Planet*. While the majority of the films have come from the US, other countries like Japan, India, Hong Kong and the UK have also shot films here.

While the data on post production has not been collected by the AFC, the ABS reports that this is still a growing area of activity. The Screen Producers Association certainly hopes that increased attention is paid to the collection of data in this area. They acknowledge the support of the minister—which is important to do—and his statement that the area of television series production will be assessed for future inclusion in the scheme. This assessment cannot be properly made unless the data is collected, and the industry is well aware of that. According to the AFC, US runaway production outside the US was estimated to be worth \$1.7 billion to \$2.8 billion in 1998. The total value shot in Australia was around \$US118 million, representing approximately six per cent of the total amount. There is a belief in the industry that these amendments will attract additional business here to Australia.

It is interesting to make some comparisons. In the seventies, the majority of funding was through government agencies, which included the AFC, the New South Wales Film Corporation, the South Australian Film Corporation and the Victorian film corporations, and the support that was given to the independent production sector. In the eighties almost all features were funded using private investment. Largely, non-industry finance raised under 10BA tax incentive schemes top-up finance was provided by government agencies.

Again, in the 1990s, government sources of finance were the major source of funding. Film industry funding, mainly from distributors from Australia and overseas, provided top-up funding. It is only with high levels of production, both in quality terms and over time, that the industry can be assured of success. Training is an important component of ongoing produc-

tion, as is the development and retention of the range of businesses already operating within the industry. It is good that the tax offset is additional funding and does not detract from allocations for local feature production or television production. This is why the remainder of the package is so important. It establishes funding for local television production, so important in the ongoing viability of the industry and in the continued development of Australian content.

When the government announced the funding package for film and television, released in September 2001, the Screen Producers Association of Australia were fully supportive of the package, and they remain so, as indeed were the other bodies that I mentioned. The funding package is an important one because it acknowledges that government support is required across the whole of the film and television industry and that the industry cannot be dealt with in a piecemeal way. It supports the local industry, both film and television, and the incentive scheme will attract offshore production. Importantly, it is recognition of the importance of supporting content production.

We can truly say that this legislation, with the broad support that it has attracted, emphasises that this government, a conservative government, has a great interest in the arts, in the talent of our people and in the success of projecting that in an international sense and attracting foreign business to this country where, they can see how well we do things.

**Mrs ELSON (Forde)** (11.02 a.m.)—I am very pleased to rise in support of the [Taxation Laws Amendment \(Film Incentives\) Bill 2002](#), which creates a refundable tax offset for major film production in Australia. Essentially this bill will provide a 12.5 per cent rebate against qualifying Australian expenditure for productions that spend a minimum of \$15 million here. For expenditure of up to \$50 million, 70 per cent of the total budget needs to be spent here in Australia. For expenditure over that amount, the 70 per cent requirement does not apply. This rebate is only part of our government's ongoing commitment to support the growing Australian film industry. In fact, it comes on top of a package of over \$92 million in funding announced in September last year, which included additional funding for the Australian Film Commission; the Australian Film, Television and Radio School; SBS Independent; Ausfilm; and the Film Industry Broadband Resources Enterprise. Our package recognises that, as well as attracting investment from overseas, we need to continue to support and foster our unique and successful local film and television production.

Australia is currently enjoying an unprecedented worldwide profile in the entertainment industry. The current individual success of stars such as Nicole Kidman, Russell Crowe, Hugh Jackman, Heath Ledger, Rachael Griffiths, Sarah Wynter, Eric Bana and Naomi Watts—I list only a few but the list goes on and on—builds on the collective Australian reputation for originality, talent, flair and vitality, a reputation built over many years through a variety of films and, of course, our highly successful directors, cinematographers, costume designers, composers, editors and animators. There is a palpable pride in the Australian community in the success our countrymen and women have enjoyed in this highly competitive field.

Evenings such as the recent Golden Globe awards, when Australia won a swag of awards, were hardly dreamt of just over 10 years ago and were unimaginable 20 years ago. The community does have a right to have collective pride. They have a stake in this international success, because successive Australian governments have seen fit to support the local film industry. Their tax dollars have helped build its reputation and, through this bill and many other measures, their tax dollars still keep securing a growing share of the entertainment industry dollar. Of course, it is very much a two-way street.

I am delighted to remind the House that in my own corner of south-east Queensland, home to the wonderful Movie World complex and the Warner Brothers studios as well as several other production companies, we have our own Hollywood in the Gold Coast-Brisbane corridor which, from the hinterland to the beaches, is also full of fabulous locations as well as first-class facilities and production venues. In fact, since 1991 film production has had more than a \$2 billion economic impact on Queensland. In the last financial year, eight feature

films, 22 documentaries, three short films, nine telemovies, six television series and one animation were produced in Queensland, with production expenditure totalling \$156 million. Film production employs the equivalent of 4,500 people full time in Queensland alone.

I want to recognise in this House today the ongoing support that the Queensland government provide for the film industry through their dedicated people at the Pacific Film and Television Commission as well as through a range of tax incentives and rebates. As we are all very well aware, there are many and varied demands on government resources and we must strike the right balance between a handout and a supportive hand-up. Like our tourist industry, the entertainment industry is relatively new, with huge growth potential. It is a capital rich industry of the future. It is certainly an industry that needs to be cultivated and encouraged, just as we support our traditional primary industries, in a variety of ways.

The Howard government is ever mindful of our need to take responsible decisions in the national interest. It is the yardstick against which all of our decisions are made: is this good for Australia's best interest? The criteria for this 12.5 per cent tax offset, particularly the minimum Australian expenditure of \$15 million, have been designed to maximise the flow of benefits to local production industries through encouraging offshore producers to spend more in Australia on Australian casts, crew, post production facilities and other services.

I note that the payment is restricted to feature films, miniseries and telemovies. It has been put to me that the production of overseas episodic series ought also to be considered for the tax offset. It is the case that series television sourced from offshore has been a very significant part of Queensland's production industry. These series have an average production shoot of between eight and 10 months and therefore provide many jobs for a longer period than is the case for most feature films. Series television production has assisted the development of Australia's film industry through long-term training for young people. In my own electorate the very successful Los Angeles based Coote/Hayes Productions set up their offices in 1998. They have produced two series of both *Beastmaster* and *The Lost World* fantasy television series, filmed and produced in Queensland, amongst other productions. Coote/Hayes Productions alone has had an estimated economic impact of \$434 million for Queensland.

I would certainly urge the minister to consider the value of offshore series production to our local industry and, once this tax offset is in place, to look at extending eligibility to include this sector of the industry. As I said, it is a balancing act and this government takes our responsibility to taxpayers very seriously.

In this bill, as with our integrated film industry package announced last September, we want to strike the right balance to allow the wonderful qualities Australia has to offer the entertainment industry to be recognised and to grow and prosper. It must be remembered that for every hugely successful actor, director or production company there are hundreds of smaller ones, many struggling to perfect their craft in order not just to entertain but also to add to our nation's culture and to better our understanding of ourselves. That is one of the truly special things about the Australian film industry and much of our television industry. It has not been founded on sticking to formula or churning out big budget box office successes. It has largely been founded on a celebration and understanding of what it is to be Australian—our own unique perspective on the world.

The development of Australian film and television has undoubtedly fuelled and been fuelled by our growing confidence on the world stage. There is no doubt too that our film industry has helped and continues to help our tourist industry. For a nation so geographically isolated, our film industry has given the world a better understanding and appreciation of who we are and the values we hold dear. It is clear that people overseas like what they see. With that foot in the door we have a wonderful opportunity to sell to overseas companies the benefits of filming and producing in Australia. It is a unique and special export that directly brings dollars here in terms of not only the money that production generates but also, through the gorgeous locations that we have to offer, audiences around the world are being attracted to

visit, thus bolstering our growing tourist industry. It really is a win-win situation for us as a nation, and I believe the government's support of film production is a sensible, practical approach to furthering our local industry and maximising the benefits as a nation. It is certainly an exciting time for the Australian film industry and many Australians employed in film and television production.

I am very proud to have such a substantial part of our production industry located in my electorate, and I am proud to be part of a government that is committed to delivering practical support to help attract large overseas productions and to support local productions as well. I lend my support to this bill and look forward to discussing with the minister the potential for the further application of this 12.5 per cent tax offset to the production of offshore television series here in Australia. I would also like to take this opportunity to wish all the Aussies the very best for the Academy Awards this week. I am sure we can look forward to many years of Australian success in the film industry and to attracting more and more big budget overseas films to our production industry.

**Mrs MAY (McPherson)** (11.10 a.m.)—Attracting overseas investment into Australia's film industry is the purpose of the **Taxation Laws Amendment (Film Incentives) Bill 2002**. The bill proposes a 12 per cent tax rebate for film-makers who spend at least \$15 million on a production here in Australia. The proposed rebate has already gained considerable attention from Hollywood film studios, which are showing more and more interest in shooting in Australia. This is because the rebate, coupled with our exchange rate and competitive labour costs, makes Australia one of the world's most cost-effective countries in which to produce films, telemovies, miniseries and the like. I enthusiastically support this bill as it means more jobs and investment for south-east Queensland.

I would just like to take a few minutes today to highlight the pluses for the film industry on the Gold Coast. We have certainly heard about a few of those pluses from the member for Forde. On the Gold Coast we have our very own movie studios, Warner Roadshow Movie World Studios. The studios offer world-class, state-of-the-art facilities, with one of the largest studio lots in the Southern Hemisphere. The studios to date have made 17 feature films, 22 TV series and a number of telemovies and miniseries. Many of these productions are made for the overseas market. *Scooby Doo*, produced last year, is the latest feature film to come out of the studios. *Mission Impossible* was one of the first TV series that the studio produced, way back in 1988. Based on last year's productions, approximately 75 per cent of Queensland productions were shot on or around the Gold Coast. So my corner of Queensland and the member for Forde's corner of Queensland are very active and have a lot to gain with the passage of this bill.

The managing director of Warner Roadshow Movie World Studios mentioned that the incentive has already generated enormous interest from overseas. He is taking a large number of calls here from overseas and, when in Los Angeles, information on the rebate is sought eagerly. Before the legislation is passed, we are already seeing evidence of increased spending by film companies. One example given to me is that of a locally produced film. Initially, the film's budget was below the \$15 million. The producers are now looking for ways to increase their spending commitment to the \$15 million so they can take advantage of the rebate.

Another example is a local company involved in computer effects. The company has reported increased interest and has already picked up more overseas work. Gold Coast City, one of the most popular tourist destinations in the world—on the globe—can offer producers more than our competitive advantage. We can offer a whole lot more: fantastic weather, a 70-kilometre stretch of white sand with some the best surf beaches in the world, 40 championship golf courses—some designed by the likes of Jack Nicklaus and Gary Player—magnificent subtropical rainforests, a wide choice of accommodation, a lively arts community and a free-spirited, relaxed and friendly lifestyle.

Culturally diverse, Gold Coast City has a dynamic performing arts, visual arts and music community. Writers, potters, embroiderers and spinners all make up the estimated 20,000 people who are involved in art. The Gold Coast Arts Centre has a reputation for producing high quality live theatre, attracting its audience from as far away as Brisbane and south of the New South Wales border. The centre helps engender a love of the theatre by holding a summer school for our talented young artists. These young artists will be our future actors and actresses, who will be in the films we are going to make here in Australia. At the last summer school, 60 students aged 15 to 21 years gave up their school holidays to put on the musical *Chess*. The musical had never turned a profit anywhere in the world until it was staged on the Gold Coast. I think that is a credit to all those involved in that production.

We have a number of community theatres that produce very good shows: the Spotlight Theatre, Tugun Theatre Company, Gold Coast Little Theatre and Javeenbah Theatre Company, to name a few. These theatres are all manned by volunteers and produce wonderful plays that really have world-class status. Gold Coast City Choir is one of the few community choirs in Australia to boast a professional music director. Its harmonies are spine tingling and its repertoire is considered broad for a community choir. It recently laid down a CD with 24 tracks. Every June we have the Winter in Paradise Choral Festival, which attracts choirs from northern New South Wales, south-east Queensland and overseas, and audiences in their hundreds. Our young excel in the arts. Performances by the Gold Coast Youth Orchestra are highly regarded and attract a strong and loyal following.

John Cox, who is also a resident on the Gold Coast, won an Academy Award for animation in the film *Babe*. He is a fine example of one of our own sons who has done so well and excelled in the film industry overseas. More and more university degrees from both our universities on the Gold Coast—Griffith University and Bond University—are offering degrees in the film industry to capture opportunities for young people who want to enter the world of film. The above goes in some way to demonstrate the breadth of the Gold Coast city's vibrant and diverse arts community. The proposed rebate will further boost this community and create more jobs, particularly for our young people in the film industry.

Film is one of the fastest-growing industries in the world, and the Gold Coast has established a foothold in this fiercely competitive market. It is a foothold we are holding onto. Since 1991, approximately \$863 million has been expended on film and television production in the state of Queensland, translating into a total economic impact of over \$2.2 billion. The movie industry has already attracted a permanent work force, with considerable investment in infrastructure in such things as visual effects, props, postproduction, transport and the service industries. The bill will only go towards helping increase this infrastructure and stimulate the local economy. It will provide more opportunities for Australian casts and crews, enabling them to develop and expand their own skills. Australian talent will get far more exposure, and we are certainly seeing that in the world of film today. The industry has created many hundreds of jobs in the region, and we can look forward to many more being created with the passage of the bill. In closing, overseas producers, studios and movie stars can always be assured of a very warm welcome on the Gold Coast. I commend the bill to the House.

**Ms GAMBARO (Petrie)** (11.18 a.m.)—I have great pleasure also in speaking to the [Taxation Laws Amendment \(Film Incentives\) Bill 2002](#) today. Late last year part of my electorate of Petrie was chosen as a location for the up-and-coming film with Geoffrey Rush and Judy Davis. Geoffrey Rush is no stranger to the Petrie electorate—he grew up in the southern part of the electorate and he went to Everton Park State High. The film was *Swimming Upstream*, and it tells the story of the former Australian swimmer Tony Fingleton, who now works in New York as a scriptwriter and is the film's executive director. It was filmed in part at the Redcliffe War Memorial Pool. More recently that pool has been home to Olympic swim stars and to film stars and their crews. The film was shot on location for a total of about five days over two separate weeks. The investment that was injected into the local area—not to mention

the curiosity value—was enormously significant. Actors and crew frequented local restaurants, and most of the catering and the food were produced locally.

**Mr Martin Ferguson**—Plenty of seafood restaurants, I hope.

**Ms GAMBARO**—As the member opposite says, they did consume much of the Redcliffe peninsula's seafood. Many budding stars from the local area had their shot at fame as well. They were used for film extras and they were sourced from the local area—along with the local seafood. With the growth in the Australian film industry and the heightened profile of many of the Australian actors, many local communities around Australia are benefiting from this burgeoning and progressive industry. No matter whether times are good or bad, let us face it: we all love to go to the movies. The bill before us today makes going to the movies beneficial not only to investors and actors but also to a bevy of local industries that flourish from those flow-on effects of the film industry.

The measures to be implemented by this bill are part of the government's integrated film package, which was announced on 4 September 2001. The bill creates a refundable tax offset for film production in Australia, and it is intended to increase the opportunities for Australian casts, crew, postproduction and other services. It is also designed to attract expenditure on large budget film productions to Australia and to showcase Australia's talent, with flow-on benefits for employment opportunities and skill development. According to the Australian Bureau of Statistics, approximately 15,000 people were employed in the film and video production industry Australia wide in 1999-2000. The ABS notes that, in the same period, feature films contributed \$149 million of a total value of \$1.7 billion.

The integrated film package as announced on 4 September last year includes many measures that have been welcomed by the film industry. The package offers a refundable tax offset at a rate of 12.5 per cent of qualifying Australian expenditure where a film's expenditure is between \$15 million and \$50 million and at least 70 per cent of the total production budget is spent in Australia. If the film's qualifying Australian expenditure is more than \$50 million, the proportion of the total budget spent in Australia is disregarded. The incentive is expected to amount to around 10 per cent of the cost of producing a film. However, it will vary depending on the qualifying Australian expenditure of the total production expenditure.

Later this month many of us will, as we have done before, sit back and watch our Australian actors, producers, designers, writers and technicians head for the Academy Award categories. The public profile and the increasing success of Australian films abroad highlight the importance of this bill as a generator of investment and employment opportunities. It is also a vehicle to broaden our arts base in the film and motion picture industries.

It is estimated that, in 2002-03, the film industry package will increase spending by 18 per cent and that it will rise to 25 per cent in 2004-05. The taxation treatment of financial investments in the film industry is covered under divisions 10B and 10BA of the Income Tax Assessment Act 1936. Acquisitions of industrial property, including intellectual property, of which films form a part, will be dealt with under division 10B. Division 10BA deals with deductions available for Australian films. The difference between the two divisions is that concessions under division 10B are available only once the film has been completed and the intellectual property in the film has come into existence. Division 10BA provides a deduction from the start of production if the film has been issued with a certificate under the guidelines of the division.

The main provision in this bill is the insertion of new subdivision 376 in the Income Tax Assessment Act 1997, dealing with the tax offset. A company can claim an offset for a film if the film was completed in that income year and has been issued a certificate for the film by the Minister for the Arts and Sport. Another requirement is that the claim for the offset must be made during the year in question and the company is either resident in Australia or has a permanent establishment in Australia and has an Australian business number.

A certificate for a film may be issued by the minister if the company satisfies the residency requirements referred to above; the film was completed on or after 4 September 2001; was broadcast for exhibition through broadcasting on TV, in a cinema or through distribution as a video; is a feature film; is not substantially a documentary, an advertising program, a commercial, a discussion quiz, a panel, a variety or similar program, a film of a public event or part of a drama series of a continuing nature or a training film; qualifying Australian production expenditure is at least \$15 million or, if it is between \$15 million and \$50 million, all production activities and 70 per cent of the production expenditure of the film was spent or carried out in Australia, known as the 70 per cent test; and, where qualifying Australian production expenditure is at least \$50 million, arrangements were made for carrying out all production activities in Australia. The last two conditions are required in order to qualify for the rebate of 12.5 per cent of qualifying Australian expenditure. In addition, the 70 per cent test may disregard remuneration paid to one person, including travel and associated costs. This may include the sum paid to an actor of great international stature. According to the bill, qualifying Australian production expenditure is generally defined as company expenditure on goods and services or the use of land or goods located in Australia or used in connection with the making of the film.

The recent filming of parts of the film *Swimming Upstream* in my electorate late last year emphasised the significance this bill has in generating investment and employment opportunities as a direct result of the film industry. As I said earlier, Redcliffe was abuzz with the activities surrounding the local set. The local community felt a very strong sense of pride in being chosen as the location for the film. As a consequence of this brief experience with an international film, more people will also become aware of the prospective tourist facilities available on the Redcliffe Peninsula. The flow-on effects of this film will deliver long after the film has finished production.

The benefit of this bill is to encourage and promote the Australian film industry. Australia has a very proud record of films, from our earliest beginnings in silent films in which we were leaders to representation in that international arena of five principal elements of the industry—acting, producing, writing, design and technical elements. According to the Australian Film Commission, while the industry has enjoyed substantial publicity in producing foreign films, the amounts spent on Australian features during 1994-95 and 2000-01 have hardly changed.

As a consequence of this very brief experience with an international film, more people have become aware of the facilities available on the Redcliffe peninsula and they will use them. Hopefully this will encourage more investment. It highlights the need to progress this bill to encourage greater participation in the film industry. We have an attractive location in Australia for many film-makers, given our climate and stable economic and political environments. The diversity of our natural environment is also very attractive. Our tropical climate makes it a suitable location for many films. Following the government's announcement that it would provide a refundable tax offset for film production in Australia as part of its film industry package, it sought consultation with the film industry. The Taxation Laws Amendment (Film Incentives) Bill 2002 will complement the measures announced in the film industry package and enable Australia to benefit greatly. This will include an increase in investment in film and associated industries. It will encourage job growth and diversity in a range of industries from tourism and hospitality right across to the arts. Therefore, I urge this House to support this bill.

