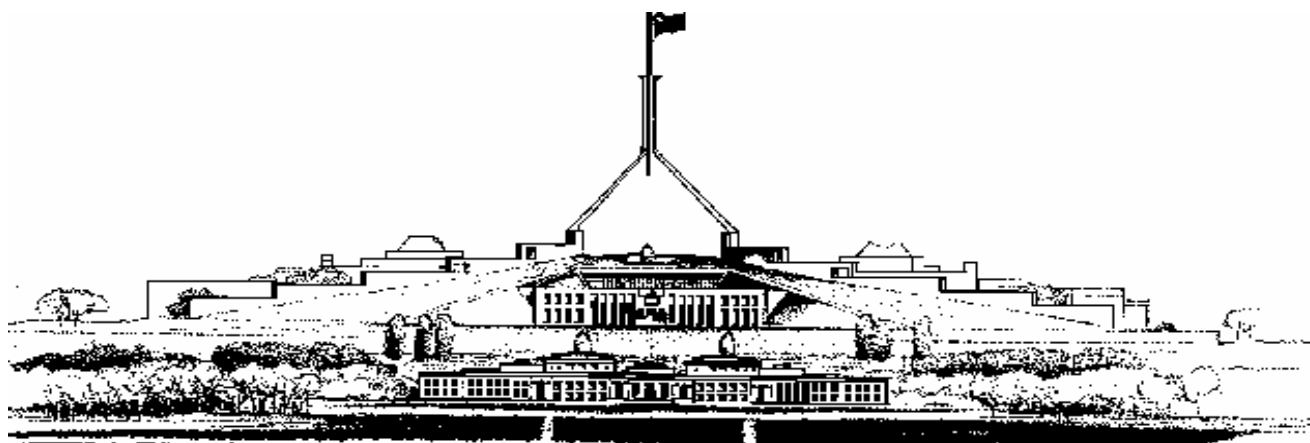




COMMONWEALTH OF AUSTRALIA

**PARLIAMENTARY DEBATES**



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**Official Hansard**

**No. 11, 2003**

**Wednesday, 13 August 2003**

FORTIETH PARLIAMENT  
FIRST SESSION—SIXTH PERIOD

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES



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### SITTING DAYS—2003

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November	3, 4, 5, 6, 24, 25, 26, 27
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*Wednesday, 13 August 2003*

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

**HIGHER EDUCATION LEGISLATION  
AMENDMENT BILL 2003**

**Second Reading**

Debate resumed from 12 August, on motion by **Dr Nelson**:

That this bill be now read a second time.

upon which **Ms Macklin** moved by way of amendment:

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

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

- (1) condemns the Government for:
  - (a) the failure of its policies to tackle the real issues facing higher education in Australia, including in the following areas:
    - (i) the increasing financial burden its policies are placing on students and their families, and the related growth of student debt;
    - (ii) the continuing inability of universities to enrol qualified students who wish to take up a publicly-funded place;
    - (iii) the inadequate provision for growth in higher education, especially in the period 2004-2007;
    - (iv) the inadequate planning for meeting key areas of skill shortage through higher education, including teaching and nursing;
    - (v) inadequate indexation of university funding;
    - (vi) inattention to the links between higher education and TAFE;
    - (vii) a lack of focus on quality, innovation and global changes in higher education;

(b) underfunding the rebuilding of the Mt Stromlo observatory, and

- (2) calls on the Government to amend the bill so as to limit the degree of Ministerial discretion over the division of funding between different categories of research programs".

**Mr HARTSUYKER** (Cowper) (9.01 a.m.)—I rise to continue my remarks on the Higher Education Legislation Amendment Bill 2003. Over the next 10 years, the Commonwealth will provide more than \$10 billion in new support for higher education, including an estimated \$6.9 billion in additional funding to the sector and approximately \$3.7 billion in financial assistance to students through new student loans. Each university will set its own student contribution levels within a range up to the maximum set by the Commonwealth. Notably, new Commonwealth learning scholarships will be introduced in 2004 to further assist rural and regional, low-income and Indigenous students with the costs associated with higher education. By 2007, 5,075 scholarships per year will be provided, valued at \$2,000 each, to help students cover their educational costs, commencing with two and a half thousand in 2004. Another 2,030 new scholarships per year, valued at \$4,000 each, will be offered by 2007, to assist rural and regional students with their accommodation costs when they move away from home. These will commence in 2004, with an initial 1,500 scholarships awarded.

From 2004, the Commonwealth will provide an additional \$122.6 million over four years to incorporate a regional loading into the Commonwealth grants scheme for students enrolled at regional campuses of public higher education institutions. This measure will financially recognise the significant and unique contribution made by regional educational institutions. Additional funding will be available to encourage universities to differ-

entiate their missions and to achieve improvements and reform in a range of areas, including teaching and workplace productivity. A Learning and Teaching Performance Fund, worth \$83.8 million in 2006-07, will be established to reward those institutions that achieve excellence in learning and teaching. Commencing in 2006 with an initial \$54.7 million, the fund highlights the Howard government's commitment to teaching and learning and will help to ensure the ongoing high quality of the Australian higher education sector. In 2004 a new National Institute for Learning and Teaching in Higher Education will be established as a national focus for the enhancement of learning and teaching in Australian higher education. The Australian Awards for University Teaching will also be enhanced, to further heighten the status of teaching.

The Commonwealth will provide seed funding of \$35.5 million for four international centres of excellence—in Asia Pacific studies and diplomacy; mathematics education; water resources management; sports science and administration—and support for the existing Cooperative Research Centre for Sustainable Tourism. Funding will also be provided to support a national language centre. We will also provide \$55.2 million from 2006 to 2007 for a new workplace productivity program to encourage institutions to pursue a broader workplace reform agenda, with institutions encouraged to implement flexible working arrangements and focus on direct relationships with employees and improved productivity and performance.

All these changes in the administration of universities will be complemented by more opportunities for students. The government will provide institutions with additional student places to sustain growth and will better equip institutions to respond to demand. Increased funding of \$347.6 million over four years will fully support approximately

25,000 new Commonwealth funded places. These will replace the marginally funded places which are potentially undermining the quality of education and contributing to overcrowding. In 2004, \$17.1 million will be provided for 210 nursing places—rising to 574 by 2007. This will assist in addressing the current nursing shortages, especially in regional areas. In the areas of teaching and nursing, and for Indigenous students, 1,400 places will be set aside for allocation to eligible private higher education institutions, and 1,400 new university places will be provided from 2007 to meet population growth, at a cost of \$10.9 million.

Additional support will be provided for areas identified by the Commonwealth as national priorities. This support will initially be in the areas of teaching and nursing to help ensure an adequate supply of high-quality graduates for Australia's schools and hospitals. Fees for students in funded places in the areas of teaching and nursing will not increase under the new arrangements and may in fact go down at some institutions. The maximum fee students could pay in these areas will be set as if the current HECS schedule were applying to these disciplines. The Commonwealth will provide an increased contribution, which will be directed towards the costs associated with clinical practice in nursing and teaching. Additional funding of \$40.4 million over four years will be provided for nursing from 2004 and \$81.4 million for teaching over three years from 2005.

When I read the detail of and some of the comments on these reforms it was interesting to note the comments of the Vice-Chancellor of Southern Cross University, Professor John Rickard. Professor Rickard congratulated the government and the minister on the package, which supports high-quality education in regional Australia. He went on to state that it encourages university collaboration with



industry and the community, and that it backs innovation and the development of research skills. He also commended the fact that this package addresses the challenges facing regional and rural universities as well as the challenges facing Indigenous students. Professor Rickard said:

Regional universities make a substantial contribution to our communities, cultures and economies. But we and our students are often at a disadvantage because of our location and size. This budget recognises that situation and attempts to address it.

He was referring to the measures announced in the budget. He continued:

Our Coffs Harbour campus will attract a 7.5% loading on commonwealth funding from next year. Together with a 5% loading for Lismore campus, this means we can look to improve and develop programs, perhaps offering components of courses for the first time at the Coffs campus, or perhaps expanding the range of units already offered.

He said that that would enable the university to confidently continue to develop its international opportunities, collaborative research and innovative and flexible teaching programs.