**Mr McGAURAN (Gippsland—Minister for Science)** (11.29 a.m.)—in reply—I wish to thank the member for Petrie for her considered and thoughtful contribution to this debate on the **Taxation Laws Amendment (Film Incentives) Bill 2002** and her advocacy on behalf of the film industry, as I would thank the eight government members who supported the legislation and, thereby, the Australian film industry, including both international and domestic aspects of the sector. That contrasts with the mere two members of the opposition who thought this to be

important enough legislation for their contribution. I think the film industry, and the arts community in general, should take notice of the paucity of contribution by opposition members. What sort of contribution did they make?

The member for Blaxland gave a very half-hearted and critical commentary on the legislation. That shows you he did not enthusiastically—let alone strongly—support the legislation, which is a little disappointing, at least for his predecessor, the former member for Blaxland and then Prime Minister, who played a very vital and important role in establishing the film studios in Sydney. This legislation complements, and indeed brings to fruition, much of the vision he had for foreign productions and all the consequent benefits, both cultural and economic, for the Sydney studios. Duncan Kerr, the member for—

**Mr Martin Ferguson**—Denison.

**Mr Barresi**—Denison.

**Mr McGAURAN**—Denison, at least realises the significance and importance and long-lasting benefits of this legislation but even he could not bring himself to properly give credit where it was due. I notice that in his speech, which took pot shots at the government but never quite substantiated his critical assertions, he had this to say:

Labor went to the last election supporting the film industry package.

The opposition did go to the last election supporting the government's film industry package but only after it was dragged to the party by the film community itself. The opposition showed very begrudging support for the government's innovative and generous plans for the film industry. I can well remember the then shadow minister, the member for Fraser, taking several days—if my recollection serves me correctly—before he could genuinely and sincerely support the package. It took him quite a while to indicate a formal support but it was a long time before he could share in the enthusiasm of the film industry itself. So they should not be patting themselves on the back for going to the election with a policy of supporting the film industry package, because they did so only under duress. But the member for Denison goes on to say:

We thought it did not go far enough.

Why didn't that translate into further financial support for the film industry? If he says the opposition supported the film industry package but it did not go far enough, why wasn't it part of their election commitments to actually up the ante on the government, if you like? That is merely hollow rhetoric on his part. He said:

We thought that the damage that the Howard government had done to the Australian Film Commission and to the Film Finance Corporation needed urgent remedy.

Where was their policy in that regard? You cannot just say the government is doing damage to a body or an institution or has a failure of policy, without concrete demonstrable and convincing policy alternatives. This is just grandstanding and I am afraid it is how the arts community regards the Labor Party in its present manifestation—so much rhetoric and no support in concrete terms. So that was a disappointing contribution by Duncan Kerr, the member for—

**Mr Somlyay**—Denison.

**Mr McGAURAN**—Denison! How could I forget! He wanted to abandon the seat—I can't remember his seat, because he had given up on it. If he does not want to represent it it is very hard, therefore, to remember the seat itself. You cannot look at this legislation without taking into consideration the support the government announced simultaneously for the domestic or indigenous film industry. We had new funding initiatives across the board but specifically for the Australian Film, Television and Radio School, the Australian Film Commission, the Australian Film Finance Corporation and Film Australia, amongst others. It was a total integrated package from training right through to documentary making, the nurturing of scriptwriters



and producers and young directors in the AFC and the financing of children's television, feature films, documentaries and some TV through the FFC.

I note in that regard that Catriona Hughes, the long serving Chief Executive Officer of the Australian Film Finance Corporation, will be retiring in a few short months—in June, I think. I would like to pay tribute to Catriona Hughes. I worked with her for some three years. I found her to be an outstanding champion of and advocate for the film industry in all of its diversity and complexity. She is extremely knowledgeable on the financial requirements to actually get work onto the screen, both the big and the small. Above all else, I found her a tough and smart representative of the film industry, in the very best sense of those words. I enjoyed working with her. I looked forward to our meetings, because I knew that I would get a run for my money and that Catriona was not interested in meetings for the sake of them or for pleasantries just to fulfil some social convention. Mind you, Catriona could be as charming as the best of them, but when dealing with government her overriding ambition was always to further the interests of the film industry. I am full of admiration for her. I wish her—and I have no doubt that the parliament as a whole does—the very best for the future.

The film industry, and television and documentary aspects of it, is very blessed with extremely talented and determined individuals heading up the major bodies. Rod Bishop at AFTRS is an experienced and canny operator. Like Catriona, he is passionately committed to his work. Kim Dalton at the AFC is also an experienced and determined individual. I had a great deal to do with Kim, and I greatly respect the dedication and strength he brings to that position. Sharon Connolly at Film Australia—the quiet achiever, if you like—is also a relentless advocate on behalf of her constituency.

All of those individuals and the organisations they represent had a great deal to do with forming the government's film industry package. At the same time, they were backed by strong chairs and boards of directors. Having been the minister for arts during the last Howard government, it gives me the greatest personal and professional satisfaction to have worked with all of them, to have played a part in a number of their appointments, to see how they have worked so well for all of the different aspects of film, television, radio and documentary, and to see how collectively they can influence a government, a parliament and a community so very effectively. I will draw my comments to a conclusion, but the effects of this legislation and the associated initiatives with regard to the film industry will have a lasting and beneficial impact on not just the film industry but the community at large.

Question agreed to.

Bill read a second time.

Message from the Governor-General recommending appropriation announced.

#### Consideration in Detail

Bill—by leave—taken as a whole.

**Mr McGAURAN (Gippsland—Minister for Science)** (11.38 a.m.)—I present a supplementary explanatory memorandum to the bill and move government amendment (1):

- (1) Schedule 1, item 2, page 20 (after line 31), after Subdivision 376-D, insert:

***Subdivision 376-E—Review of operation of this Division***

***376-110 Review of operation of this Division***

- (1) The \*Arts Minister must cause a review of the operation of this Division to be conducted and completed before 4 September 2006.
- (2) The review:
  - (a) must include:
    - (i) an evaluation of the success of the \*tax offset provided for by this Division as an incentive for attracting high quality, high budget film production to Australia, taking into account the net cost of the offset; and

- (ii) an assessment of the impact of the tax offset on the Australian film production industry (including an assessment of the opportunities it generates for employment and skills transfer); and
- (b) must allow an opportunity for people and organisations involved in the film industry to make written submissions to the persons conducting the review.
- (3) The persons who conduct the review must give the \*Arts Minister a written report of the review.
- (4) The \*Arts Minister must cause copies of the report to be laid before each House of the Parliament within 15 sitting days after the day on which the report is given to the Minister.

Question agreed to.

Bill, as amended, agreed to.

Ordered that the bill be reported to the House with an amendment.

**PROTECTION OF THE SEA (PREVENTION OF POLLUTION FROM SHIPS)  
AMENDMENT BILL 2002**

**Second Reading**

Debate resumed from 20 February, on motion by **Mr Tuckey**:

That this bill be now read a second time.

**Mr MARTIN FERGUSON (Batman)** (11.40 a.m.)—May I congratulate you, Mr Deputy Speaker Price, on your elevation to your current office. Who would ever have thought that a person such as you would have occupied this chair? I suppose we never know what comes and goes. We have a new whip; someone is prepared to take you seriously!

I rise this morning to speak on the [Protection of the Sea \(Prevention of Pollution from Ships\) Amendment Bill 2002](#), something, Mr Deputy Speaker, both you and I, as boys who have come from Western Sydney, know of. This bill relates to a bill that passed through the chamber last year, the [International Maritime Conventions Legislation Amendment Bill 2001](#). As we know, that legislation amended the Protection of the Sea (Prevention of Pollution from Ships) Act 1983, but it also had an unintended effect with respect to the application of those new penalties and provisions to foreign ships. For that reason, this bill makes important corrective amendments to the pollution prevention act. The amendments extend the geographic coverage of the various pollution offences to apply to either Australian or foreign ships in the exclusive economic zone. I believe, as does the government, that this application must be unambiguous. For that reason the opposition fully supports the bill before the chamber.

There must be no doubt about the coverage of these important pollution prevention provisions. In that context I want to refer to a letter I received from the office of the Deputy Prime Minister following a briefing I received from the department concerning this bill. The content of that letter is exceptionally important, because the issue of pollution of our seas is a joint Commonwealth and state responsibility. It is for that reason that complementary Commonwealth and state laws implement the International Convention for the Prevention of Pollution from Ships, better known as MARPOL, which is in force in over 100 countries around the world.

As the law currently operates in Australia, any vessel discharging pollution illegally within Australia's three-nautical-mile coastal waters is subject to the relevant law of the responsible state or the Northern Territory. A vessel outside coastal waters and within the 200-nautical-mile exclusive economic zone is subject to Commonwealth legislation; in this instance, the Protection of the Sea (Prevention of Pollution from Ships) Act 1983. It is interesting to note that, with respect to the legislation as it currently stands, the Commonwealth legislation provides a maximum fine of over \$1 million for the owners of a ship, and more than \$200,000 for the master of a ship, discharging pollution illegally. It does not—and maybe this is something that we have got to consider in the future—include penalties involving imprisonment. I regard the discharge of some of these pollutants as a serious offence. If we continue to be exposed to

the failure of some of these ships and of their masters to accept their responsibilities when given the opportunity to trade in Australian waters, over time both sides of parliament might have to consider whether the law should be further stiffened with the provision of penalties involving imprisonment for the offenders.

I want to refer by way of example to how complementary state and federal legislation operates. In Victoria, the applicable legislation is the Pollution of Waters by Oil and Noxious Substances Act 1986. When the Victorian act was originally put in place, it mirrored the Commonwealth act. However, amendments to both acts since the 1980s have seen some divergence in certain provisions such as penalties. As a result of the changes today, it is very important that the Commonwealth takes the lead in trying to ensure that the respective state and federal legislation is mirrored so as to guarantee that we have the best possible legislation in place; for example, some of the state legislation at this time may be inferior to the federal legislation.

On the question of penalties it is interesting to note that, with respect to the operation of this legislation, the Australian Maritime Safety Authority's records indicate that no jail term has been applied in Victoria. The largest penalty Australia wide was the \$620,000 fine imposed following the oil spill of the *Laura D'Amato* in Sydney in August 1999. In 20 instances, the Flag State Administration has taken legal action against their ships involved in Australian waters. I place that on the record for the purpose of showing the importance of complementary state and federal legislation with respect to these matters and also to make sure that we continue to pursue the most rigorous possible legislative environment in Australia to try to protect our coastal waters. It is for that reason that the legislation must be unambiguous. It must be straightforward and known in detail by those who have the luxury of operating in Australian coastal seas.

However, in supporting this bill, I also ask the government to consider its commencement date. If it can be avoided, we must ensure that there is no gap in the application of these provisions. The government should, therefore, consider if the retrospective commencement of this bill would ensure such a gap does not remain. This point has been raised, for example, in the Parliamentary Library's *Bills Digest*, which also cites the attitude of the Senate Scrutiny of Bills Committee, that retrospectivity may not be opposed if the legislation is merely correcting drafting errors. I would ask the minister to address this point in his response this afternoon.

I will continue to speak to the maritime bill. The opposition believe it would be remiss if we did not use this opportunity to also draw attention to the government's anti-Australian shipping policies. The opposition believe that the Howard government's approach to the maritime and shipping industry is ideologically driven. I would compare the different approach of the opposition to the government with respect to some major transport matters when it comes to issues of ideology.

Some years ago we had a major waterfront dispute driven by Patricks, represented by Mr Corrigan. So far as the Labor Party are concerned, that dispute came and went. Yesterday we had a major announcement of change in the aviation industry with the merger of Virgin Blue and Patricks, which is largely seen in terms of the figurehead being Mr Corrigan—one of the persons intimately involved in the waterfront dispute some four years ago. The approach of the opposition yesterday was black and white; it was straightforward. We welcome the merger of Virgin Blue with the Patricks company for this very reason: it is about strengthening competition in the Australian aviation industry. Disputes come and go. The opposition are not driven by ideology and hatred. So far as we are concerned, if that merger strengthens competition in the aviation industry to the benefit of Australian consumers and in doing so creates jobs for Australian workers and their families, frankly it ought to be welcomed.

I compare that approach to the approach of the Howard government when it comes to shipping policy in Australia. So far as I am concerned, it is ideologically driven. It is not policy

that is motivated by Australia's national or public interests, as the Labor Party has clearly taken, with respect to developments in the aviation industry over the last six to 12 months. We had to confront not only the collapse of Ansett but also September 11, which did major damage to the international and domestic aviation industries around the world.

We have got to get to the point where it is about a policy which is in the best interests of the Australian maritime industry, Australia as a trading nation, Australian workers and their families. We should no longer have a shipping policy in Australia that is driven by an obsession by the current government for an all-out assault on the maritime unions, maritime workers, their families and Australian shippers.

As I indicated, in 1998 we saw a huge dispute on the waterfront. The government was intimately involved in that dispute because it wanted to drive an ideological attack on maritime workers and their families. The government, as we all know from the record, was prepared to use any means to take away Australian maritime jobs, bludgeon their families and, in doing so, undermine the Australian coastal shipping services. Yes, the government might wax lyrical from time to time about crane improvements, but this change could have been achieved without recourse to violence. Just ask Mr Corrigan how change has been achieved, for example, with the operation of Virgin Blue and the wages and conditions that exist for that work force as a result of the willingness of people to sit down and work out what is in the best interests of the Australian community.

But that was the docks. There is another prong to the Australian government's ideological approach to waterfront and related shipping issues. That goes to the government's assault on maritime workers, their jobs and their families by undermining the competitiveness of the Australian shipping industry. The maritime policy strategy of the government is to open the Australian coastline to subsidise foreign ship operators with foreign crews that work on lower conditions and pay no taxes to Australia. As far as I am concerned, the minister not only admits to this strategy, he is proud of this strategy. Just take the foreign crews. In many instances they work for lower conditions because they are receiving tax concessions in their home countries. Similarly, the ship operators can charge lower freight rates because they are receiving subsidies and benefits from their nation state.

What have we to ask ourselves as Australians? Is that how we want to operate our interstate and intrastate transport systems and infrastructure? Would that be acceptable in our rail networks, our retail industry or our road systems, for example? I wonder how the Howard government would react, for example, if the rural producers in Australia were required to accept this type of access for foreign farmers and producers in countries beyond Australia. We know what they would do. They would scream the house down. They would regard that as uncompetitive behaviour that takes away Australian investment and Australian jobs.

I take this approach as a person who formerly served on the Agrifood Council of Australia. That council led to the establishment of the supermarkets to Asia strategy of the current government. We were driven by trying to make sure that we got investment in the food processing industry in Australia to create jobs and look after rural and regional communities and, in doing so, to get the multiplier job impact on manufacturing in the food processing industry in Australia. We went out of our way to keep jobs in Australia by making sure that we looked after the best interests of Australia.

I ask the Australian government today to actually review its position with respect to the operation of the shipping industry in Australia. You cannot have one policy approach when it comes to, for example, the needs and aspirations of rural producers and the food manufacturing industry and then have another ideological approach when it comes to the operation of the shipping industry in Australia. I think that is exceptionally important, because the time has come for the government to actually review potential assistance made available to this very important industry. The record will show the Australian government has continued to refuse any assistance to the Australian shipping industry or Australian seafarers. It has continued to

turn a blind eye to the call for industry reform. In short, the Australian shipping industry is being hung out to dry and is getting close to the end of being the great industry it is unless something gives very soon.

By way of reference, this comes as no surprise. I suggest to the House today that the writing was on the wall when the Minister for Transport and Regional Services, Mr Anderson, made his first shipping speech as the minister for transport. In that speech to the National Bulk Commodities Group in December 1999 and again to the same group in December last year, he declared his absolute contempt for the Australian shipping industry. He said Australia is a 'user' of shipping services, rather than a provider of shipping. That is, we are a shipper rather than a shipping nation. The minister's attempts to argue in his speech that this statement does not indicate uninterest in the viability of the Australian shipping industry is dismal. It clearly spells out the ideological approach of the current government to what I regard as a very important part of Australia's industrial infrastructure. He failed to make that case in the same way he would fail to defend a statement, for example, that Australia is an eating nation and a user of agricultural products, not a nation of food growers or food manufacturers. That is the comparison that the minister for transport and Leader of the National Party would have the maritime industry accept. I would like him to attempt to defend that by saying that it did not indicate uninterest in the viability of Australia's agricultural industries.

Clearly, my contention is that the minister is wrong. Australia is an island nation. It is a trading nation. It is a nation that needs its own shipping industry. As with other island nations that rely on shipping for trade and access, Australia's shipping industry needs to be acknowledged for its contribution and role. We must also acknowledge the contribution and sacrifices that Australian seafarers make in relation to the best interests of Australia as a nation. It is not easy to be seafarers with the requirement to be away from home for lengthy periods, given the sacrifices that their families make in the best interests of Australia as a nation. Let us clearly say that we have had enough of this unfair, ideological approach by the current government to the shipping industry, which, as far as I am concerned, is about propping up unfair competition for Australian shipping industry interests because, clearly, some shipping companies operating beyond Australian shores are able to compete on more favourable terms compared to Australian shipping interests because of the concessions and benefits given by nations beyond Australia.

In November 1998 the government commissioned a further report on the future directions of the industry, the Shipping Reform Working Group's report. This report was handed to the minister in April 1999. Apart from an announcement in December 1999 that the government would not give fiscal support to the shipping industry, the report remains unanswered. The problem was that the report, as is well known in the industry, did not support the coalition policy to abolish cabotage, and that is why the report has not seen the light of day. The minister hides behind the view that the industry participants in the group do not want to release the report. I think the truth of the matter is that they would like to see the report out but it is the minister who chooses on a regular basis, because of his lack of interest in the transport portfolio, to actually leave tough questions sitting on his desk.

There are also some other serious problems in the operation of the shipping industry. The lack of help for the Australian industry not only props up a competitive gap but also guarantees that we will continue to lose very valuable jobs for Australian workers and their families. I therefore go to, for example, the destructive and negative policy that is being pursued by the current government over the operation of continuous and single voyage permits. In the minister's speech to the Bulk Commodities Group last year, which seems to be the only group that he addresses on shipping policy, the minister confirmed his department would be looking at these legislative changes and so-called 'barriers' later this year.

In respect of some of these matters, I believe that we also have to seriously look at how some of these continuous and single voyage permit operations actually continue to undermine

the Australian shipping industry. Take for example the *CSL Yarra*. Last week I was on this vessel in Brisbane. I met the captain and crew—highly-skilled Australian workers and highly-skilled Australian seafarers, working on our interstate transport industry carting cement around the coast between Australian cities. These are Australian workers, and we should not forget this. They have kids going to our schools, they pay taxes in Australia like you and me, they buy all their milk and bread at the local shops, and they participate in their local church and sporting groups.

I want to tell the House this afternoon what their greatest fear is. Their fear is that their ship will soon disappear, just as their sister ship and their jobs disappeared only a matter of a couple of years ago. The owners of the *CSL Yarra* want to do what they did with its sister ship the *Torrens*. That ship—and the government is proud of this—was sold to a separate company: a subsidiary, surprisingly, headquartered in Asia. It was renamed and reflagged under a flag of convenience. Where? In the Bahamas! So much for Australian workers in the Australian coastal shipping industry.

The then named *CSL Pacific* was brought back onto the Australian coast under a continuing voyage permit as part of the Howard government's shipping strategy to 'liberalise' the coast. The Ukrainian—not Australian, but Ukrainian—crew of this vessel do not pay taxes in Australia. Unlike under arrangements for Australian crews, a significant number of countries grant concessional tax treatment to their seafarers when they are working in other countries. Many countries do not require them to pay any tax at all. By way of comparison, Australia taxes our seafarers working overseas, and we do not tax foreign crews working on our coastal interstate trade.