I note the comments from respected Australian commentator Paul Kelly who, on 21 May in the *Australian*, quoted the Australian National University's Bruce Chapman, who incidentally is a former Keating adviser. With regard to the impact of student fees on enrolments and, in particular, on those students who are from a lower socioeconomic background, Mr Chapman said that the Whitlam government's abolition of fees 'had no discernible effects on the socioeconomic composition of higher education students'. It is very interesting to note that there were no discernible effects on the socioeconomic composition of the student population. Most notably, free university did not lead to a

greater proportion of poor students going to university.

The article goes on to state that the overall distribution effect was 'from poor to better-off', since a greater proportion of better-off students attend university. Chapman described the free university system as 'unquestionably regressive'. It is interesting that a former Keating staffer would describe free university as 'unquestionably regressive' because of the redistribution effect. Kelly makes the important observation that HECS, which was introduced by Labor with the support of the coalition, 'had no detrimental effect on access to university', and that, in a recent paper by Chapman and Chris Ryan, they found that 'those from less privileged backgrounds were no more discouraged from attending university in 1999 than they had been in 1988', the year when HECS started. They formed the view that 'there's nothing in a HECS system that disadvantages the poor'.

The opposition seems to forget these very important points. The fact is that HECS is a scheme founded in equity. Under HECS, both students and government contribute to the cost of education, and the students' contribution is in fact deferred. Students will actually pay only 27 per cent of the cost of a university education, with the government and the taxpayers of this nation contributing 73 per cent. It is interesting to note the very important point, as the minister constantly advises this House, that most taxpayers who contribute to university education have not had the opportunities that a university education provides.

The supposed impact of HECS on poorer students is more myth than substance. Access to university has expanded under HECS. Total enrolments of domestic students have increased from 505,000 in 1991 to 600,000 in 2000—up by 95,000. Commencing stu-

dents increased from 127,327 in 1992 to 167,575 in 2000—up by 40,000, representing a 31.6 per cent increase. The number of commencing students from low socioeconomic backgrounds actually grew from 20,320 in 1992 to 28,056 in 1999. Thus, around 8,000 more disadvantaged students, if you like, entered university after the introduction of HECS fees. Research undertaken by the minister's department under the title 'Does HECS deter? Factors affecting university participation by low SES groups' has addressed the issue of whether the introduction of HECS discouraged persons from low socioeconomic backgrounds from undertaking higher education. This research indicated that the primary reason influencing choices as to the participation of people from low socioeconomic backgrounds in higher education related more to values and attitudes towards higher education than to financial considerations.

This bill will set a new maximum funding amount for special projects such as the Mount Stromlo Observatory. It will set new maximum funding amounts, reflecting indexation increases and other technical adjustments. The bill sets new maximum aggregate funding to reflect actual HECS liabilities, budget decisions and other technical adjustments. Most importantly, the Australian Research Council Act 2001, ARCA, which establishes and appropriates money for the Australian Research Council, is being empowered to improve its organisational productivity and accountability, and to simplify the ARC project and program administration.

In conclusion, it is important that we look at all alternatives when it comes to the future direction of higher education in Australia. There are fundamentally three alternatives. The first is to maintain the status quo and watch our higher education sector decay over time. Do nothing and eventually our aca-

demic standards will fall and the sector will become unsustainable. The second alternative is to adopt the coalition approach of investing more in our universities, which will allow our tertiary sector to realise its potential both domestically and internationally. When you think that the Coffs Harbour campus will secure an additional 7.5 per cent funding for the same student numbers as this year, you realise that we are empowering our universities to become major economic drivers in our community.

The only other option is to look at what the Labor Party has to offer. To my knowledge there has been no vision and very little detail about how the opposition would empower higher education into the future. However, I did welcome one small detail from the member for Jagajaga, when she released some information about maths and science students. The net result of that one small policy detail was a \$218 million black hole in their costings. If you relate that to Southern Cross University in my electorate, that will mean a \$2.1 million loss of income for Southern Cross University—\$2.1 million lost to our regional university on the New South Wales North Coast. (*Time expired*)

**Mr GAVAN O'CONNOR** (Corio) (9.14 a.m.)—The Higher Education Legislation Amendment Bill 2003 makes some amendments and technical adjustments in the higher education funding area, particularly in relation to the latest estimates of HECS liabilities. I have just heard the honourable member for Cowper waxing lyrical about the benefits of HECS and, of course, the access of students from low socioeconomic backgrounds to university places. Later in this debate I would like to take up some issues that he has outlined.