I want to go to the issue of immigration, which is also part of this debate. In respect of the immigration arrangements for the crew, crew members of ships entering Australia are deemed to have special purpose visas. We talk about border protection. We have had more bills presented to the House of Representatives today about so-called border protection and the difficulties with respect to the Pacific solution. I think we ought to have a look at the problems of so-called border protection in coastal shipping in Australia. I refer to the fact that these foreign crews are deemed to have special purpose visas. What do we find when we actually start investigating these so-called special purpose visas? We find one rule on border protection when it comes to the election campaign and another rule on border protection when it comes to a deliberate government policy aimed at exporting Australian jobs and giving overseas countries and overseas companies the perfect opportunity to exploit Australian workers, their families and the Australian community, not only with respect to the issue of tax concessions but also with respect to the important issue of border protection and migration.

I will tell you what the record shows with respect to these visas. There is no rigorous scrutiny or identification checking of these crews, who can hold single voyage permits indefinitely if they stay on board the vessel. Who would know who is on the vessel? Are they terrorists or not? It is about time the Australian government actually told the Australian community what they are going to do to toughen up and tighten up on border protection when it comes to the operation of foreign crews in Australian waters, the end result of which is taking away Australian jobs and destroying the livelihood of Australian families.

Then we get to the question of coming and going from ships. If crew members leave the ship, they must leave Australia within five days. I just wonder what you could do within five days. We had the Australian government suggesting in the middle of the last election campaign that any of the vessels bringing illegal migrants down to Australia could have a terrorist on board. Here we have a deliberate government policy from a government which prides itself on border protection but which takes no opportunity at all to do a proper investigation of character with respect to the people working on these foreign vessels plying Australian waters. There is one rule and one statement when it comes to the election campaign and border protection. There is another rule and another approach when it comes to undermining the

Australian coastal shipping industry, destroying Australian workers, destroying Australian regional communities and, in essence, undermining our capacity as a nation, with respect to the payment of taxes, to gather enough revenue to ensure that we as a community can invest in our infrastructure and provide proper health and educational opportunities for our young in Australia.

The time has come for the Australian community to stand up to this government and demand of it a uniform approach on border protection and also to make sure that we can trade as a nation and that we keep jobs and vessels in Australia. When we come to the shipping industry we should not forget that it is not just about seafarers on ships ploughing our waters; it is also about considering whether we should return to building ships in Australia. We have proven that we can do it on the naval front. We have countries beyond Australia reviewing their policy with respect to the construction of ships. Just go to Great Britain at the moment and have a look at what has occurred, with the election of the Blair government, with respect to support for the shipping industry there. I believe that we should be investigating not only how we keep coastal shipping jobs in Australia but also whether or not in the context of industry policy there are initiatives that we can take to attract investment to the Australian ship-building industry and in doing so rebuild industry policy in Australia.

I raise these issues because they are very serious issues. We can no longer tolerate what has occurred, for example, with respect to the CSL ships that I have spoken about. We are on the verge of potentially losing another one of their ships and jobs overseas. So I call upon the minister today to put ideology away. The Labor Party has proven it can do it when it comes to aviation policy in Australia, with the announced merger of Virgin Blue and Patrick yesterday—no ideology; what is in the best interests of Australia. Some of my friends in the union movement, I suppose, woke up this morning wondering, ‘What is Ferguson doing, as a former president of the ACTU, welcoming Mr Corrigan’s involvement in the aviation industry?’ Well, to me it is black and white. It is about what is in the best interests of Australia. It is about what is in the best interests of the aviation industry. It is about what is in the best interests of Australian consumers. Frankly, it is about why you are elected to this parliament: to act in the national interest, not to work on the basis of short-term sectarian political aspirations.

I now come to our second reading amendment, to try and pull together the fact that this is a very serious issue. The issue of coastal shipping extends across a range of portfolios—not only the Minister for Transport and Regional Services’ portfolio but also the Treasurer’s portfolio, because the issue of tax concessions and what is applied to overseas crews goes to an issue of revenue and taxation. Coastal shipping also goes to the portfolio of the Minister for Immigration and Multicultural and Indigenous Affairs with respect to border protection, access to visas and a failure to do proper checks of criminality. On that basis I move as an amendment to the motion for the second reading:

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) condemns the Government for its sustained neglect of Australia’s interstate transport network, especially the coastal shipping industry;
- (2) notes that the Government has actively supported the use of foreign ships and crews on the coast with inadequate industrial and immigration controls in place and inadequate monitoring of ship safety standards;
- (3) notes further that the Government’s neglect is leading to the demise of the Australian shipping industry jeopardising our national security and defence and threatening our marine environment; and
- (4) calls on the Government to drop its ideologically driven opposition to the Australian shipping industry and its blind pursuit of lower shipping charges at the expense of Australia’s broader national interests”.

The bill is obviously about the shipping industry and pollution, and we support the government’s intention on this front. But this debate is about more than just that bill. Do not forget

that ships of shame, foreign crews and the Australian government propping up overseas interests can also destroy our environment. I commend the second reading amendment to the House. (*Time expired*)

**The DEPUTY SPEAKER (Hon. L.R.S. Price)**—Is the amendment seconded?

**Ms Jann McFarlane**—I second the amendment and reserve my right to speak.

**Mr BALDWIN (Paterson)** (12.10 p.m.)—This **Protection of the Sea (Prevention of Pollution from Ships) Amendment Bill 2002** has a particular interest for my electorate of Paterson, which is truly one of the most diverse electorates represented here in Canberra. The electorate covers an area of approximately 9,600 square kilometres and includes the towns of Bulahdelah, Medowie, Dungog, Gloucester, Maitland, Morpeth, Paterson, Raymond Terrace and Stroud. It also includes one of the most magnificent coastal strips in Australia, stretching from the northern end of Forster-Tuncurry, coming through Pacific Palms, Seal Rocks, Nelson Bay, Port Stephens, Anna Bay, Fingal Bay to the Stockton Bight, which is the largest coastal sand dune in the Southern Hemisphere, and not forgetting the islands off Port Stephens: Broughton Island, Big Island, Cabbage Tree Island and Little Island.

The reason I want to join the debate on this bill is that there are five key industries in Paterson that require our waterways to be clean and free of pollution. These are commercial fishing, recreational fishing, oyster production, aquaculture in the way of snapper farming, and tourism. Do not forget, though, that the ports of Forster-Tuncurry, Port Stephens and Newcastle house very active fishing co-ops that support very strong commercial fishing fleets.

Unlike the farm paddock where we can go out and have a look at the number of animals on the paddock and the quality of the soil, see whether the fences are intact and look at what the weather conditions are doing to it, unfortunately with the ocean most things are hidden to us. These polluters threaten the very core industries that I have mentioned, and I welcome any amendment introduced by this bill that may deter polluters in the areas and enforce tough penalties. As a current ship's master class V, I know that previously only owners and masters of ships could be prosecuted for discharges of pollutants such as oil and noxious substances, including ballast or garbage, from their ships.

The government has made amendments to the International Maritime Conventions Legislation Amendment Act 2001 so that any person, not just the ship's master or owner, whose negligent or reckless conduct causes an unlawful discharge of pollutants from a ship into the sea is guilty of an offence. Owners and masters of ships remain strictly liable for discharges of pollutants from their ships whether or not other persons have recklessly, negligently or wilfully discharged pollutants, although owners and masters, because they are held strictly liable, are therefore subject to lesser penalties.

The bill that we are debating today provides that the offence provision in the pollution prevention act have an effect in the exclusive economic zone. This is the zone where many businesses in Paterson derive their income. Given the importance of fishing, oyster production, aquaculture and tourism to the local economies of Port Stephens and the Great Lakes, we must establish tougher penalties against people who can potentially devastate the livelihood of hundreds of people along the coastline. Heavy pollution could completely wipe out these industries, which have existed for generations and which have been the lifeblood of many families.

Two weeks ago, Port Stephens hosted the annual New South Wales Game Fishing Association's interclub competition off Port Stephens. It is estimated that, during the week of fishing competitions, around \$5 million was injected into the local economy. People travelled as far as from the USA and from Broome on the western coast of West Australia just for the thrill of testing their skills against that big marlin on their line. Some were successful; some were not.



It is obvious that without the clean marine environment these types of events just would not exist. If there were a pollutant discharge of a serious nature in the waters off Port Stephens during this event, the effects would be devastating. It would mean the loss of income for local tourist operators and accommodation providers, but more importantly it would mean the area's reputation as one of the most beautiful beach side havens would be crushed. It would mean that future investments and events would be tarnished. We can all remember the effect of the *Sygnna* being blown ashore on Stockton Beach many years ago. Whilst this wreck is now a tourist icon in the Hunter, the pollutant effect was serious.

This would be only the tip of the iceberg when it comes to the potential of pollution in the area. The area is a gateway for imports and exports for so many industries in the electorate, as is the port of Newcastle. One of the famous exports of the area is the sand from Stockton Bight, which is now located on Waikiki beach, such is the quality of the sand in the local area. Millions of tonnes of goods go through the port every year and in turn have a direct effect on the livelihood of the people in the Hunter region. As many parliamentarians know, the port of Newcastle is one of Australia's largest, with over 3,000 shipping movements per annum and cargo handling in excess of 77 million tonnes per annum. The port of Newcastle is also the world's largest coal export port.

A major pollution spill in the port or in or around the surrounding economic zone would have, again, a devastating effect on our local environment. It is not just spills but the intentional discharge of ballast tanks, with the foreign marine creatures that can be introduced into our marine environment, that are a major problem. We have viable aquaculture and oyster industries, and the introduction of foreign species that attack these can be devastating. Newcastle, which for many has been known as a steel city, has begun a metamorphosis into a city that is embracing a new lease of life. The foreshore is going ahead with commercial and residential buildings, the cafe culture is booming, the development of a marina has received unprecedented interest and the desire for a cleaner Hunter image has permeated the old guard. A pollution disaster would have an enormous impact on the port and the businesses that use the port to move their products.

I remind the House that several years ago the Great Lakes, which is another vital part of the Paterson economy, was crushed by oyster contamination. I admit that it was not from a ship, but the effect of pollution is the same on the economy of an area. Hundreds of people who rely on oyster production were devastated by the contamination, and consumer confidence in the local seafood plummeted. Thankfully, the local industry has bounced back stronger than ever before and the delicacy of these industries has never been clearer or cleaner. We rely on the health of our waterways for the economic survival of the region. We are reliant on oysters, fishing and tourism for the livelihood of hundreds of families.

I welcome these amendments to the Protection of the Sea (Prevention of Pollution From Ships) Act, which will mean that any person—rather than just the ship's master or owner—whose negligence, reckless or wilful conduct causes an unlawful discharge of pollutants from a ship into the sea is guilty of an offence. It is paramount that we protect our waterways, and I would welcome any amendments that make polluting our waterways an offence. This is about protecting the livelihoods and incomes of the thousands of people in Paterson. We welcome the support of the ALP on this amendment.

**Ms O'BYRNE (Bass)** (12.18 p.m.)—I rise today, as have previous speakers, to address the [Protection of the Sea \(Prevention of Pollution from Ships\) Amendment Bill 2002](#). I just want to briefly comment on the remarks made by the member for Paterson. Unfortunately, he has left.

**Mr Laurie Ferguson**—He's gone off to get another earner.

**Ms O'BYRNE**—Perhaps. He spent some time talking about the environment in which he lives, the importance of shipping, the importance of a clean environment and doing everything that we can to make sure that we preserve this wonderful environment that he lives in.

That apparently does not go so far as to actually support the ALP in its amendments to ensure that we can actually restrict the type of vessels that are operating in that area. It is not enough just to be able to fine them if they do something wrong; we want to make sure that that something wrong does not actually happen. It concerns me that the member for Paterson cannot make that leap.

Coming from Launceston, on the Tamar River, I am only too aware of the devastating impact on marine life and surrounds from ship pollution. Members present will remember the *Iron Baron*, which released 325 tonnes of oil into the Tamar River when it ran aground on Hebe Reef in 1995. It is a reef that has claimed a few ships, unfortunately. This, however, almost pales into insignificance when you set it against the perils that our marine environment continues to face.

The bill before us today seeks to clarify an important application of ship pollution provisions, to amend the unintended effects of the International Maritime Convention Legislation Amendment Act 2001 which, with its introduction, amended the Prevention of Pollution from Ships Act. The unintended consequence of drafting errors created a situation whereby offences under the act were geographically restricted. Some of the offences relating to oil, noxious liquid substances and garbage could not be applied to the area that takes up the edge of the 12 nautical mile territorial sea to the limit of the 200 nautical mile exclusive economic zone. In effect, a ship discharging a pollutant in this area could not be prosecuted under Australian law.

The amendments today extend the geographic coverage of the various pollution offences to apply to either Australian or foreign ships in the exclusive economic zone. In itself, the bill is straightforward and, of course, is supported by the opposition, as its intent is entirely appropriate. The current situation has led us to difficult circumstances regarding waste oil that washed up on Phillip Island in Victoria last December. Whilst investigations are still continuing as to who may be responsible for that, if it turns out that the offence took place within this confined geographical region that is excluded, then the ship would not be deemed to have committed an offence under the act.

This lack of ability to prosecute potential environmental disasters is not one that can be tolerated. The Commonwealth has an important role in implementing safeguards and in leading discussions with states on complementary legislation for protection of our coast and marine environments. This is an important bill. What is equally important is the maritime industry environment into which this bill is introduced—an environment fostered by a government so obsessed with its ideological obsession to destroy elements of the shipping industry that it is prepared to jeopardise Australian jobs, Australian ships, Australian defence and the Australian coastal environment. In light of the situation into which the government is obsessed with leading us, the honourable member for Batman moved the following 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) condemns the Government for its sustained neglect of Australia’s interstate transport network, especially the coastal shipping industry;
- (2) notes that the Government has actively supported the use of foreign ships and crews on the coast with inadequate industrial and immigration controls in place and inadequate monitoring of ship safety standards;
- (3) notes further that the Government’s neglect is leading to the demise of the Australian shipping industry, jeopardising our national security and defence, and threatening our marine environment; and
- (4) calls on the Government to drop its ideologically driven opposition to the Australian shipping industry and its blind pursuit of lower shipping charges at the expense of Australia’s broader national interests”.

This is an amendment worthy of the support of all members of the House. The Prime Minister often looks longingly at the US government when he seeks to plot his course and, thereby, the course of our nation. What a pity he is so selective in his attentions! During the last United States election campaigns, Mr Bush issued a statement declaring his support for the American merchant navy. The Bush-Cheney ticket stated that:

... the maritime industry has long played a vital role in our nation's commerce and defence. Safe, reliable marine transportation of goods and passengers is essential to sustaining growth in the US economy and to our international trade. In time of war or emergency, the US military depends on shipping and seafarers drawn from the US flag commercial fleet ...

The statement went on:

As President, Governor Bush will seek to provide the conditions under which the American maritime industry can compete and grow in the 21st century. He will support a revitalised industry that creates jobs and is a competitive transportation option.

What a vast and enlightened gulf away from this government's transport policy in the maritime industry! Transport Minister John Anderson believes that we are nation which uses ships but which does not really have a role to play in shipping. Well, we do have a role and we have a role for a number of very important reasons, not least in the area already recognised so well by the US government, the role of defence.

The government has made much of our commitment to defence, but not in the merchant navy area. It does not take a genius to recognise the importance of our transport capacity in times of war as a component of our overall defence plan. In fact, as recently as the events in East Timor, the merchant fleet provided valuable assistance and were applauded for doing so by General Cosgrove. But it is not just the US government which understands this better than our transport minister does but also the UK government and the UK shipping industry. When the British government announced significant support for its struggling shipping industry, the chairman of P&O, Lord Sterling, welcomed the decision and made much of the fact that they were conscious of the UK's fleet as the 'fourth arm of defence'.

The way that this government is prepared to allow foreign ships with foreign crews to ply our waters with few restrictions or controls means that these ships may well instead provide the first arm of attack against us in a time of conflict. It is not just our defence in wartime that the government must pay attention to, but the defence of our maritime coastline.

Protection of our marine environment, of our marine life and of our pristine coasts are primary obligations of any government, and they are ones that many countries take seriously. Take as a strong example the Greek shipping industry, which funds the Hellenic Marine Environment Protection Society. The industry does so, because it recognises that, as is quoted in the International Commission on Shipping Inquiry into Ship Safety, ships 'are potential polluters if not properly built, professionally manned and managed, thoroughly maintained and carefully managed'.

Many members who will speak on this bill are familiar with some of the names I am about to read out: the *Kirke*, the *Erika* and the *Bunga Teratai Satu*—how will we ever forget the image of that ship sitting up on the Barrier Reef? In the case of the *Erika*, the resulting pollution from the break-up of the ship 45 nautical miles off the French coast necessitated a clean-up of 400 kilometres of coastline, closed beaches, halted salt production and resulted in fishing bans. The *Erika* had been renamed 10 times, had been classed with four different classification societies, had had a variety of owners and managers during her working life and had changed flag four times. The *Bunga Teratai Satu* ran aground on the Great Barrier Reef, and we were faced with the very real risk of an oil spill in a world heritage listed area. Sections of the reef had to be blasted away to free the vessel, and the ship's antifouling paint—which contained tributyl-tin—has, due to the grounding, damaged coral that it is estimated might take some five years to return.

I spent a little bit of time looking at the AMSA web site and, in particular, at some of the detained ships reports for the last six months. It does not take much imagination to think about the potential damage to our coasts and our marine life when you look at these detention lists. I want to read into *Hansard* a few of the things that have come out over the last six months in the ships reports:

Hole in floor/tank top between slop tank and ballast tank causing contamination of ballast water

Oily water separator inoperable

Main engine sea water cooling pipe holed, excessive leakage into engine room

Engine room oily water separator inoperable

Vessels safety management does not ensure adequate maintenance of equipment critical to safety of vessel

Maintenance of ship does not conform to ship safety Management system.

Oily water separator defective

ISM code deficiencies

Oil contaminated ballast water discharged into harbour

Bilge suction defective.

Along with these problems there are lots of problems regarding ballast tank air vents, there are numerous fire safety breaches and there are countless occasions either of communication faults or an inability to operate communication facilities on a ship. These are the ships that work our coasts. Marine accidents happen, but they happen more regularly with poorly maintained foreign flag vessels. The minister is not only increasing the number of these vessels on our coasts; he is out there, with a big grin and a wave, cheering in vessels that are not safe enough to work on our coasts, vessels that pose not only marine damage risks but also potential disease risks. You would think the minister might understand the risk of importation of disease. The foot-and-mouth epidemic in the UK was hardly kept a secret. Can you imagine the sort of devastation that would occur here? Without effective border controls, this is indeed a very real risk.

The minister is actively engaging in a program of destroying Australian jobs and destroying Australian job opportunities. He is allowing a system of subsidised foreign ships and crews to take on our industries and to take on our jobs. He is cheering on a system where Australian workers are dumped and replaced, in the case of the *CSL Yarra*, by a Ukrainian crew—a Ukrainian crew who do not contribute to our tax revenue and who may not have the excellent standards of training and expertise that Australian trained crews have, many of whom were trained in my electorate. They do not even have to meet the normal visa requirements of anyone else wanting to work in Australia.

This is where the matter of importing ships becomes crucial as the impact of the Migration Act is considered. If you are from another country and you want to get a job in Australia, you have to go through a strict process. From your country of residence you make an application with an employer sponsor, and it must be established that there is no Australian who can perform that task. But, if you are a foreign seafarer, the government does not really care who you are. I wonder if the minister for immigration actually knows this, because it seems a world away from the position he takes on other migration issues. Crew members of ships entering Australia that are not classified as imported are deemed to have special purpose visas. They have *carte blanche*; we do not care.

We as a nation are tightening up every other form of access to this country. A nation quite rightly concerned about the growth of terrorism says, 'Don't care who you are or how long you want to stay as long as you spend most of the time on a ship.' Between March 1996 and 30 April 1999, 263 deserters from foreign ships were reported by the Australian Customs Service. They were the ones who were reported. Some 148 were located. As the government

grants unlimited access to the coastal trade, the management of a large number of foreign seafarers semi-permanently operating on the Australian coast will have to become a nightmare.

This is a situation that the government is fostering. For proper migration treatment, a ship must be deemed to be imported. Historically, the test has been to determine whether the ship is on an international voyage starting and commencing overseas. We now have a situation in the circumstance of a continuous voyage permit being granted. Those ships are not being declared imported. They can then blatantly ply the coastal trade for months, undertaking work which in almost all cases could be undertaken by Australian ships with Australian crews.

These practices are depriving Australians of jobs and Australian families of income and support. Customs seem to be using the fact that a CVP has been granted to come up with the conclusion that the ship's international voyage has not been broken, regardless of how many times it discharges a cargo and takes on a new one, regardless of how long it has been on the coast. A department of transport permit is all you need, and the minister is happy to hand those out. By this means, the minister can allow foreign crews to work our coasts indefinitely, with insufficient crew monitoring and few, if any, visa restrictions, jeopardising not only our border security but also the livelihoods of Australian seafarers and the economic viability of Australian shipping companies.

Australia is an island nation with the fifth largest maritime task in the world, a fact that the minister claims to understand. In a speech entitled 'Shipping in the new millennium' that the minister gave in Brisbane in 1999, he mentioned this, so we assume he understands it. He also referred to the fact that 99 per cent of imports and 96 per cent of exports by volume are transported by sea and that about 50 million tonnes of cargo are shipped annually. He said that this is a large industry, it is important to our economic development and it is vital for Australian jobs. The minister went on to say:

In light of these figures, it is obvious why the government has taken such a high profile role in addressing maritime transport issues.

Let us look at the record. The number of Australian ships has almost halved, training for Australian seafarers has plummeted, and we are still waiting not only for the 1997 shipping report but also for the 1999 shipping report. I can only hope that the minister does not continue to play such a high profile role, or we will not only be without ships but also be without any seafarers. The minister claims to recognise our world-class maritime training facilities, our ship management expertise and our high quality safety regime. In his speech to the National Bulk Commodities Group annual dinner, he made reference to a perceived lack of incentives for young people to choose a career at sea and that this was depleting the pool of maritime skills in Australia. They are skills which we need to sustain our port operations.

It is not a perceived lack of incentives; it is the removal of carefully planned programs that ensured that Australia had some of the best trained seafarers in the world. It is the demise of a nation's shipping fleet, which has supported training and opportunity. It is the minister failing to engage in the issues facing the shipping industry and providing the industry with an opportunity not only to grow but even to compete in the current market. It is a lack of understanding on the part of the minister that he actually has a job to do.

Our reputation as a nation of quality seafarers and owners of safe ships did not just occur; it did not suddenly appear out of the blue. These things did not come due to this minister and his so-called high profile role. What will come of his betrayal of a high profile role is the loss of that shipping expertise, the diminution of our safety standards and our inability to support the port-related professions so necessary for port management. We need a viable shipping industry, and the minister needs to stop his so-called measured approach before he measures Australian coastal shipping out of existence.

**Mr SIDEBOTTOM (Braddon)** (12.34 p.m.)—Mr Deputy Speaker, congratulations on your appointment. I saw you last time but did not have the privilege of speaking during your term in the chair. I am happy to support the [Protection of the Sea \(Prevention of Pollution from](#)

**Ships) Amendment Bill 2002.** This is the second time today I have risen to help correct an oversight in government legislation. This morning I was speaking on the **Coal Industry Repeal (Validation of Proclamation) Bill 2002**, and I believe we have had some drafting problems with this bill. But, most importantly, it is absolutely essential that we get this legislation right. Anything which helps prevent pollution in our seas is absolutely vital and should receive our 100 per cent support.

Like the honourable member for Bass, Michelle O'Byrne, I come from Tasmania, and I proudly represent the electorate of Braddon, which is essentially the north-west and west coast of Tasmania, including King Island. We proudly come from a great maritime island and are proudly part of the great maritime nation of Australia. Things maritime are very important to us and that of course involves shipping, which we rely on so much. Also, they are absolutely crucial to us for our security and defence and, importantly, for the protection of our environment. All of those issues are tied up with shipping. Anything which threatens shipping, threatens our nation and threatens, in particular, my island state.

We should take great care to ensure that that which is most important to our security is indeed carefully observed and monitored. I am quite surprised by the lack of national interest in our shipping industry, particularly in this House. If we look at the time spent in minute reflection on our shipping industry and issues related to it with that spent on our general defence—which until recently has not been that much, but certainly border security has taken up our time—if we look at them proportionately, our shipping industry would be sunk totally. It strikes me that an industry which is so important to our security is so ignored. I am not sure whether it is through a lack of diligence or—I would hate to think that this is true—an ideological desire to punish certain elements of that industry in order to bring about its demise. Because, statistically, that is what is happening, Statistically, the Australian shipping industry has declined and declined considerably.

Australia is almost totally dependent upon sea transport for the carriage of its imports and exports—fact. In terms of tonnes/kilometres, Australia has the fifth largest maritime transport task in the world—fact. However less than one per cent of this trade generated by Australia is carried out in Australian flag shipping—fact. Virtually the whole of the task, necessitating some 60,000 to 70,000 ship visits per year, is carried out by foreign flagships whose crews are not Australian nationals. They are not our jobs; it is not our income; we do not own them. In 1990, the Australian fleet comprised 76 ships, of which 45 were involved in coastal shipping. In 1999, the fleet comprised 58 ships, of which only 35 were involved in coastal shipping. Ten per cent of our nation's coastal trade is carried by foreign ships, which is a fourfold increase since the early 1990s. In the early 1990s, around 200 flag of convenience permits were granted per year, but by the mid-1990s this had risen to 450 and by 1998 some 700 permits were issued. The number is continuing to increase and many more single voyage permits have been granted, which has further exacerbated the situation.

We have a shipping industry in relative decline. Foreign flag vessels, with either continuous voyage permits or single voyage permits, are plying our coast, doing our business. What has the government been doing while all this has been going on? To be polite and at best, it has a 'do nothing' policy. In 1996, the coalition government commissioned a report on the future directions of the Australian shipping industry—good on it. The report of the Shipping Reform Group was handed to the responsible minister in April 1997. By August 1998, the government had not responded to the report.

In November 1998, the government commissioned a further report from the Shipping Reform Working Group on the future directions of the industry, which was handed to the minister in April 1999. In December 1999, the responsible minister announced that the government would not make fiscal measures available to the Australian shipping industry and the industry have still not received a response to the Shipping Reform Working Group report. And if the

response is anything like it is to my letters to the current minister regarding the lack of security at regional airports, they will be lucky to hear anything for the next 10 years.

The decimation of Australia's shipping fleet and the emergence of foreign vessels operating on our interstate and intrastate routes is no coincidence. Foreign vessels are literally taking cargo off Australian ships by obtaining single voyage permits or continuing voyage permits, thus carrying interstate cargo without having to obtain a licence. Picture this if you will: Australian crews on Australian ships waiting at Australian ports, watching Australian cargo—that is, cargo that they should be transporting—being loaded onto foreign ships. Remember that the practice is being aided and abetted by this government's shipping policy—or lack of it.

According to a submission by the Australian Shipowners Association to the Senate Rural and Regional Affairs and Transport Legislation Committee, which was, at that time, looking at the [Maritime Legislation Amendment Bill 2000](#), the proliferation of permits has resulted in an increasing volume of coastal cargo being carried in foreign ships. The shipowners' submission noted:

It is well known in the industry that cargo interests intending to seek a permit keep track of Australian vessels so as to ensure that an Australian vessel will not be available when they make their permit application.

Watch and see and strike. Moreover, permits are usually sought and granted at such short notice that it can be readily contrived to avoid engaging an Australian ship.

Cargo carried in vessels issuing SVPs and CVPs increased by 0.7 million tonnes, or 10.1 per cent, to eight million tonnes in 1999-2000, which represents growth of 507.5 per cent compared with figures for 1991-92. The cargo carried per permit issued continued to increase—from 9,778 tonnes in 1998-99 to 11,430 tonnes in 1999-2000. Vessels issued with SVPs and CVPs transported 15.1 per cent of the Australian interstate and intrastate transport industry task by sea in 1998-99. So what we have seen, effectively, is the demise of Australian shipping and the dramatic increase in the issuing of coastal permits to foreign-flagged ships of convenience.

I was interested to read the transcript of the Senate Rural and Regional Affairs and Transport Legislation Committee's consideration of additional estimates of Tuesday, 19 February 2002. I was very interested in the exchange between Senator O'Brien, the shadow minister for primary industries and resources, and Mr Greg Feeney from the Transport and Infrastructure Division. What concerned me most in reading the estimates transcript—which I must admit, if you suffer from insomnia, is a very nice tonic—were two things that came out of the exchange. Firstly, the actual visa status of foreign crews seem to be very lax at best. If we ran our normal immigration policy based on what appears to be fairly lax monitoring procedures we would have more than just trouble with border protection. It really did strike me that this whole area of foreign crews, given the tremendous increase in the frequency of flags of convenience ships visiting our ports, is very dicey. The monitoring of those crews, I suggest, is a matter for potential concern.

Another interesting issue is what I believe is the rather lax issuing of permits for these foreign vessels and what appears to be little regulatory control by the relevant minister. I will return to that matter in a moment. I also found it interesting to note, as has been mentioned by previous speakers, that these foreign crews do not pay taxes to Australia; the tax relates to the operators of the ships. If you read the *Ships of shame* report and its sequels, you find that many crew members are working under very severe conditions and that we do not benefit from their presence here at all, apart from the fact that they take away jobs from Australian workers.

The chamber may be aware that there is an issue currently before the courts relating to the *CSL Yarra*—the intention or otherwise of CSL Australia to divest itself of the *Yarra*, as occurred with its sister ship the *Pacific*, which was formerly the *MV River Torrens*. I believe there are actions taking place relating to a possible problem with members of the crew. What

was interesting with respect to this affair was the astounding admission, confirmed by the office of the minister for transport, that the minister has no power to immediately revoke a foreign shipper's permit to operate along the coast.

The shadow minister for transport called on the minister to immediately revoke the permit of the *CSL Pacific* if it was found to be in breach of its coastal permit conditions. One of the conditions to which the permit of the *CSL Pacific* is subject is—and I quote:

That the vessel is not detained under Australia's PSC program nor under investigation by the ATSB during the currency of this permit.

On 26 February 2002, the Australian Transport Safety Bureau confirmed that they were investigating an incident on the *CSL Pacific* in which a Ukrainian crew member was seriously injured. I am led to believe that the minister's office told AAP that the minister could not revoke the permit of the *CSL Pacific* as six months notice was required and that 'the permit expires on 2 April anyway which is well before the six month period'. This is a major concession that the coastal permit provisions do not protect Australia's interests and that the minister does not care what foreign ships do on the coast. The minister is quick to issue these permits, with limited scrutiny of conditions on board or proper security and immigration checks on the crews, but he is loath to revoke them when breaches are found.

I think everyone would agree that the whole area of crewing, the regulations surrounding the issuing of permits and, most unfortunately, the continued demise of Australian shipping in light of the provision of more of these flags of convenience ships, is of real concern to the Australian community.

The shadow minister has moved amendments to this bill, and I support those amendments. They say in part:

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

- (1) condemns the Government for its sustained neglect of Australia's interstate transport network, especially the coastal shipping industry;
- (2) notes that the Government has actively supported the use of foreign ships and crews on the coast with inadequate industrial and immigration controls in place and inadequate monitoring of ship safety standards;
- (3) notes further that the Government's neglect is leading to the demise of the Australian shipping industry, jeopardising our national security and defence, and threatening our marine environment; and
- (4) calls on the Government to drop its ideologically driven opposition to the Australian shipping industry and its blind pursuit of lower shipping charges at the expense of Australia's broader national interests".

**Mr ANTHONY (Richmond—Minister for Children and Youth Affairs)** (12.50 p.m.)—Mr Deputy Speaker, I take this opportunity to congratulate you on your promotion to an august position in the Westminster system. I would like to speak on behalf of the Minister for Transport and Regional Services regarding the **Protection of the Sea (Prevention of Pollution from Ships) Amendment Bill 2002**. I thank all the speakers who have participated in the debate—six from the opposition, and two government speakers, the member for Petrie and the member for Paterson.

The principal aim of this bill is to amend the principal Commonwealth act intended to prevent pollution from ships. The principal legislation, the Protection of the Sea (Prevention of Pollution from Ships) Act was amended last year to provide that any person—rather than just a ship's master or owner—whose negligent or reckless conduct causes unlawful discharge of pollutants from a ship into the sea is guilty of an offence. This was a very important amendment to ensure that penalties are applied to individuals, not just to the ship's master or owners. From my understanding, the current legislation has come about due to a technical drafting error. The bill provides for a penalty of \$1 million for a ship owner or \$200,000 for the master. Owners and masters of ships remain strictly liable for any unlawful discharge of pollutants



from their ships, whether or not a person engaged in reckless or negligent conduct that caused the discharge.

An unintentional consequence of these recent amendments by the International Maritime Conventions Legislation Amendment Act 2002 was to exclude the offence provisions from taking effect in Australia's 200 nautical mile exclusive economic zone. This is quite important, because the states have responsibility for about three nautical miles, from my understanding; beyond 12 nautical miles, in our economic zone, we have not had this legislative power before. The bill extends the geographical coverage of the penalty provisions to include the exclusive economic zone.

I want to make one other point. The member for Batman was a bit critical of the fact that the bill and the offences were not seen to be retrospective from 1 October 2001. I have been advised that, whilst the pollution prevention bill does correct a drafting error, it also has the effect of applying criminal provisions over the exclusive economic zone for pollution from ships. In drafting the bill, it was considered that the application of the criminal provisions is more than a minor technical amendment which corrects the drafting error for the purpose of the retrospective application. My advice is that this issue was raised in the *Bills Digest*. The Senate Scrutiny of Bills Committee has stated that it will not comment adversely in relation to the retrospectivity of legislation if it does no more than correct a drafting error. It is considered that the retrospective application of the fault offence where the discharge was caused by reckless or negligent behaviour is more than a minor technical amendment to correct a drafting error. I commend the bill to the House.

Question negatived.

Original question agreed to.

Bill read a second time.

Ordered that the bill be reported to the House without amendment.

### BUSINESS

#### Rearrangement

**Mr ANTHONY** (Richmond—Minister for Children and Youth Affairs) (12.56 p.m.)—I move:

That order of the day No. 3, government business, be postponed until a later hour this day.

Question agreed to.

### STUDENT ASSISTANCE AMENDMENT BILL 2002

#### Second Reading

Debate resumed from 14 February, on motion by **Dr Nelson**:

That this bill be now read a second time.

**Ms MACKLIN** (Jagajaga) (12.56 p.m.)—I am pleased today to offer Labor's support for the *Student Assistance Amendment Bill 2002*. The bill will permit social security, veterans and family assistance overpayments to be offset against benefits payable under the Assistance for Isolated Children scheme and the Abstudy scheme. It will also increase the notification period for students from seven to 14 days, another welcome change.

I would like to make some brief remarks on how the proposed legislation will change debt recovery procedures and why Labor believes that the new arrangements will be beneficial to Abstudy and AIC clients. Approximately 20 per cent of the current 50,000 Abstudy and 12,000 AIC recipients have debts to Centrelink. That is a large number of students. Apparently the average level of debt for the broad Centrelink customer base is about \$800. Centrelink has advised that there is no reason to suggest that this is any different for indigenous clients. Quite a large number of indigenous students—around 20 per cent of the Abstudy students—will have debts of about \$800, we understand, so that is a significant amount.

Under current debt recovery procedures, Centrelink sends the individual a letter advising of the reason for the debt and the amount of the debt. Clients then have 28 days to repay in full or to negotiate other repayment arrangements. Individuals often ring Centrelink and request that their debt be gradually reduced through deductions from their future entitlement, but unfortunately the current legislation precludes Centrelink from enabling debts to be reduced in this way.

It is important to note that reductions from future entitlements are the standard procedure for recovering debts from other social security recipients. Abstudy and AIC clients are instead advised that they can repay through the Post Office, by cheque or money order, by telephone, by the internet or by setting up a direct debit arrangement with their bank, which then returns the money owed to Centrelink. Many of these procedures are very costly for clients who are already experiencing significant disadvantage. They may also be very difficult to organise for many of the Abstudy and AIC clients who live in rural and, in some cases, very remote areas. The withholding facility proposed in this bill would automate a repayment schedule based on a standard 14 per cent withholding rate, when an Abstudy or AIC client has a debt and once the client has been advised.

Of particular concern to Labor was to make sure that the repayment of debt did not put at risk the payment to recipients of Abstudy or those receiving assistance under the AIC scheme. We do not want to see those people having insufficient income to live on in the future and, in particular, we do not want to jeopardise their participation in education programs. Recipients of both of these payments are from groups whose access to—and, I might say, successful completion of—education is shamefully low. We have been assured by the department that guidelines would allow the 14 per cent withholding rate to be negotiated to a lower level if the standard repayment rate placed clients under too much pressure. I certainly look forward to seeing those guidelines and making sure that that is the case so that people are not further disadvantaged.

We are persuaded that the withholding facility that is already in place for youth allowance, Austudy payment and the Newstart allowance customers should also be available to AIC and Abstudy recipients. For those who live in remote and isolated areas, the withholding facility will offer a more efficient, less costly and more flexible means to reimburse Centrelink.

I do, on this occasion, want to place on the record some of our very deep concerns about this government's failure to improve educational outcomes for indigenous Australians. I am glad to see that the Minister for Education, Science and Training has come into the chamber. The record exposes the government's commitment to 'practical reconciliation'—the government's term—for what we would consider to be the hollow rhetoric that it is. In the sitting week before this, the minister for education took a question from his own side in order to boast that his government had increased by 678 the number of indigenous students in higher education. Not only did he significantly overstate the increase; he failed to mention that between 1999 and 2000 the number of indigenous students enrolled in higher education actually fell by over eight per cent, or 685 students. He failed to mention that the number of indigenous students commencing higher education in the year 2000 was over 15 per cent lower than commencements in the previous year. He failed to mention that the percentage of indigenous students completing year 12 actually fell in 2001 and, at 36.3 per cent, is less than half the retention rate for non-indigenous students.

Unfortunately we are seeing from this minister an intention to profess concern for indigenous disadvantage without acknowledging the extent of the problem. I would have to say that that sort of rhetoric will certainly not improve the life chances of indigenous Australians. It is only by improving access to education and making sure that we have improved completion rates—whether it is at school, TAFE or university—that we will see an improvement in opportunity for those students.

**Mr SECKER (Barker)** (1.03 p.m.)—Mr Deputy Speaker Barresi, I offer my congratulations on your new position. I rise today to discuss the merits of the **Student Assistance Amendment Bill 2002**. In essence, this bill comprises a list of amendments designed to bring certain aspects of the Student Assistance Act 1973 into line with other social security acts. This bill is vital to ensuring that the student assistance program already embarked upon over the last three decades continues to move with the times and provides both students and the government with a fair and equitable system. The proposed amendments will help to ensure consistency in arrangements between the Student Assistance Act and the Social Security Act in terms of permitting the recovery of overpayments and also the required notification period.