This bill includes an additional allocation of \$50 million for the reconstruction of the Mount Stromlo Observatory following its

destruction in the recent Canberra bushfires. I am involved in the bushfire inquiry currently being conducted by a committee of this House. Although I was not able to attend the public hearings here in Canberra, I am familiar with the local destruction caused by those fires, as until quite recently I held the shadow ministerial portfolio of the territories. The destruction of the Mount Stromlo Observatory was a blow not only to the ACT but also to the nation's scientific and research effort. The staff at the observatory have an enviable reputation internationally in their respective fields, so one can appreciate their devastation at losing their workplace to fire. The nation felt the pain as well when this facility was reduced to cinders.

These were indeed ferocious fires, fuelled by two years of drought and aggravated by extraordinary climatic conditions that saw dry lightning strikes all around the country, causing many fires in remote places—fires that ultimately threatened settled areas and destroyed vital infrastructure such as the Mount Stromlo Observatory. That initiative in this bill is one that I think all members of the House can support. The observatory's reconstruction will not only serve as a fitting symbol of the spirit of the ACT community in the face of the adversity that they have recently suffered but also signal a new start for research of this type in this country. We are naturally disappointed at the underfunding of this reconstruction effort, but it is important that the reconstruction proceed at the earliest opportunity.

However, it is not this aspect of the bill that I intend to debate here today. The member for Jagajaga has moved a second reading amendment which I wholeheartedly support and which I would like to speak to now. It is very important to canvass the elements of that particular second reading amendment,

because it outlines the real issues facing higher education in Australia, particularly the impact of the government's policies on students and their families; the inability of universities to publicly fund places for students; the inadequate planning for growth that we saw in the recent budget, especially for the out years 2004-07; and the failure of the government to plan adequately for meeting key areas of skill shortage throughout the sector, including the areas of teaching and nursing. This second reading amendment also homes in on the inadequate indexation of university funding, the inattention to the links between higher education and TAFE, and a lack of focus on quality, innovation and global changes in higher education.

These are all very important matters and they are very important to my community in Geelong. We have a university that on several occasions has won the University of the Year award—Deakin University. It is held in very high esteem by not only the higher education community in this country but also the local Geelong and regional community. It is a place where local students as well as others go to study. We are very proud of the achievements of this university, but sadly it has suffered under the policies of this government.

The government is really in the business of deceiving the Australian people again in this particular policy area, because the recent initiatives that the government announced in this area had the misnomer 'Backing Australia's Ability'. This must be the only government in the world that can rip \$5 billion out of the higher education sector and then claim that it is backing Australia's ability. That is not backing Australia's ability; that is putting Australia in a very vulnerable position vis-à-vis our competitors in an economic and cultural sense around the globe. We live in a

global economic environment—one that demands a high level of sophistication in our economy and one that demands innovation and research and the translation of that research into products that we can sell in international marketplaces. We have a very small marketplace here in Australia and, of course, we rely very heavily on our ability to innovate, to develop new products and to get them into international markets to sell.

My region is one such region. Only yesterday I attended a demonstration at the front of Parliament House, where delegates from the textile, clothing and footwear industries from all around Australia had come to press their point about their particular industry. There were delegates there from Geelong TCF companies. I pay particular tribute to Beth McPherson, who has done a terrific job amongst TCF workers in Geelong to make them and the community aware of the problems that are coming up the straight for their sector.

I mention this because we have a company in Geelong called Godfrey Hirst that manufactures carpets. The proprietor of that company, George McKendrick, who died several years ago, had a particular philosophy of linking Godfrey Hirst to the university and drawing upon the skills of universities to assist his company. He was an older gentleman, but he appreciated the value to his enterprise of higher education and he sought to get very strong links between his company and the tertiary sector. The company relied quite heavily on the recruitment of skilled university or higher education trained people for the company. That company is a major exporter, so we can see in a very practical sense the link between higher education, the development of skills and the economic development and future of a very important regional company.

Of course, if Australia is going to hack it in the big league internationally—and we do that in so many areas of economic activity—we have to have a broadly based set of skills in this country that enable us to innovate, research, develop new products and get them into marketplaces. Our economic future depends very heavily on the tertiary sector and, in particular, the higher education sector.

I go back to my first point: how can a government claim that it is backing Australia's ability when it rips out \$5 billion from the tertiary sector? How can it claim to be backing Australia's ability when it restricts the choices that are available to young Australians who have talent to undertake tertiary courses and to contribute to our economic and social system? How can it claim to be backing those people if it makes it quite hard for them to attend higher education? What is the legacy of seven years of the Howard government's so-called reform in this area? I just mentioned one: \$5 billion ripped out of the sector. As far as student fees are concerned, under this government the top rate of HECS has more than tripled since 1996, from \$2,442 to \$8,355.

The 30 per cent increase on the average HECS fee announced in this budget will cost students and their families \$1,650 per year by 2005. That is some \$32 a week more that students will pay. Under the Howard government the average HECS fee will be up by over 116 per cent. I would like to put into the *Hansard* record some of the increases that we have seen under the Howard government in these particular HECS bands. In band 1, which incorporates arts, humanities, social studies and behavioural sciences, education, visual and performing arts, nursing, justice and legal education, there has been an increase in HECS fees of up to 105 per cent. If you go to band 2, which incorporates mathematics, computing, other health sciences, agriculture and renewable resources,

built environment and architecture, science, engineering and processing, administration, business and economics, there has been an increase in fees of up to 192 per cent. If you go to band 3, which incorporates law, medicine and medical science, dentistry and dental services, and veterinary science, we have seen increases in fees of up to 242 per cent. That is some record of reform! That is simply burdening the sector, students and their families with debt.

When we look at the recent budget that was handed down by the government, it is very clear that students and their families will have to go into heavy debt to pay for their full fee university places. Student debt is projected to increase by \$800 million—that is almost the cost of the Iraq war in this one particular aspect of the budget alone. If the government has made such a great concession here, students will be able to borrow \$50,000, which will partially pay for their university fees, and they will be charged a rate of interest of 3.5 per cent, plus CPI. The ultimate effect of this will add \$16,000 to a \$50,000 loan. This is a new burden of \$125 a week being put on students.

When we go to the area of university places, we see that a huge demand has built up in this sector. There are people with talent who want to get to university but who cannot, and there were only 444 new places in the budget recently announced. The only additional non-health places are for those students who have the capacity to pay full fees of up to \$100,000. That means 20,000 qualified Australians will not get access to university this year. I find that a quite extraordinary list of so-called reforms and achievements. You have ripped \$5 billion out of the sector, you have burdened students with debt, you have restricted places for people with talent and made those places

available to people with money, and you claim that—

**The SPEAKER**—Order! I remind the member for Corio that I may not be the most perfect Speaker, but I am not guilty of all the things he has just accused me of.

**Mr GAVAN O'CONNOR**—Mr Speaker, I would never cast aspersions on you. I might have a crack at the member for Corangamite here in this House, but I would never cast aspersions on you.

**The SPEAKER**—I just invite the member to address his remarks through the chair.

**Mr GAVAN O'CONNOR**—The Howard government certainly cannot claim that these so-called reforms have advanced the tertiary sector in this country. I might say that Deakin University in Geelong has been hit by this government's cuts. Since 1996 we have seen \$192 million ripped out of Deakin University by this government. Of course, that has meant that young people in the Geelong area have not been able to get access to a decent tertiary education in their own locality.

I was very interested in the contribution to the debate by the honourable member for Cowper, who claimed that the opposition did not have any policies in this area. This is the mantra that goes out from members of the Howard government. If the honourable member wants to read a real document of reform, I suggest he read this one: *Aim higher: learning, training and better jobs for more Australians*. That is a program of real reform to the higher education sector in this country. That is a document that sets out very clearly how the Labor Party intends to fund real reform to the higher education sector.

Let me canvass some of the elements of that package for honourable members opposite. It is a \$2.34 billion package, and it has

these elements: it looks to improving the quality of university education through a new indexation measure that will deliver an additional \$312 million to our universities; it intends to relieve the financial burden on students by extending rent assistance to Austudy recipients, and progressively lowering to 23 the age at which students become independent and the means test on parental income for when youth allowance cuts out; it establishes a competitive \$450 million universities of the 21st century fund to support real reform in our universities. I am particularly pleased at the element which provides \$150 million to support regional, rural and outer suburban universities. The package establishes a \$150 million fund to reward excellence in teaching and learning, and it will fund—at a cost of \$347.6 million—all university places at the full Commonwealth rate, including the 25,000 places which are currently funded at the marginal rate.