The Student Assistance Amendment Bill 2002 sets out firstly to permit social security, veterans affairs and family assistance legislation overpayments to be offset against benefits payable under the Assistance for Isolated Children scheme and the Abstudy scheme. These overpayment offsets were permitted under the former act until amendments in 1998 took effect to reflect the introduction of the youth allowance under the Social Security Act. Not only will this amendment assist the government by enabling it to recover up to \$4.4 million by offsetting; it will also improve efficiency and reduce administrative procedures for both the government and the clients.

The amendments will give withholdings a legislative basis while at the same time provide clients with a right of appeal. We all know that welfare cheats cost the Australian taxpayer enormous amounts of money annually, and nearly everyone has a story about someone who is cheating the system. Welfare cheats steal money that could be used to help the more vulnerable in our community, and they take advantage of our generous welfare system, despite the fact that it was designed to assist the needy and not the greedy. Our government is extremely concerned about the cost of welfare cheats to Australian taxpayers and as such has been particularly careful to devise various detection methods to catch welfare cheats. It is expected to recover up to \$4.4 million in overpayments, which is \$4.4 million we can use to help those in need.

The second amendment of the bill is simply designed to update the definitions in the Student Assistance Act 1973 to reflect that the Aboriginal Overseas Study Assistance scheme no longer exists. Provisions are now contained in the present Abstudy scheme and the government, through this amendment, has amended the definitions of the current special assistance scheme and the special educational assistance scheme to reflect this change.

The third and final amendment increases the seven-day notification period in which students are obliged to notify certain proscribed events, in section 48 of the act, to a 14-day period. While this bill is not designed to pursue individuals with regard to overpayments, it is designed to assist students by automatically withholding payments when moneys are owed to the Commonwealth.

This bill is of benefit to all concerned, and it goes a long way to improving the consistency of the Student Assistance Act 1973. I commend the bill to the House.

**Dr NELSON (Bradfield—Minister for Education, Science and Training)** (1.07 p.m.)—in reply—Mr Deputy Speaker Baressi, I offer my congratulations on your appointment to serve as a deputy speaker on the Speaker's Panel. I thank those who spoke to the bill. I strongly refute the remarks of the member for Jagajaga in relation to indigenous education and the government's commitment to it. I will address those issues at another time.

The **Student Assistance Amendment Bill 2002** amends the Student Assistance Act 1973 and the Abstudy and Assistance for Isolated Children schemes, which are non-statutory executive schemes funded through the appropriation acts. The Student Assistance Act 1973 provides the statutory mechanism in relation to debt recovery and administrative appeals for these schemes. There is little point repeating what I said in my second reading speech or repeating the contributions made by honourable members, and the very good contribution from the member for Barker in particular.

There are three points that should be made in conclusion. The Independent Review of Breaches and Penalties in the Social Security System is an independent review of the social security system conducted by Professor Dennis Pearce, who is a former Commonwealth Ombudsman and professor of law at the Australian National University. The report was released on 11 March, two days ago. I also, on behalf of the government, strongly refute the opposition's claim that this report in some way shows that the government is more interested in, to use the opposition's terms, 'reducing costs,' than helping people in need. Nothing could be further from the truth, and that impugns the reputation of Mr Pearce.

This amendment bill aims to assist students receiving Abstudy and Assistance for Isolated Children benefits and who have a debt from other Commonwealth programs to have that debt offset against future entitlements. A withholding facility is a far more efficient way to go and easier for the repayment of debt, and as such I commend the bill to the House.

Question agreed to.

Bill read a second time.

Ordered that the bill be reported to the House with an amendment.

**Sitting suspended from 1.10 p.m. to 4.36 p.m.**

**TRANSPORT AND REGIONAL SERVICES LEGISLATION AMENDMENT  
(APPLICATION OF CRIMINAL CODE) BILL 2002**

**Second Reading**

Debate resumed from 20 February, on motion by **Mr Tuckey**:

That this bill be now read a second time.

**Mr MARTIN FERGUSON (Batman)** (4.36 p.m.)—Before turning to the [Transport and Regional Services Legislation Amendment \(Application of Criminal Code\) Bill 2002](#), I want to firstly congratulate you, Madam Deputy Speaker Corcoran, on your appointment as Deputy Speaker. I think this is your first occasion occupying the chair of the Main Committee, and I wish you well in your new endeavours.

The purpose of this bill is to make consequential amendments to certain offence provisions in legislation, for which the Minister for Transport and Regional Services has ministerial responsibility, to reflect the application of the Criminal Code Act 1995. The amendments will ensure that the offence provisions operate in the manner they did prior to the application of the Criminal Code. The bill affects a small number of offence provisions that were not included in the [Transport and Regional Services Legislation Amendment \(Application of Criminal Code\) Bill 2001](#) and are therefore inconsistent with the Criminal Code principles.

The amendments arise from the requirement to, firstly, specify that an offence or a physical element of an offence is not one of strict liability; secondly, clarify the physical elements of an offence; thirdly, clarify the fault elements of an offence, especially where the fault elements vary from those specified by the Criminal Code; and, fourthly and finally, separate defences from offences and identify the evidential burden in relation to a defence.

The opposition supports the bill, and I am pleased it provides an opportunity to raise some other issues of concern to the opposition. I draw the House's attention to the fact that the topic of the bill is the Criminal Code. When a member of the House thinks of the Criminal Code they are immediately drawn to what is specified as appropriate behaviour. The Criminal Code, as we all appreciate, sets out the law of the land to guide us in a daily life—the ground rules of what is expected as acceptable behaviour in the eyes of the judiciary and, more importantly, in the eyes of the Australian community. What the Criminal Code does not specify is the moral and ethical code, but there certainly are values and ethics that underpin the Criminal Code. I suppose it is about what we as a community expect as acceptable behaviour.

With respect to the bill before us, I simply say that this is the culmination of an exercise that makes certain changes across all federal legislation with respect to fines, punishments and

liability. In short, the bill makes the portfolio legislation—and implicitly, therefore, the industry that is bound by it—comply with certain standards and therefore ethics and values. Today, I call into question the ethics of, and the degradation of office and responsibilities by, the Deputy Prime Minister, Minister for Transport and Regional Services, and Leader of the National Party, John Anderson.

Yesterday at question time in the House of Representatives, Australia's Deputy Prime Minister and Minister for Transport and Regional Services accepted a dorothy dixer to reannounce some, as he described it, 'major aviation reform processes'. I might point out as an aside with respect to this matter that everything in the minister's dorothy dixer was announced a month ago. In fact, he made the same announcement on 15 February this year. I remind the House that he hid behind the Friday of a parliamentary sitting week—not any other day of a parliamentary sitting week or a prime time spot—and made his announcement after parliament had ceased sitting. I suggest that he had a whole week of sittings the following week and still did not do anything. Finally yesterday, the dorothy dixer came through. He had the hide to say that we had been completely silent about the announcement of the reform process. With the tag and glory of Deputy Prime Minister, Leader of the National Party and Minister for Transport and Regional Services, I believe that he could not have gone any further to hide from his own announcement in the manner in which he handled it prior to the dorothy dixer yesterday.

I want to digress at this point. I do not propose this afternoon to go into the detail of the aviation reform announcement because it does not deserve it. We have been there before on a number of occasions since the change of government in 1996. For example, three years ago the minister announced a measured approach to so-called aviation reform. His approach has been so measured, it has not been on the screen—it has actually been invisible. The February announcement included the corporatisation of Airservices Australia. In fact, I recall an earlier deadline on this. If I remember correctly, it may have been the end of 2000. It is two years overdue, yet we can measure that because that is what it is about. We can at least measure from when the original announcement was made to the deadline and nothing was done.

This is the same minister who boasted with great fanfare in the House 12 months ago about his aviation reforms delivering aviation competition. We all appreciated—especially Ansett workers and their families, communities in the federal seat of Burke, in Hume, Sunbury and Mount Macedon—that, when it comes to his so-called commitment to aviation competition and the requirement to deliver on that, the collapse of Ansett says it all. He did not comprehend the need for sustainable competition which effectively meant that consumers benefited and which, more importantly, meant that we kept Australians employed in the aviation industry.

It reminds me of his blind approach to shipping competition. I know that he wanted to talk about ideology in question time again today. His approach to ideology, competition policy and the needs and aspirations of Australian workers, seafarers and their families is to subsidise foreign shippers and hang the Australian shipping industry out to dry. As I said earlier in the debate on another transport bill, when he wants to subsidise overseas shipping companies, he does not stop at going out of his way to foster overseas companies coming into Australia with tax regimes propped up by other countries, he also goes out of his way to make sure that we do not crack down on border protection and visa arrangements with respect to people working on those continuous and single voyage permit vessels. But enough of that; I dealt with that at length in an earlier debate on a bill about the pollution of coastal waters.

We often see the minister stand up and take dorothy dixer in the House, and I want to remind the House of another one today. We also saw the minister stand up in the House on 7 September 2000 and beat his chest, because he is a very important man, the Minister for Transport and Regional Services—just ask his backbench. However, he has returned to this parliament with fewer members of the National Party caucus than he had when he went to the

last election. I know that brings some smiles to this side of the House and to the other coalition partner, the Liberal Party.

What did he beat his chest about on 7 September? I heard him say that CASA, the Civil Aviation Safety Authority, and the Australian Transport Safety Bureau must—and he emphasised this by banging the table—sort out their differences on audible alarm systems as a matter of great urgency. It was of great urgency, because unfortunately we had an aviation accident which saw the loss of Australian lives. The record will show that in October 1999 this was first brought to the attention of CASA by the Australian Transport Safety Bureau, after another fatality was narrowly avoided. This is a minister who is consumed with his portfolio responsibilities, a minister who would have the House and the Australian community believe that he gives great and proper attention to safety standards and pursues the need for reform in the aviation industry in Australia.

Here we are, 29 months after the minister said to ‘fix it urgently’. They were his words. There was a responsibility on the aviation industry to fix the problems with respect to the issues of audible alarm systems. For those who understand the aviation industry, the requirement to actually make change with respect to the audible alarm system is a matter of life and death. But what do we have 29 months after the minister said to fix it urgently? Again, I refer the House to events of the last week. In the press this week, for example, in the *West Australian*, we are reading the horrific recollections of air traffic controllers at the coronial inquiry of the eight victims of the Super King Air that crashed at Burketown because it seems that they were not aware of the oxygen loss.

Go to the report of that inquiry. You will find in that report a record of an air traffic controller—one of the very valuable people who work in the aviation industry that the minister had the hide to have a crack at in question time today because these people are prepared to stand up for their industrial rights—actually crying with powerlessness, recalling not being able to alert the pilot about the problem that was obvious to them but not to the pilot or to the passengers on that aircraft.

Now, 20 months later, in spite of the minister’s so-called plea about urgency, the Civil Aviation Safety Authority—the agency for which he is responsible, the agency which we have been suggesting for a number of years now is not performing its duties adequately—has still not mandated the audible alarms. All I can say is that, if that represents performance of this minister’s duties in an urgent fashion, I would hate to see what he would do if he were tardy in performing his duties. Frankly, his lack of attention to detail, his lack of attention to the fact that he is the responsible minister for aviation activities in Australia, his not acting on the audible alarm front—so far as I am concerned—through proper direction and accountability, has risked the lives of other ordinary Australians since he originally stood up in the House and said that this had to be attended to as a matter of urgency.

What about the press release? It was rushed out with the release of the ATSB final report on the Burketown crash, with promises to fix it by the end of this year. All I can say is that the opposition is going to be monitoring the performance of the minister, yet again, and all the associated aviation authorities to see whether they meet the so-called deadline on this occasion. That will be clearly related to how long this minister’s inaction further risks lives of people actually participating in the aviation industry—be it as workers or passengers—because of a lack of attention to his detailed responsibilities as the Minister for Transport and Regional Services.

One wonders at the gall of the minister, standing up and criticising the opposition from time to time. How many more ATSB recommendations will this minister let CASA ignore? How many more lives is he prepared to sacrifice before he speaks up, opens his eyes and accepts his responsibilities? That is what he is paid for and that is what he sought—to be a minister in the current government. I do not mind if he is a minister, but it is about time he did the job he is paid for—to actually go out of his way to implement so-called promises to the Aus-

tralian community with respect to proper regulation of the Australian aviation industry and, in doing so, to protect the lives of Australian workers in the aviation industry and people who use the aviation services.

Let us also go to some other examples of the minister's so-called measured response to his duties. The minister's measured approach also involves committee after committee and no action. What happened to the Aviation Safety Forum? What happened to CASA's aviation regulatory reform processes that received extra funding in the last budget? The minister is instead trying to stretch his measure—stretch the elastic side of his boots in which he likes to march around rural and regional Australia. The measured approach to aviation reform, I also suggest to the House, is to cover off another debt—another agreement entered into in the lead-up to the most recent federal election, another dirty little deal for another coalition mate.

This takes me back to the all-important question of ethics. The Minister for Transport and Regional Services and Deputy Prime Minister—in association with his boss, the Prime Minister—has been involved in what I believe is a buy-off of Dick Smith for the federal election campaign. The record shows that on previous occasions Mr Smith has been a generous donor to the coalition. It is widely known in the industry that the Prime Minister was involved in a meeting with Dick Smith and the Deputy Prime Minister. If you want any evidence of that, just look at the tape of question time yet again yesterday and look at the reaction of the Prime Minister when the Deputy Prime Minister in glowing terms mentioned Dick Smith and, in doing so, confirmed the Prime Minister's involvement and knowledge of the deal. Look at the Prime Minister's smirks, the arm patting of the Deputy Prime Minister and the swinging around in the chair to show off to the team behind him. It is all on the record, all on the tape of question time yesterday.

What you see is the Prime Minister taking credit for bailing out his Deputy Prime Minister, the Leader of the National Party, Minister for Transport and Regional Services and member for the seat of Gwydir. It is common knowledge, if you go back over the last couple of years, that Dick Smith did not care who won Gwydir, provided it was not the current minister. He said on a number of occasions that he was going to spend the whole election campaign on the stump in Gwydir, travelling around in his Commodore ute, staying in pubs and talking to the good voters, saying that their local member was, as he described, the 'worst transport minister in history'.

Before the end of the campaign, after the September 11 terrorist attack, the erstwhile entrepreneur and aviation amateur suddenly decided to pull out of the campaign and declare his support for the current government and the current minister. Mr Smith was reported as saying—and I should remind the House—that, when it comes to aviation reform, 'Australia needs a dictator at times like this.' Before the end of last year, the real deal had been done and it began to emerge. The deal between the Howard government and Dick Smith was the gagging of Dick Smith. The price the Howard government paid—or should I say, the price the Australian travelling public will eventually pay—as was clearly proven in question time yesterday, was giving Dick Smith a third go at his personal obsession of aviation reform.

We should not forget that this is the third time that Dick Smith has been put in charge of aviation reform in this country. First, it was as the chair of the then Civil Aviation Authority; second, as chair of the regulator, the Civil Aviation Safety Authority. I expect that on this occasion the government is hoping, if not praying, that perhaps it is third time lucky for Dick Smith. It will take luck because, for all his energy, knowledge and courage, he has messed it up on each of the two previous occasions. This is another, can I say to the House, Howard government gamble.

Dick Smith accuses unions of excessive power. He should remember that he is an individual who happens to have money and influence. This has opened doors for him. I remind the House that not too many people, especially ordinary Australians, get an invitation to attend the Prime Minister's Christmas function, eating Japanese food care of the Australian taxpayer-

ers at Kirribilli House. The record shows who was in attendance. Mr Dick Smith was one of them.

We will never know if Dick Smith's campaign would have successfully unseated the minister for transport in Gwydir. We will never know if Dick Smith ever intended going ahead with his so-called announcements about campaigning in Gwydir. We will never know for sure the deal that the Prime Minister and the Deputy Prime Minister stitched up with Dick Smith, but we are starting to get a fair idea. What we will know over time is the cost that is to be paid for the influence of Dick Smith on this government. Over time we will see if Dick Smith can strike it lucky and succeed in airspace reform or at least succeed in bludgeoning his way. How beneficial it is to Australia may only become clear in the longer term.

In looking to the Criminal Code, can I simply say when it comes to the Department of Transport and Regional Services it should also look to the code of ethics which the minister for transport applies to his portfolio duties. When the Deputy Prime Minister sits in quiet contemplation, as he does from time to time, I hope he reflects on the undue influence that he has succumbed to in order to try and guarantee his re-election as the member for Gwydir. In short, the opposition will remain vigilant and continue to hold this minister accountable and draw attention to his ongoing failings as the minister for transport.

But I also want to deal with one other issue today. Again in question time we witnessed the blind ideology of the minister for transport today. Earlier in this place today, I illustrated this blind spot in relation to his absolute hatred of maritime unions and how that ideology is a barrier to reform. In question time today the minister criticised a union official in Queensland for criticising Chris Corrigan, the head of Patricks. I think that official was the only one the media could find because, as I have said and stand by, the labour movement has moved on. I refer the House therefore to a statement by the ACTU yesterday in response to the announcement of the proposed merger between Virgin Blue and Patricks, and I quote:

The waterfront dispute of 1998 will not play any part in the approach of the ACTU or the unions in dealing with this issue. Our responsibility is to the staff of Ansett and also to the staff of Virgin.

It goes on:

Patrick Stevedoring is a fully unionised operation and notwithstanding the bitterness of the 1998 dispute, both the unions and the company have worked hard in recent years to rebuild relationships.

I hope the Deputy Prime Minister actually has time to read the media release put out by the Secretary of the ACTU yesterday, part of which I have read into *Hansard* this afternoon, clearly supporting the merger of Virgin Blue and the Patricks group. The explanation is simple: it is about jobs and looking after Australian families. It is only the Deputy Prime Minister who likes to dwell on class hatred, as evidenced in his performance in question time today. I would also remind the House of what John Allan, the National Secretary of the Transport Workers Union—the same union that the so-called Queensland official who the Deputy Prime Minister quoted in the House this afternoon came from—said in today's *Australian Financial Review*:

Lang Corp (now Patrick) maintained existing pay and conditions after its purchases in the road transport industry and the union had a good working relationship with Mr Corrigan.

I would also remind the House that that same union covers the staff of Virgin Blue. Then the minister took a slap at air traffic controllers, technical and engineering staff, administrative workers and firefighters who are taking action in Melbourne today. As part of my duties, I met with some of those people last week in Brisbane when I inspected one of the facilities operated in the aviation industry by those very same people at Brisbane airport. All I can say is that they are highly professional people who are dedicated to their industry and committed to aviation safety. The attack by the government on them in question time today was unjustified. They are entitled to campaign for improvements in their standard of living in the same way in which I suppose Mr Wooldridge thought it was appropriate to dip into taxpayers' money to look after his future with respect to the grant to doctors to build a property in Canberra. There is one rule for their mates and a different rule for ordinary workers.



I point out to the Minister for Transport and Regional Services that these workers are taking action in accordance with what? They are taking action in accordance with his own government's industrial laws. They are taking legitimate industrial action in pursuit of the improvements in their wages and conditions. The Industrial Relations Commission did recommend the workers not take the action but the employer's claim for binding orders to stop the action was not accepted by the commission—something the Deputy Prime Minister and the Minister for Transport and Regional Services forgot to mention in question time today. The minister and I are fortunate enough to get our wage increases automatically, through the legitimate activities of the Remuneration Tribunal. I have never seen the Deputy Prime Minister walk back and reject an increase in his own salary. In fact, we even had evidence that required some members of his own party—the National Party—in previous parliaments to resign because they had dipped into travel entitlements that they were not entitled to. He talks about workers' standards! He ought to have a look at the performance of his own party, his own caucus.

I remind the House that ordinary workers have to negotiate and fight for their increases under the government's workplace relations laws—and this is what these workers are doing. They are operating within the parameters of this government's industrial framework. Are they to be condemned for that? I simply suggest to the House, no. It is the government's industrial framework, and they are operating within the parameters of that industrial framework. It is all right for politicians—we get the Remuneration Tribunal report and we put our hands up for increases. But as soon as it comes to ordinary workers saying, 'We are entitled to some changes in our wages and conditions', it is different, isn't it? Yes, it is different.

It reminds me a little bit of the announcement after the election: when it comes to taxpayers' money, all of a sudden we are now entitled to spend \$125,000 per annum on printed material in our electorate. These workers do not earn anywhere near that each year in terms of their gross salary let alone their take-home pay.

*Mr Cadman interjecting—*

**Mr MARTIN FERGUSON**—Yes, it hurts. They do not mind looking after themselves—\$125,000 a year for printed material in their own electorate. But when it comes to workers saying, 'We're entitled to a little bit more, even though we don't get as much a year as they spend on printing,' there is a different rule for ordinary workers and their families.

As I have said in this debate, we have seen a minister who is becoming obsessed with blaming others for his inaction on transport reform. If the Minister for Transport and Regional Services, Mr Anderson, were honest, he and his friend Dick Smith would admit that the unions are not a barrier to transport reform in this country; the only real barrier to transport reform in this country is an ineffective minister, a minister not interested in his portfolio responsibilities, a minister who, I remind the House, said in the lead-up to the last election, 'Poor me, poor me. I am overworked.' Go and read the rural press. 'I am overworked. Something will have to give if we win yet again. I will have to give up some of my portfolio responsibilities. I've got too much work to do.' Well, for some strange reason I think the Prime Minister's response to that was, 'If you started doing a little bit of work in your transport portfolio then we would not have had the problems we have had in the portfolio over the last couple of years.' The Prime Minister rejected his plea to walk away from his responsibilities and told him to get on with his job—the job for which he has collected a significant salary for the last six years—and to start to live up to what he is paid for, being responsible for the transport portfolio in this parliament.

The opposition is supporting the bill because it is about the application of the Criminal Code that brings with it a very important responsibility. It is about the application of the Criminal Code to the transport portfolio. It is about the application of the Criminal Code to a portfolio where if you do not turn and apply your mind to the performance of your portfolio

responsibilities it can lead to the death or injury of ordinary Australians. I call upon the minister today to start to face up to his responsibilities.

The Criminal Code, as we know it in Australia, imposes certain behavioural standards—I suppose, in essence, a moral and ethical approach to life in general. Get on with your job: do not take money under false pretences for being the transport minister any longer. I have referred on a number of occasions today to the fact that the minister, I suggest to the House, has taken money under false pretences. He has failed to do his job as the minister for transport. Get off your backside; accept that you are the minister; do not try to suggest that you are overworked; do your job. (*Time expired*)

**Mr CADMAN (Mitchell)** (5.06 p.m.)—What a fascinating speech by the member for Batman. It seems to me that Labor Party ministers will go out there and write the air navigation rules, and every time something goes wrong the minister will go and make the corrections himself. We are going to have a very proactive minister who will investigate everything and decide everything. The decisions will have to go through caucus, of course, but it is only the safety and lives of people!

The arguments advanced by the Australian Labor Party today are for complete and absolute political involvement in all avenues of transport. I think the cries of protest that the workers should not go through the Industrial Relations Commission and should just be allowed to run free and make up their own minds in transport, particularly in aviation, are just beyond belief. On the one hand, when the shadow minister was spokesman for the labour movement, his great cry was: ‘We must have an umpire. The umpire must be involved. We accept the umpire’s rules.’ Today he is advancing the argument in aviation that we should ignore the umpire—we should be allowed to do whatever we like and, because they are workers who work in an important industry, they can ignore the plea to get back to work and can go on with the dispute.

We have had a number of disputes in the aviation industry—for example, the air traffic controllers and maintenance workers in Qantas. I do not know whether those maintenance workers in Qantas were in some way in collusion with the workers at Ansett—trying to pull Qantas down in order to get Ansett up. I do not know whether that was what was happening, but it seemed coincidental to me that there were so many air maintenance workers’ strikes during the period that Ansett was having trouble. I was suspicious that there was a degree of collusion amongst workers in the aviation industry. I am really interested in the comments of the Australian Labor Party. It appears that they are policy free, but they will have a proactive minister—a minister who will go and investigate every crash, who will not rely on experts and will not depend on people whose sole role is to provide for safety amongst Australian travellers; the minister will make those decisions.

The member made a big complaint about Dick Smith in his speech. Dick Smith is a visionary. He is a person who has created disruption in the industry; he has provided bright ideas as well. Both sides of politics have enjoyed Dick Smith’s involvement in the aviation industry. The Australian Labor Party appointed him. They wanted him to try to fix the industry up—that did not seem to work. We believe that we have got a process for careful reform of general aviation. The minister has got a plan in place, with the involvement of CASA and Airservices Australia, as to how we are going to move sensibly to have reform in general aviation. It will come. The shadow minister, if he had been aware of his portfolio responsibilities, should have been aware of that issue as well.

In regard to the ACTU comments about support for the new Virgin-Patrick deal, I cannot believe that Hughie Williams said: ‘I think we’ve got to keep a very close eye on Mr Corrigan. We know what he’s capable of doing’—and this was on the *AM* program yesterday. Minister Anderson quoted him and then added, ‘Like cleaning up the waterfront and growing our export industries and all the jobs in them.’ These warnings are unbelievable, when you look at the ACTU and the Labor movement claiming that ‘The Labor Party and the union

movement don't go through life seeking to settle scores.' That is rubbish. We know how that works. We see it every day. Martin Ferguson, the member for Melbourne Ports—or is it Melbourne?—today expressed the same thing.

*Mr Laurie Ferguson interjecting—*

**Mr CADMAN**—Batman: it was the right state but the wrong seat; they are neighbouring seats. He is the shadow minister for transport. He came in here as the member for Batman but he might as well still be the head of the ACTU, from the way in which he presented his aviation and transport policy here today. It was pretty sad to see, actually. Unions run rampant in the union movement: he basically said that today. I would like to put the Trade Practices Act over his speech, to see whether it was not misleading or inaccurate, because I think that the Trade Practices Act on that speech would demonstrate time and time again that it was full of both misleading statements and inaccuracies. If he had been out there as part of the private sector, he would have been up for a big fine or else in the slammer for making misleading statements.

But that does not seem to worry him. He can, instead, have a go at the minister for transport, the Deputy Prime Minister, for not being hands-on in making all of these decisions—decisions which it would be extremely dangerous for a minister for transport on his own to make. We have to rely on experts in all of these things. A minister cannot interfere and make the decisions. He has to rely on the advice of safety officials in all decisions on aviation and transport in general. So the long bow that the member for Batman tried to draw between the Crimes Act and what he spoke about today was inappropriate and improper, in my opinion.

The bill that we are looking at today seeks to bring into a codified environment the transport and regional services provisions that the Commonwealth covers, and the application of the Criminal Code to that area is something that has been going on for some time. It is an initiative of the current Attorney-General. He has been careful to say that we need to have an effective crimes regime across all portfolios and all areas of government, and systematically he has applied that Criminal Code and its changes to all areas. It is coming into the transport and regional services area right now with this legislation. It is very sensible and thoughtful. But the provisions of the bill seem to be quite foreign to the previous speaker, who went on with a speech of vilification of the Minister for Transport and Regional Services, the Deputy Prime Minister, for taking careful decisions to advance policy in a sensible and understandable way.

The previous speaker promoted the cause of the union movement, saying that they had a right to go on strike, no matter what the disruption was that they caused and despite the pleas of the umpire, who seems to be so important to the Australian Labor Party. He promoted the fact that they should go on carrying out their affairs as they wished, and then he tried to link his thoughts with some weird notion of moral and ethical conduct. Well, he could try that, but what he should be doing is looking at the contents of his own speech and seeing whether it would stand up not just to ethical things but to the Trade Practices Act on whether it was misleading and whether in fact there were false statements in it.

I support this legislation. The government has moved to change the environment in transport and regional services by bringing it into the unified processes of the Criminal Code.

**Miss JACKIE KELLY** ([Lindsay—Parliamentary Secretary to the Prime Minister](#)) (5.15 p.m.)—I commend the member for Mitchell for his contribution to the debate, as usual. He is a very informed member and has done a lot to contribute to government policy, not just over the last six years but during his entire time in parliament. Comparing that with the member for Batman's speech, it did come out that the opposition would be supporting the [Transport and Regional Services Legislation Amendment \(Application of Criminal Code\) Bill 2002](#), but other than that we just had some highly personal sledging of a very capable, competent and hardworking minister, and some other irrelevancies and specious arguments that just covered up for lack of policy and laziness on the opposition's part.

The amendments proposed by this bill will ensure that the criminal offence provisions operate in the manner that they did prior to the application of the Criminal Code. The amendments proposed by the bill must be made as soon as possible to minimise the period during which the provisions remain unharmonised with the Criminal Code; that is, constructed in a manner that is inconsistent with the Criminal Code's principles and may be interpreted and enforced in an unfamiliar manner. This bill does not create any new offences of strict liability and, where the existing penalty exceeds the Criminal Code policy for strict liability offences, it is limited to a serious offence provision that has safety implications for the aircraft and persons on board that aircraft. In the interests of time I will leave it there.

Question agreed to.

Bill read a second time.

Ordered that the bill be reported to the House without amendment.

### GOVERNOR-GENERAL'S SPEECH

#### Address-in-Reply

Debate resumed from 12 March, on motion by **Ms Ley**:

That the address be agreed to.

**Mr LAURIE FERGUSON (Reid)** (5.17 p.m.)—Uncharacteristically, I would like initially to make a number of remarks about the federal election and, more particularly, the electorate of Reid. Part of the reason is the rather exotic coalition candidate who was supplied for my seat, Mr Irfan Yusuf. He did, of course, make a major contribution to public debate in this country when he conceded, in the *Financial Review*, that the coalition had used racism in the last general election. That was a very telling remark by the Liberal candidate in that very authoritative journal. However, I think that other characteristics of the campaign were somewhat disturbing. His last-minute enrolment at an Islamic owned prayer room in the last week before the election was such that the local council said that the purported address of the Liberal candidate was a property that could not be used for residential purposes. Fortunately for Mr Yusuf, as a lawyer, he must have some awareness of electoral laws and he would know that candidates' addresses, no matter how dubious, cannot be challenged during the election period.

So we had this candidate moving into the electorate, enrolling in the Islamic prayer centre in the last weeks of the campaign and subsequently bemoaning the 'racist' campaign of his own party during the campaign. But he really did not do much for multiculturalism and ethnic understanding in this country when he walked down the streets of Auburn inspecting the various food outlets and claiming which ones were more authoritative with regard to the halal meat issue. He was complaining in the *Sydney Morning Herald* that some of the local Turkish food outlets were not utilising halal meat. This was another spectacular part of the local Liberal campaign.

I turn to the question of the actual result. Whereas in 1998 the seat of Reid had the largest state-wide swing to the Labor Party, in this election it had a worse than average situation. I want to raise the question of the informal vote and the continuing conflict between state and federal electoral laws in this country. The growth of the informal vote in Reid from 7.1 per cent to 11.1 per cent is statistically of interest. In the adjacent seat of Blaxland the vote went from 5.5 per cent to 9.8 per cent. In other words, in both of these seats—

**Mr Cadman**—They didn't want to vote for either party. They stayed at home.

**Mr LAURIE FERGUSON**—Alan, you could actually learn something about informal voting in this debate. In both those seats the informal vote grew by four per cent. If you compare that with other seats in the adjacent areas, you will find that Prospect had 2.5 per cent growth, Lowe had 1.2 per cent and Parramatta had 1.4 per cent. The reason for that—and this is very informative for you, Alan—was the fact that just before election day a by-election occurred in the Auburn state seat, which is shared by Blaxland and Reid. The situation in New

South Wales is that a No. 1 vote is a formal vote in state elections. So we had a party out there—the Labor party in this case—campaigning that voters in the by-election only had to vote No. 1. Weeks later, they are facing a federal poll with totally different electoral requirements. I think this is an indication of the need for some kind of sense in this country that people are being asked vote in two different electoral systems.

**Mr Cadman**—The state's wrong.

**Mr LAURIE FERGUSON**—Whoever is wrong, it does show a problem. This election, quite clearly, was fundamentally fought around the question of New York, the *Tampa* and border protection. We have seen since the election a fairly extensive expose of the degree to which the government colluded in attempting to utilise immigration policy for racist purposes—or, more specifically, for religiously biased purposes. The coalition was attempting to utilise a fundamental hostility to Muslims in this country, to try to indicate to the Australian public that: 'We, the current government, are not going to let these Muslims into the country.' There was code language, there were subterranean kinds of messages, but clearly the government wanted to tell the Australian public that they were going to stop Muslim people coming to this country.

**Mr Cadman**—Madam Deputy Speaker, I rise on a point of order.

**Mr LAURIE FERGUSON**—The particular area that they tried to do this in was in the area of—

**The DEPUTY SPEAKER (Ms Corcoran)**—The point of order.

**Mr Cadman**—Listen, if you want to get into a slanging match and a racist debate, you are going the right way—

**The DEPUTY SPEAKER**—What is your point of order?

**Mr Cadman**—I take objection to the words that this member is using to describe members of the coalition. I think that it is inappropriate and wrong.

**The DEPUTY SPEAKER**—There is no point of order at this point.

**Mr Cadman**—He is making accusations of racial and religious bigotry in the election campaign.

**The DEPUTY SPEAKER**—Thank you. I take your point of order. There is no point of order at this point.

**Mr LAURIE FERGUSON**—It is quite appropriate that the interjector is the member for Mitchell. In a debate a day or so ago, he refused to publicly support the government's policy in regard to dual citizenship. He went into the House condemning the government's intention of getting rid of dual citizenship. I think that shows the kind of instinctive feel that he has on these issues of multiculturalism. The situation was that the government realised that—particularly amongst the Middle Eastern and eastern European communities, where the religious divide is quite hard—a message that might imply that the vast majority of the people coming to this country were of a particular faith would tell very strongly in certain electorates. We had the now retired minister Mr Reith saying on the public record that we should have some concerns that terrorists were coming—

*Mr Cadman interjecting—*

**Mr LAURIE FERGUSON**—He did say this, Alan. Member for Mitchell, he did actually say that we should have some concern that terrorists might be coming into this country. That was clearly another message of fear in the electorate: 'Be concerned that none of these people can be genuine claimants, be concerned that they are terrorists, be concerned that they are different,' et cetera. We have seen since the election an indication that the then minister indicated to the Prime Minister well before the National Press Club and well before *Lateline* that he, the minister, had doubts—that the armed forces of this country had doubts—about the legitimacy of government claims with regard to those photographs. As I say, what we are seeing

is a clear attempt to manipulate immigration policy around public concerns in a period of passion and emotion, post New York, to try and construe to the public that immigration policy was designed to keep certain people out. In regard to immigration, the government's address-in-reply—

**Mr Cadman**—Madam Deputy Speaker, again, I have a point of order. I want him to withdraw that. I think that is unbelievable. We have both got a policy of non-discrimination. You know that—

**The DEPUTY SPEAKER**—I have heard the point of order.

**Mr Cadman**—You know what has gone on this chamber and in the Australian nation in regard to a non-discriminatory policy. I want that withdrawn.

**The DEPUTY SPEAKER**—I ask the member for Mitchell to resume his seat. There is no point of order. I am listening carefully to what the honourable member for Reid has to say. There is no point of order at this point.

**Mr Cadman**—It is a point of order. I am offended by these remarks and I want them withdrawn.

**Mr LAURIE FERGUSON**—You are even opposed to dual citizenship, despite the government's policy.

**The DEPUTY SPEAKER**—I remind the honourable member for Reid to address his remarks through the chair.

**Mr Cadman**—Madam Deputy Speaker, I rise on a point of order again. I am offended by these remarks and I want them withdrawn. If I am offended, it is your responsibility to make him withdraw.

**The DEPUTY SPEAKER**—I ask you to resume your seat. I have made my decision. The honourable member for Reid.

**Mr LAURIE FERGUSON**—Your expertise in time wasting is acknowledged, but please.

**Mr Cadman**—I think we will take this down to the chamber. I object to those words and I want them withdrawn.

**Mr LAURIE FERGUSON**—Madam Deputy Speaker, the government's address-in-reply refers to—

**The DEPUTY SPEAKER**—I ask the honourable member of Reid to resume his seat.

**Ms Worth**—Madam Deputy Speaker, I would like to try to assist the chamber. It is not so much a point of order, but if any member here takes exception and feels offence at what has been said then I think it is a reasonable request to ask the speaker to withdraw. And I think that, in the spirit of there being less drama in the Main Committee than there is in the other chamber, that would be an appropriate course of action today.

**The DEPUTY SPEAKER**—I thank you for your assistance. I will listen very carefully. At this stage of the game, the language is not offensive yet. I warn the member for Reid to be circumspect.

**Mr Cadman**—Oh, come on!

**Mr LAURIE FERGUSON**—Please, get him under control.

**Mr Cadman**—I find his words offensive. I am asking you to ask him to withdraw them.

**The DEPUTY SPEAKER**—I ask the member for Reid to resume his seat. I have made my ruling. The member for Reid.

**Mr LAURIE FERGUSON**—I take it on board. The address-in-reply refers to the government's strong emphasis on attracting people with skills—

**The DEPUTY SPEAKER**—The minister for Reid will resume his seat.

**Mr Cadman**—I am sorry. I object to those words and I want them withdrawn.

**The DEPUTY SPEAKER**—I am running this place.

**Mr Cadman**—I object to those words and I find them offensive, as many people have found words like that offensive.

**The DEPUTY SPEAKER**—Would you let me know what the words are that you find offensive?

**Mr Cadman**—The fact that he said our policy is based on racial discrimination and religious bigotry. He is nodding; he used those words.

**The DEPUTY SPEAKER**—I ask you to resume your seat.

**Mr Randall**—He said we tried to stop Muslims coming into this country.

**The DEPUTY SPEAKER**—The member for Reid.

**Mr LAURIE FERGUSON**—As I was saying, the address-in-reply refers to the government's strong emphasis on attracting people with skills and says that Australia is 'one of the few nations in the world to maintain a refugee program'. I want to turn to one other aspect in regard to the question—

**Mr Cadman**—No, I am sorry, not on this issue. He has branded the coalition as racist and said it used discriminatory policies in the election campaign. He knows that is wrong and he should not be raising this race issue. That is one of the issues that we do not go near in the parliament. All he has got to do is say, 'I withdraw,' and things will be settled. I will keep this up.

**Mr LAURIE FERGUSON**—A number of rulings have been made. On four or five occasions, the gentleman opposite has refused to accept your rulings and, really, I know it is a bit of time wasting but I do not know how long we have to put up with this.

**The DEPUTY SPEAKER**—My ruling is that at this stage of the game it is not the most offensive language we have ever heard in this place. I take your point that you are offended. I do not regard those words as offensive at this stage. I ask you to—

**Mr Cadman**—It is not a matter of what you regard as offensive. I do!

**The DEPUTY SPEAKER**—My understanding is that it is. Standing order 78 says that the Speaker shall determine whether or not the words are offensive.

**Mr Cadman**—They are offensive and I want them withdrawn.

**The DEPUTY SPEAKER**—I have ruled that they are not offensive at this point.

**Mr Cadman**—I am not reflecting on the chair, Madam Deputy Speaker, but if I find these comments offensive I am appealing to you to assist me—

**The DEPUTY SPEAKER**—You have appealed.

**Mr Cadman**—by not putting your own interpretation on them but to assist me by saying to the member opposite that the member finds these words offensive and requires them to be withdrawn. All he has to do is withdraw them.

**The DEPUTY SPEAKER**—I understand your point. I do not agree with you. I have asked the member for Reid to be more careful with his words and he has agreed to do that. I ask the honourable member for Reid to continue.

**Mr LAURIE FERGUSON**—Absolutely. I was going to say that one of the other things that—

**Mr Cadman**—I am sorry. I am not going to accept that and maybe we need to take some advice. All the speaker needs to do, in a circumstance such as this, is to say, 'My colleague finds it offensive. I will withdraw the remarks he finds offensive,' and go on with it.

**Mr LAURIE FERGUSON**—Only from the point of view of stopping disruption, I withdraw any words that the member for Mitchell finds offensive.

**The DEPUTY SPEAKER**—I ask the member for Reid and the member for Mitchell to resume their seats while I take some advice. On a point of clarification: member for Reid, I understand you have already offered to withdraw those words?

**Mr LAURIE FERGUSON**—Absolutely.

**The DEPUTY SPEAKER**—Thank you.

**Mr Cadman**—Thank you.

**Mr LAURIE FERGUSON**—But not my criticism of government policy. I want to turn very briefly to the question of the refugee intake in this country. One thing that concerns me is that the government's changes with regard to parent and spouse migration are forcing a significant number of my electors to attempt to bring in family within the refugee humanitarian intake. An example would be the question of spouses. Traditionally, only a small proportion of spouses were asked to provide assurance of support. But what is happening now—and even the member for Mitchell, I gather, has some knowledge of this—is that virtually all spouses are being asked to provide assurance of support.

The impact of that is that a significant number of people from Afghanistan, Iraq, Iran et cetera—the main countries from where we accept refugees on a humanitarian basis—are now forced to bring in families within that category. This impacts very strongly on the waiting times at overseas posts such as Islamabad and New Delhi. We have more people trying to get in the refugee humanitarian intake for family reasons who otherwise would have been coming under other categories.

Similarly, with regard to the government's policy on aged parents, the waiting list—from recollection—is approximately 14,000. An intake of 500 per year would mean that, in theory—if they do not die off—they would be waiting for 28 years. Obviously, significant numbers—because they have to be over 60 and 65 respectively—are deceased by the time they might be processed. The government has attempted to negotiate with the opposition to bring in a program whereby people who pay \$50,000 would get preferential admission; and the others would get access to more than 500 visas. What concerns me is the impact this is having on our refugee humanitarian program. Also, unfortunately, it is driving or encouraging significant numbers of people to try to come here by boat. If people are waiting, as they are in New Delhi, for 2¼ or 2½ years—and this includes people's spouses and people's parents—what is going to be the result? People are going to attempt to come here by boat, because they see no other options, and once again they will join the waiting list and be forced to seek alternative means.

Also with regard to skills, the government is really facilitating a further deregulation of the labour market through immigration. It is attempting to play to one part of the market as being tough on refugees, ruthless and driving down the number of these claimants, but we are seeing left field an attempt to deregulate the labour market by increased use of two- and four-year work permits. We have the most outrageous example down at the Hindu temple near Wollongong, where people were basically locked up permanently, paid piddling wages—and were basically under house arrest. That is the most extreme example of what is going on. But, in a wider sense, the government is facilitating wider access for significant numbers of people to come here for longer periods and to take Australian jobs.

I also want to turn to the recent statement by the Minister for Immigration and Multicultural and Indigenous Affairs. He actually boasted that 90 per cent of claimants who had undertaken studies in this country and had launched post-graduation claims for residency were succeeding. I question whether, whilst we are attempting to gain people with skills, we should facilitate that easily every person who purports to come here to do studies being given such an easy access to permanent residence. For a government that professes to be hardline—both of these policies facilitate proliferation of temporary work visa entry and people being able to immediately launch residence claims after graduation—these are questionable policies, but that is essentially what the government are doing. They are attempting to purvey an image



that they have no truck with poverty-stricken, refugee asylum claimants, that they are tough and ruthless in this regard, but at the same time they are playing to a very different market. That situation is of concern.

Very briefly, another question we have had in the last week concerns the outrageous conduct of the previous Minister for Health and Aged Care. We have a situation where money is diverted from asthma and rural and regional health programs towards a building in Canberra. In representing the region that I do, I know that a number of documents have been written with regard to the connection between the socioeconomic situation, demography and health, and that asthma has been known to be particularly prevalent in Western Sydney. I feel, on behalf of my constituents, some concern that this kind of money is diverted by a man who subsequently, probably by accident, gained employment with that organisation—just coincidence, an accident et cetera. Regardless of whether it was a mistake, the electorate has some concern. Similarly, the government managed to roll over \$10 million for one measure with regard to suicide and another \$24 million. They managed to roll that over, but they could not do it in this case.

In the United States, if this man were not in jail, he certainly would be under investigation, as would advisers. It is overdue for this country to have laws with regard to people getting out of this parliament, getting out of public administration, and soon after finding themselves in the employment of groups that they have previously dealt with as lobbyists in their portfolio. Obviously, the AMA has made some very worthwhile comments.

I would, however, briefly refer to the member for Parramatta. Once again, he is caught missing. They sent him on to the *Sunrise* program. He said that he was calm and relaxed about the issue; he said it was a storm in a teacup; he said there were interesting suggestions that politicians who left office should be subject to a cooling-off period. Unfortunately, once again, a few moments later, he was repudiated by the government. The Prime Minister has come out and said the government might have to take the money away. It is not a storm in a teacup. (*Time expired*)

**Ms WORTH** (Adelaide—Parliamentary Secretary to the Minister for Health and Ageing) (5.37 p.m.)—I am pleased to be able to respond to the Governor-General's speech, in which he sets out the government's priorities. They are priorities that are important to the people of my Adelaide electorate. Ensuring the reduction of salinity and improvement in water quality are issues of importance to all South Australians. As salinity attacks the water of the Murray River, the people of Adelaide are faced with newspaper reports that our drinking water may well be undrinkable in 20 years time. This government, together with other governments, is investing \$1.4 billion towards the National Action Plan for Salinity and Water Quality. The tens of thousands of students who pursue their studies within my electorate will benefit greatly from this government's \$3 billion innovation package, Backing Australia's Ability. In his speech, the Governor-General reported:

There are few nations on earth which can enter the early years of this new century with the same sense of optimism, opportunity and quiet confidence that the Australian people are entitled to feel.

This sort of sentiment is justified by positive government programs, like the National Action Plan for Salinity and Water Quality and Backing Australia's Ability, but it is founded on the bedrock of this government's hard work to maintain a stronger economy. A stronger economy means that we are able to fund more hospital beds, provide better educational opportunities for our young and create an environment for business where there are a record number of Australians in paid employment.

I would like to thank the people of Adelaide for returning me four times to this place. It is always a close thing in a seat like Adelaide. One of the problems in representing one of the most marginal seats in the country is that, no matter what headway one makes from election to election, redistributions invariably leave the margin smaller than it was. In the last redistribution, my margin was reduced to 0.65 per cent. A reduction of 0.26 per cent does not sound

like much but, when the margin is only 0.91 per cent, it can have a significant impact. Although I received over 5,500 more primary votes than my opponent—and had a swing towards me on primary votes—I was 1,078 votes behind on election night once Democrat and other minor party preferences had been distributed.

I was humbled to hear from so many people immediately after the election who were so keen for me to win. To win by 343 votes was partly the result of those people who went to great lengths to ensure that they were able to lodge their vote. A group contacted me from Jakarta to let me know that I could be sure that their votes were still to be counted. Another constituent of mine, who was in Italy, told me that he drove 400 kilometres to Rome so that he could vote. It was an extraordinary experience to receive so many emails from constituents overseas and in far-flung parts of Australia assuring me that their votes were on the way.

I would also like to take this opportunity to acknowledge the role that my staff play in assisting my constituents and helping me do my job. A big thank you, also, to my campaign team; I would not be here without their help. There has been some discussion in recent times as to why we won, and various propositions have been put forward. Interestingly, I see in Monday's press clips that my views are supported by Labor members. I believe that one reason for the Liberal win is our local candidates, and I note from the *Daily Telegraph* that the Leader of the Opposition, at a briefing at the Campbelltown Catholic Club, said:

Labor's factional system was rewarding mediocrity and promoting candidates with few life skills and little understanding of the community they sought to represent.

... ..

They—  
the factions—

are stifling debate, the free flow of ideas, and rewarding mediocrity.

I have been able to work with local groups in Adelaide, and we have had quite a few successes. I was able to secure the funding for the lights at the Kilburn Football and Cricket Club and the upgrade of the Albert Bridge near the Adelaide Zoo. I worked with a group of Greek pensioners to find the money for a refrigerator for their meeting hall. We now proudly boast the newly named 'Pathway of Honour' that runs behind South Australia's Government House. I was very pleased to be able to organise and secure funding for a monument to commemorate the contribution of ex-servicewomen in World War II. Over the last nine years, it has been gratifying getting to know many people from a broad cross-section of the electorate through working with sporting, ethnic and other community groups in Adelaide. Over an increasing number of elections, it has given me some satisfaction to know that many people whom the Labor Party would normally claim as their own have given me their support.

A very strong reason that the Australian people have put their faith in this government for a third time is that they have experienced how the coalition manages the economy. According to Monday's *Advertiser*, the member for Port Adelaide has a secret family formula that has picked every federal election since 1961. The theory is that a government will be re-elected if two out of three economic indicators fall. I quote from the *Advertiser*:

While many cite the *Tampa* and September 11 for John Howard's win last year, Mr Sawford's formula shows interest rates and unemployment fell in the preceding three years ...

That is why we won, and I agree with the member for Port Adelaide.

People also remember how Labor mismanaged the economy. Glenn Milne, writing in the *Australian*, recently reported some comments made at a meeting of the Penrith Labor Party branch. Labor Party members were complaining:

... people remember Labor's 17 per cent interest rates. Compare 6 per cent and 17 per cent interest rates  
...

To put it simply, all those Australians who are paying off mortgages are now paying 11 per cent less interest than they were when Labor was in government. This government has worked hard to keep interest rates low, and it is paying off for the people of Australia.

Australia has not been debt free since Gough Whitlam was elected Prime Minister. The Australian people remember that Labor ran budget deficits. Labor sold off assets, but budgets still remained in the red. The Australian people remember that the Labor Party left a legacy of debt and interest payments for our children to bear for years to come. However, we are now well on the way to securing a debt-free future for our children. Through sound economic management, this government has also paid off nearly \$60 billion of Labor's \$80 billion debt. Now the government's interest bill is \$4 billion per year less than it was under Labor. That means \$4 billion more each year to spend on important areas like health, education and the environment. For example, we can afford to provide the Commonwealth seniors health card to more senior Australians than ever before. We can afford to provide a further billion dollars to extend the Natural Heritage Trust for another four years. Australia's economy, and therefore Australia, is in good shape. Careful guidance has seen us succeed, despite the Asian downturn and the US recession.

There has also been recent discussion and political commentary by Labor and others about things that have been said in a campaign context and what impact they may have had on the result. So let us look at and consider what Labor has had to say in some recent campaigns. Anyone familiar with the north-western corner of the electorate of Adelaide would be aware of my long running campaign to clean up the old Islington rail yards. This is a win of which I am particularly proud as I was able to secure some \$5.5 million in Commonwealth moneys for this clean-up and see the land use change from South Australia's worst toxic waste dump to a park for community use. Nevertheless, during last year's campaign a letter was distributed in the Kilburn area by a man claiming to be from something called the Kilburn Concerned Citizens Committee which made the accusation that I had had nothing to do with the clean-up. Fortunately local residents knew otherwise and took the trouble to contact me to say so—but it was a cheap shot.

In two of Labor's brochures distributed during the campaign, in which my opponent's team even reproduced my photo from my own newsletter, it was claimed that I had been fighting to bring nuclear waste to South Australia. All I have ever argued for was a good scientific plan to make Adelaide safer. Low and intermediate level nuclear waste is currently stored at 20 sites around South Australia, including some in the heart of the city of Adelaide such as the Royal Adelaide Hospital, Adelaide University and the University of South Australia. To suggest that my argument that we need good scientific advice, not mad political point scoring, amounts to a wish to see South Australia as some kind of dump state is utter deceit.

*A division having been called in the House of Representatives—*

**Sitting suspended from 5.47 p.m. to 6.02 p.m.**

**Ms WORTH**—I am astounded by the hypocrisy of the Labor Party, especially when one remembers that, in 1995, the then federal Labor government dumped 35 cubic metres of intermediate waste at Woomera without any consultation. Would Labor prefer to put a dump in every state, or to really endanger public safety and the environment by taking no action at all? Meanwhile Labor's union mates were funding and fighting Labor's campaign. Propaganda appeared, wrongly accusing the government of cutting \$60 million from public schools since coming to government in 1996, when funding to government schools had increased by 43 per cent.

While the states have primary responsibility for government schools, the Commonwealth has been able to take a leading role in a number of educational areas, such as school drug education and the national literacy targets and standards for testing all year 3 and year 5 students to try to identify problems early and get them fixed. We are also spending \$80 million over three years on developing teacher skills. It is fair to say that the Commonwealth government is now doing more for government schools than ever before. My opponent's public cries

of support for the policies advocated by the teachers union and for Labor's regressive education policies never stopped him sending his own children to one of Adelaide's most exclusive and expensive private schools.

*A division having been called in the House of Representatives—*

**Sitting suspended from 6.04 p.m. to 6.19 p.m.**

**Ms WORTH**—I was speaking about my opponent sending his children to one of Adelaide's most exclusive and expensive schools. Personally, I think he has every right to do so, but parents with less family income than he has should also be able to send their children to non-government schools of their choice. But Labor has a long history of attempting to mislead people, both in my electorate and around the country. Think back to the 1996 election: Labor announced that the budget was in surplus. The reality was that there was a \$10 billion budget black hole. Back in 1993, when I was first elected as the member for Adelaide, the Labor Party said that we would destroy Medicare. What does the record show? Not only have we maintained Medicare in full, but also we have introduced a wide range of measures that have strengthened Medicare, and strengthened the Australian health system.

We have taken a more proactive stance than ever before in health promotion and disease prevention. We have overseen an increase in the rate of childhood immunisation—from 53 per cent in 1995 up to 97 per cent today. We have introduced the first national diabetes prevention plan, ahead of any other country. The rate of smoking amongst Australians over 18 has dropped to 20 per cent—the lowest of any country in the western world. On top of this, we have provided a record \$32 billion to the state and territory governments for them to run their public hospitals. Of course, that did not stop Labor from putting out a pamphlet last October claiming that John Howard cut \$800 million from our public health system when he first came to power and that he has held funding down ever since.

The year 1993 was also the year of the supposed, and promised, l-a-w law tax cuts. The Labor Party pledged that not only would they not increase the indirect tax take, but they would also cut the rate of income tax. That was before the election. After the election, the Labor Party increased the rate of indirect tax in the form of wholesale sales taxes and reneged on the income tax cuts. It is hard to think of a more compelling example of plain untruths told to the electorate in an attempt to win votes. Labor said that they would not sell the majority government ownership in the Commonwealth Bank. On 24 September 1993, when Labor were selling the second lot of Commonwealth Bank shares, Labor's Treasurer even wrote a letter to potential investors promising that the government had no intention whatsoever of further reducing its shareholding. Two years later, the Labor Party sold the rest. They said one thing and they did the very opposite, and they have been doing it for as long as I have been in this place.

Despite Labor's smears, hypocrisies and downright untruths, I am still here and I am pleased to be here. I want to continue to represent the people of my electorate to the best of my ability. I am also pleased to have been appointed parliamentary secretary with responsibilities within the health portfolio. Every person at some stage of their life is concerned about their health. Unfortunately, the state of our own personal health is often not uppermost in our minds unless, for some reason, we require attention for ill health. However, much can be achieved through good policy to ensure public health and safety.

Having had previous experience with the Therapeutic Goods Administration, the Australia New Zealand Food Authority and the Australian Radiation Protection and Nuclear Safety Agency, I am pleased to again have responsibility for those areas. I am also pleased to have the added responsibility of the Office of the Gene Technology Regulator and the National Industrial Chemicals Notification and Assessment Scheme, along with alcohol, tobacco and illicit drugs. These are all areas which impact on the public health and wellbeing of Australian men, women and children. They are areas in which I hope to make a difference for the common good.

Significant publicity has recently been given to child sexual abuse. Dennis Shanahan, writing in the *Australian* on Friday, 1 March, referred to the Governor-General's most comprehensive statement of 20 February, and quoted from it in the following terms:

I hope that an outcome of the focus on my handling of these cases will be a quickening of the pace of reform in this area.

I hold that same hope. We are looking at a complex set of issues. However, there is just one very fundamental guiding principle: if adults do not stand up for and care for children, who else will? Those of us who find ourselves in a position of authority or influence carry an additional burden of responsibility to provide leadership and direction in dealing with child sexual abuse, and to work towards changing attitudes surrounding the areas of sexual assault and domestic violence.

In July last year, when I was in my previous youth affairs portfolio, Dr David Kemp and I met with a young indigenous leadership group here in Canberra. Their messages to us were powerful and courageous. The group unanimously agreed to make the government aware that the issues of sexual and domestic assault within their own communities was a major concern for them. They particularly requested that Dr Kemp and I alert the public and agencies about their concerns. Community solutions for these problems must be found and action taken.

In April 2000 I released a comprehensive survey and report on teenagers' perceptions, beliefs and experiences of violence. While the survey contained some good news about young people being able to recognise a range of behaviour including threats as domestic violence, it also showed that young people themselves are exposed to, or experience, high levels of violence. Dating and sexual violence were also canvassed in the survey. It was alarming that a third of all young people who had been in a dating relationship had experienced some physical violence in one or more of those relationships. The survey found that 14 per cent of females and three per cent of males said that they had personally experienced rape or sexual assault. The government has taken important steps to deal with these issues through the well-funded program Partnerships Against Domestic Violence. However, it is clear that all governments and those individuals who are in positions where they are able to bring about change must do their best to do so. Adele Horin, writing in the *Sydney Morning Herald* of 23 to 24 February argued a strong case for women and children who have been abused. She wrote:

What you do is treat sex abuse allegations as if a child's life might depend on your intervention.

Two decades of research have shown us that sexual abuse can ruin lives. Prisons and psychiatric wards are full of people who were sexually abused as children, who were not believed, not taken seriously and not helped.

She continued:

We've known for a long time, thanks to feminist scholars and child abuse workers, that the issue at the heart of sex abuse is power. Sex abusers have no need to use violence or rape when they have power and authority over their victim.

These are strong words but I think that we all need to look at these areas of great concern and take the most appropriate action possible. Just by chance today I met some very prominent, good indigenous health workers and Barbara Flick was one of them. I raised this very issue of concern with her and she told me that it was her priority for this year but that such sensitivity needed to be exercised so that, as she put it, aunts and grannies are not cut off from their children who they want to see because they report such abuse. She felt that communities needed to know that they were breaking the law of the country. I was impressed with her sincerity and sensitivity and I wish anyone working in these areas the very best. Although they are not quite specifically my responsibilities, these areas of mental health and alcohol and other substance abuse can contribute to these problems.

Debate (on motion by **Mr Jenkins**) adjourned.

**Main Committee adjourned at 6.29 p.m.**

### QUESTIONS ON NOTICE

The following answers to questions were circulated:

#### **Australian Broadcasting Corporation: Radio (Question No. 1116)**

**Mr Martin Ferguson** asked the Minister representing the Minister for Communications, Information Technology and the Arts, upon notice, on 13 February 2002:

- (1) What consultation occurred between the Government and the ABC with respect to ABC Radio's increase in regional program content.
- (2) What was the role of the ABC Board in determining how these new resources were allocated.
- (3) What was the rationale for installing new regional stations and centres at Ballarat, Narrogin or Katanning, and Katherine.
- (4) Were any other sites examined; if so, what sites.

**Mr McGauran**—The Minister for Communications, Information Technology and the Arts has provided the following answer to the honourable member's question:

- (1) The ABC did not consult Government in determining which regional centres and programs were to be given increased resources.
- (2) The ABC has advised that the allocation of resources for regional program content for 2001/02 were agreed by the ABC Board as part of the 2001/02 ABC budget strategy.
- (3) The ABC has advised as follows:

##### Ballarat, Victoria

Ballarat was selected because it is one of the largest Victorian regional centres without a dedicated ABC station. More than 130,000 people live in the Ballarat broadcast region, and the population is expected to grow as transport links with Melbourne improve.

Currently, the ABC transmitter in Ballarat broadcasts the output of ABC Bendigo. The ABC believes that it is not appropriate to cover Ballarat from Bendigo as the two cities have quite different communities of interest. This is reflected by the repeated requests the ABC has received from the Ballarat community asking for the establishment of a local service.

Ballarat is an important regional hub for State government administration and transport. There is a growing education and arts community in the city centred in the Camp Street precinct which is currently being redeveloped. The ABC believes it can make an important contribution to the city and intends to build a state-of-the-art digital station.

The establishment of a new station at Ballarat is an integral part of ABC Radio's wider regionalisation plan for Victoria. Under this plan the State is divided into four regions with each region containing a major ABC broadcasting facility, or hub. The regions are Northwest Victoria served by ABC Bendigo; Northeast Victoria served by ABC Wodonga; Gippsland served by ABC Sale; and, Southwest Victoria to be served by Ballarat.

As well as strengthening the editorial content of existing programs, this plan fills serious gaps in the coverage of Southwest Victoria, as well as the Goulburn Valley. Victorians in these areas will receive new local ABC Radio services and all regional Victorians will have potential access to up-to-date audiovisual and interactive on-line services.

Specifically, the Ballarat area will gain a dedicated Breakfast program and its new Drive program will cover the whole of Southwest Victoria, including Warrnambool, Hamilton, Colac, Ararat and Portland. Currently, the Drive program serving these areas comes from Bendigo and is forced to cater for such differing areas as Ballarat and Mildura. Ultimately, the Regional Extension Plan also will move the Statewide regional Morning program currently produced from Melbourne, to Ballarat. The new station will also employ Southwest Victoria's first ABC Rural Reporter filing for both radio and online.

##### Wagin, Western Australia

ABC Local Radio in Western Australia has decided to locate the new Great Southern station at Wagin (instead of Narrogin or Katanning which was originally proposed).

Wagin is the location of the ABC's most powerful transmitter in regional WA and covers a population of some 38,000 people. It is also equidistant between Narrogin and Katanning, the two main population centres in the region.

The Great Southern region of Western Australia has been identified as a distinct region for 15 years. It contains the ABC's largest transmitter in Western Australia, broadcasting to a substantial portion of the State's agricultural areas. Establishing a local studio has been a goal of ABC Western Australia for the past decade.

Until recently a Breakfast program was provided separately to this region, from a location outside the region and a Morning program specific to the region, from Perth. A local studio will, for the first time, provide local programs produced and presented within the region.

Of some 230 ABC staff in Western Australia, only five live and work away from the coastal regions. This will be the first permanent placement of staff within the State's key agricultural areas. Establishing a local station will provide a boost to the local economy through additional people being employed, as well as the broadcasting benefits of localism.

#### Katherine, Northern Territory

In 1997 the ABC Northern Territory hired a part-time journalist to cover events in Katherine, which is situated some 300 km south of Darwin.

The position was created for several reasons: Katherine is the third largest population centre in Northern Territory; it is a key service centre for local pastoralists, RAAF base Tindal, and a number of outlying Aboriginal communities.

Katherine is also the focus of a rapidly growing horticultural industry with 70 growers already producing \$61 million worth of produce annually. This is forecast to grow to \$300 million in 10 years.

In 1999, due mainly to budget restrictions, the ABC had to close the Katherine position. This was roundly criticised by Local and Territory Government politicians and the Katherine community. The move made it very difficult for the ABC to cover day-to-day issues in Katherine or react quickly to natural disasters or other emergencies. The Katherine community, which relies almost solely on the ABC for up to the minute news on local, national and international news and current affairs, lost the local component with the closure of the position.

The local community has made repeated representations to the local ABC and the ABC's Editor Rural Radio to reinstate an ABC presence in Katherine. The regional expansion project provided the opportunity for the ABC to better serve this important Top End community.

- (4) The ABC has advised as follows:

#### Victoria

Geelong was also considered as the site for the new dedicated station. However, there is no ABC transmitter in Geelong for a dedicated local signal and no Federal Government funding to build one. Geelong is also within the official Melbourne listening area for radio ratings purposes and 774 ABC Melbourne covers Geelong issues.

#### Western Australia

Other sites may be examined in the future but the Great Southern has been the most significant priority. Development of smaller outposts is a more likely scenario for future development. No other sites were considered for a station of the size proposed for the Great Southern.

#### Northern Territory

Other sites in the Northern Territory were considered for an outpost-style operation. However, only Nhulunbuy in the Top End and Tennant Creek in Central Australia have the population and story generation potential to consider such an operation. Currently, ABC Alice Springs Broadcasters and Reporters adequately cover Tennant Creek's needs, while a new position based in Darwin will serve the needs of Top End communities outside Darwin including Nhulunbuy. Katherine was the logical choice for an outposted position to enable the ABC to properly service the audience needs of the Northern Territory.

### **Immigration: Migrant Resource Centres**

#### **(Question No. 117)**

**Mr Martin Ferguson** asked the Minister for Citizenship and Multicultural Affairs, upon notice, on 13 February 2002:

- (1) Where, and in which electoral divisions, are Migrant Resource Centres located.
- (2) How many clients has each Centre assisted in each of the last 10 years.
- (3) When was each centre established and how is the ongoing need for a Centre in a particular location regularly assessed.
- (4) Is the Government considering the closure or opening of any Centre.
- (5) How many refugees were assisted by each Centre over each of the last 10 years.

**Mr Hardgrave**—The answer to the honourable member's question is as follows:

- (1) A table providing the location and relevant electorate for Migrant Resource Centres (MRCs) and Migrant Service Agencies (MSAs) is at Table A below. This includes two outreach centres. Electorates have been provided on the basis of each organisation's physical location. The service provision catchment area for each MRC/MSA may however, extend across electoral boundaries. The relevant electorate has been determined in accordance with information provided by the Australian Electoral Commission.
- (2) We are unable to provide all the information requested. The Department is currently undertaking a major overhaul of the way in which client data is collected. In relation to MRCs/MSAs, this process is expected to be completed within the next few weeks, at which time it would be possible to provide recent client statistics. To attempt to provide the information in advance of the data overhaul exercise being completed would involve labour intensive research of files and annual reports, resources for which are not available.

The completion of the current overhaul is expected to result in more accurate statistics for 2000 onwards, depending on when each MRC/MSA began to use the Statistical Clients Information System (SCIS) to record client statistics. The collection of client statistics was not required of MRCs/MSAs until 1997, and at that stage data collection focussed on the number of services provided by the MRC rather than the number of clients assisted.

While we will shortly be able to provide more comprehensive data than we can at present, we will not be able to do so for each of the last 10 years.

- (3) Establishment dates for MRCs/MSAs appear in Table A below.  
The Migrant Resource Centre program has undergone three major reviews since its establishment, either by the department or externally. They were:
  - Evaluation of Post-Arrival Programs and Services by the Australian Institute of Multicultural Affairs in 1982;
  - Review of Migrant and Multicultural Programs and Services in 1986; and
  - Ethnic Services Delivery by DILGEA Funded Community Organisations in 1992.
 A review of MRC locations across Australia was conducted in 1983, and a review of locations in Melbourne and Sydney was conducted in 1997.  
In addition, the annual core funding budget process involves the assessment of:
  - changing demographics in relevant catchment areas for each MRC/MSA;
  - performance of the organisation; and
  - identified settlement needs.
- (4) The Government is not considering the closure or opening of any MRC/MSA at present. However, the Department has been asked to consider the relocation of the South Metropolitan MRC in Fremantle to Gosnells in south-east Perth. The proposal will be considered in the context of the annual MRC/MSA funding process.
- (5) We are unable to provide the information requested. Most annual reports produced by MRCs/MSAs do not distinguish between various types of clients and provide overall figures only. However, following the completion of the SCIS overhaul, as outlined in Question 2 above, statistics referring to humanitarian and refugee clients will be separately identified.

Table A

MRC/MSA Location and Electorate.

MRC/MSA establishment dates.



State	MRC Location	Electorate	Date Established.	
NSW	Inner West (Ashfield)	Grayndler	1996	
	Auburn	Reid	1996	
	Blacktown	Greenway	1986	
	Fairfield (Cabramatta)	Fowler	1986	
	Macarthur (Campbelltown)	Macarthur	1993	
	Canterbury-Bankstown (Campsie)	Watson	1986	
	Botany (Daceyville)	Kingsford Smith	1981	
	Newcastle and Hunter Region (Hamilton)	Newcastle	1981	
	Migrant Network Services (Hornsby)	Berowra	1999	
	Liverpool	Fowler	1981	
	Baulkham Hills/ Holroyd/Parramatta (Parramatta)	Parramatta	1996	
	St George (Rockdale)	Barton	1981	
	Illawarra (Wollongong)	Cunningham	1980	
	VIC	Westgate Region (Altona North)	Gellibrand	1972
		South Eastern (Dandenong)	Holt/Bruce	1993
Geelong (Geelong West)		Corio	1976	
Northern Metro (Glenroy)		Calwell/Wills	1985	
Inner Western (Footscray)		Gellibrand	1981	
Hoppers Crossing outreach of Inner Western MRC		Lalor	1993	
Migrant Information Centre (Mitcham)		Deakin	1998	
Gippsland (Morwell)		McMillan	1984	
North East (Preston)		Batman	1984	
North West (St Albans)		Maribyrnong	1989	
South Central (Prahran)		Higgins	1981	
Oakleigh outreach of South Central MRC		Chisholm	1992	
SA		Adelaide	Adelaide	1981
QLD	Brisbane (ceased operation in 1998)	Brisbane	1980	
	Multicultural Development Agency (Stones Corner)	Griffith	1998	
	Cairns (ceased operation in 1998)	Cairns	1992	
	Migrant Settlement Services (Cairns)	Cairns	1999	
	Logan & Beenleigh (Woodridge)	Rankin	1996	
	Townsville	Herbert	1980	
	WA	South Metro (Fremantle)	Fremantle	1982
North Perth (ceased operation in 1995)		North Perth	1980	
Northern Suburbs (Mirrabooka)		Stirling	1995	
TAS	Southern Tasmania (Hobart)	Denison	1979	
	Northern Tasmania (Launceston)	Bass	1982	
ACT	Canberra MRC & Queanbeyan Multilingual Centre	Fraser & Eden	1980	
		Monaro		
NT	Central Australia (Alice Springs)	Lingiari	1992	
	Darwin (ceased operation in 1993)	Lingiari	1979	

### Immigration: Country of Origin

#### (Question No. 118)

**Mr Martin Ferguson** asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 13 February 2002:

How has the composition of the country of origin of settler arrivals changed since the establishment by Australia of a planned immigration program after the Second World War.

**Mr Ruddock**—The answer to the honourable member's question is as follows:

The tables below show the top ten countries of origin of settler arrivals in ten year periods since 1949.

Top 10 Countries of Birth of Settler Arrivals July 1949 – June 2000

July 1949 – June 1959

Country of Last Residence*	No.	%
1. United Kingdom and Ireland	419,946	33.5
2. Italy	201,428	16.1
3. Germany	162,756	13.0
4. Netherlands	100,970	8.1
5. Greece	55,326	4.4
6. Malta	38,113	3.0
7. Austria	33,730	2.7
8. New Zealand	29,649	2.4
9. USA	16,982	1.4
10. Egypt	13,430	1.1
Top Ten Total	1,072,330	85.6
Other	180,753	14.4
Total Permanent and Long Term Arrivals	1,253,083	100.0

\* Settler arrivals by birthplace data are not available prior to 1959. For the period July 1949 to June 1959, Permanent and Long Term Arrivals by Country of Last Residence have been included as a proxy for this data.

#### July 1959 – June 1970

Birthplace	No.	%
1. United Kingdom and Ireland	654,640	45.3
2. Italy	150,669	10.4
3. Greece	124,324	8.6
4. Yugoslavia	94,555	6.5
5. Germany	50,452	3.5
6. Netherlands	36,533	2.5
7. New Zealand	30,341	2.1
8. Malta	28,916	2.0
9. USA	20,467	1.4
10. Spain	17,611	1.2
Top Ten Total	1,208,508	83.6
Other	236,848	16.4
Total Settler Arrivals	1,445,356	100.0

#### July 1970 – June 1980

Birthplace	No.	%
1. United Kingdom and Ireland	342,373	35.8
2. Yugoslavia	61,283	6.4
3. New Zealand	58,163	6.1
4. Lebanon	32,207	3.4
5. Greece	30,907	3.2
6. Viet Nam	30,633	3.2
7. Italy	28,800	3.0
8. USA	27,769	2.9
9. Turkey	18,444	1.9
10. India	17,910	1.9
Top Ten Total	648,489	67.8
Other	308,280	32.2
Total Settler Arrivals	956,769	100.0

#### July 1980 – June 1990

Birthplace	No.	%
1. United Kingdom	226,448	20.9
2. New Zealand	133,231	12.3
3. Viet Nam	88,852	8.2
4. Philippines	51,064	4.7
5. Malaysia	36,827	3.4

Birthplace	No.	%
6. Hong Kong	36,198	3.3
7. South Africa	29,458	2.7
8. China	24,651	2.3
9. Poland	23,676	2.2
10. India	21,532	2.0
Top Ten Total	671,937	62.0
Other	412,255	38.0
Total Settler Arrivals	1,084,192	100.0
July 1990 – June 2000		
Birthplace	No.	%
1. New Zealand	120,299	13.3
2. United Kingdom	112,468	12.5
3. Hong Kong	55,276	6.1
4. China	52,426	5.8
5. Viet Nam	51,505	5.7
6. Philippines	39,644	4.4
7. India	37,148	4.1
8. South Africa	30,222	3.4
9. Yugoslavia	20,139	2.2
10. Malaysia	18,916	2.1
Top Ten Total	538,043	59.7
Other	363,195	40.3
Total Settler Arrivals	901,238	100.0
July 1949 – June 2000		
Birthplace	No.	%
1. United Kingdom & Ireland	1,780,989	31.6
2. Italy	390,810	6.9
3. New Zealand	371,683	6.6
4. Germany	255,930	4.5
5. Greece	220,603	3.9
6. Yugoslavia	206,554	3.7
7. Viet Nam	170,990	3.0
8. Netherlands	161,298	2.9
9. Hong Kong	108,181	1.9
10. Philippines	103,310	1.8
Top Ten Total	3,770,348	66.8
Other	1,870,290	33.2
Total Settler Arrivals	5,640,638	100.0

**Immigration: Temporary Protection Visa  
(Question No. 128)**

**Mr Laurie Ferguson** asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 13 February 2002:

- (1) Following the introduction of the Temporary Protection Visa (TPV) system in October 1999, how many unauthorised arrivals were granted a TPV in (a) 1999-2000, (b) 2000-2001 and (c) 2001-2002 to date.
- (2) How many TPV holders have subsequently applied for a permanent protection visa and of these how many claims have been granted or refused to date.
- (3) How many TPV holders are estimated to be ineligible for access to a permanent protection visa after 30 months as a result of changes to the law that commenced 27 September 2001.
- (4) Are TPV holders eligible to access (a) torture and trauma counselling, (b) AMEP English language tuition, (c) settlement assistance from Commonwealth-funded Migrant Resource Centres or (d) Community Settlement Service Scheme projects.

- (5) Has the Government commissioned any research into the settlement experience of TPV holders; if so, what are the details; if not, why not.

**Mr Ruddock**—The answer to the honourable member's question is as follows:

- (1) Since the introduction of the TPV system in October 1999, up to 8 February 2002, 7,627 unauthorised arrivals have been granted a TPV.
- (a) During the 1999-2000 program year 871 TPVs were granted.
- (b) During the 2000-2001 program year 4,456 TPVs were granted.
- (c) During the 2001-2002 program year up to 8 February 2002, 2,300 TPVs have been granted.
- (2) Between the introduction of the TPV system in October 1999 to 8 February 2002, 5,217 TPV holders have applied for a subsequent protection visa.

The issue of whether TPV holders who are found to be in continuing need of protection will be granted permanent or temporary residence will be assessed at the time of decision on their subsequent application.

To date, one application has been decided. That person was granted a protection visa and permanent residence status.

- (3) It is estimated that 3,673 TPV holders may be covered by the changed legislation.
- Only those who have not spent 7 days or more in a country en route to Australia where they could have sought and obtained effective protection will be eligible for grant of a protection visa with permanent residence status (provided they meet all other criteria for grant of the visa).
  - Those persons who spent 7 days or more in a country en route to Australia where they could have sought and obtained effective protection are found to be refugees will be granted protection and temporary residence for 3 years.
- (4) TPV holders are eligible for the Early Health Assessment and Intervention Program which includes, if required, Torture and Trauma counselling.
- TPV holders are not eligible for the services specified at (b), (c) & (d).
- (5) TPV holders are temporary residents who are expected to leave Australia at the end of their visa unless they have an ongoing need for protection.

The government has not therefore commissioned any research into the settlement experience of TPV holders, as they are not expected to settle permanently in Australia.

### **Immigration: Maribyrnong Detention Centre**

#### **(Question No. 140)**

**Mr Danby** asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 14 February 2002:

- (1) What is the current status of the inquest into the death of an asylum seeker in 2001 who allegedly jumped off a basketball pole whilst under detention at the Maribyrnong Detention Centre.
- (2) Were there any witnesses to the alleged incident.
- (3) Is the Government proposing a coronial inquiry into the death.
- (4) What measures have been taken at the Maribyrnong Detention Centre to ensure a similar incident does not happen again.

**Mr Ruddock**—The answer to the honourable member's question is as follows:

- (1) The Department is currently awaiting the outcome of the Coroner's inquest into the death of the detainee who allegedly jumped off a basketball pole at Maribyrnong Immigration Detention Centre (IDC) on 22 December 2000. A hearing date is yet to be scheduled.
- (2) The incident was witnessed by some ACM personnel, as well as a number of detainees at the Centre.
- (3) Any deaths that occur in immigration detention are referred to the relevant State Coroner for investigation. It is expected that the Victorian State Coroner will advise the Department of its findings following the inquest hearing.

- (4) The basketball pole was removed and volleyball substituted as a recreational activity. ACM reviewed all aspects of the IDC for any similar structure that could enable a copy-cat attempt. None was identified.

**Television: Set Top Boxes**  
**(Question No. 165)**

**Mr Murphy** asked the Minister representing the Minister for Communications, Information Technology and the Arts, upon notice, on 20 February 2002:

- (1) What is the take up rate of set top boxes.
- (2) What is the forecast take-up rates of set-top boxes in (a) 2002, (b) 2003, (c) 2004 and (d) 2005.

**Mr McGauran**—The Minister for Communications, Information Technology and the Arts has provided the following answer to the honourable member's question:

- (1) Advice from several industry sources indicates that between 10,000 and 15,000 digital television (DTV) set top boxes (STBs) for the free to air market have been sold to consumers since digital television terrestrial services commenced in metropolitan cities on 1 January 2001.

The Department of Communications, Information Technology and the Arts has sourced this information from a number of industry sources. There is no central industry record of sales of free to air DTV STBs.

- (2) There are no forecast take up rates for DTV STBs for the free to air market.

**Press Gallery: Pecuniary Interests**  
**(Question No. 52)**

**Mr Murphy** asked the Minister representing the Minister for Communications, Information Technology and the Arts, upon notice, on 13 February 2002:

Will the Minister introduce legislation to require members of the Canberra Media Gallery to complete a register of pecuniary interests to be held by the Clerk of the House of Representatives; if not, why not.

**Mr McGauran**—The Minister for Communications, Information Technology and the Arts has provided the following answer to the honourable member's question:

Responsibility for this Question on Notice does not fall within the portfolio of Communications, Information Technology and the Arts.