The package has some further interesting and important aspects as well in that it increases funding for Indigenous participation by \$20 million and creates 200 new scholarships for Indigenous university students. It provides an additional \$6 million over three years to help people with a disability to access and complete tertiary education. We will achieve this by redirecting nearly \$1.5 billion from the Howard government's unfair university package and reversing the Howard government's decision to increase the diesel fuel rebate to mining companies—that will contribute \$467 million. We will cut out \$160 million of the Howard government's tax breaks for foreign executives, and we will be opposing the abolition of the student financial supplement assistance scheme, at a saving of \$159 million.

If anybody is in any doubt that the Geelong community takes this issue seriously, I would refer them to a forum that was held at Deakin University last week. The Deakin University

Student Association sponsored the forum, and I pay particular tribute to Bridget McKenzie and her fellows in that association organisation for their initiative; they went to considerable trouble to put this particular forum on. A representative of postgraduate students spoke; there was a representative from the union which represented staff, and Senator Kerry Nettle from the Greens and Senator Lyn Allison from the Democrats were there. I attended to put a real package of reform before the students. But who was not there? The honourable member for Corangamite was not there. No member of the Liberal Party fronted that particular university to explain their package to the students, the staff and the larger community. I ask myself why they were not there. They are at every other function to dole out a few dollars in a Work for the Dole scheme. They are there to hand out money, but the government members never front to defend the indefensible—that is, their higher education package. You have a higher education package that is called Backing Australia's Ability. The honourable member for Corangamite has a strange way of backing Australia's ability, because he rips \$192 million out of Deakin University and he stands behind his minister in ripping \$5 billion out of this very important sector. (*Time expired*)

**Ms HALL** (Shortland) (9.35 a.m.)—The Higher Education Legislation Amendment Bill 2003 is about tertiary education. It is about Australia's future, and I think it is really appropriate that we have so many young students from schools throughout Australia visit this parliament—and we have some in the gallery at the moment. This legislation provides funding for the indexation for cost increases, and it also has some technical adjustments in higher education funding through the Higher Education Funding Act 1988.

I think this really forces us to focus on the issue of what higher education is about and who should have the opportunity to access higher education. I think that is the issue that is important for the young people who are here in parliament today. I do not think there is probably any other area where there is a greater philosophical difference between those of us on this side of the House and those on the government side of the House. We believe that each and every one of the young students in the gallery today should have the opportunity to go to university if they choose to. We believe that the only thing that should determine whether or not they can attend university is their ability to undertake the studies and their ability to complete those qualifications—unlike the government, who believe that whether or not you go to university should be determined by your ability to pay. That is a real difference between us and the government, and that is why we have some real problems with the approach to higher education by the government in Australia.

The Higher Education Legislation Amendment Bill 2003 deals with the indexation of Commonwealth grants and changes in funding to universities. Whilst we are supporting that indexation, I think it is very important that I put on record that it is quite inadequate and that the formula that the government uses is inadequate and really does not reflect the needs of the universities. It is also important to put on record that this government's performance in the area of higher education funding has been deplorable. One of the first acts of this government was to rip money out of the universities and the TAFE colleges. In doing that, it is condemning Australia to a system of second-class higher education and it is creating a substandard higher education sector. The only way around it is for the individual to pay. This government is

a master at taking money out of our public institutions, and this has a long-term effect on the kind of education available and the accessibility of education.

It is important to put on record that the secret to success, for both a nation and an individual, is education. Education removes barriers and opens horizons for people. As a nation, our future lies in our ability to embrace new technologies and sell those technologies overseas, and in our ability to be leaders in the field of education. In Australia, education is one of the things that we have an opportunity to present to the rest of the world. Without it we cannot compete. We need to have highly skilled people to work in our industries and, under this government, we have developed shortages in a number of areas. I think it is important to highlight a few of those areas where there are shortages. We have shortages in child-care coordinators, child-care workers, engineers, registered nurses—and nursing is an area that is worth spending a little bit of time on. It is not just one area of nursing that we have a shortage in; it is all areas, including accident and emergency, and aged care nursing. It is also important to note that the average age of nurses in Australia is over 40. We have shortages in cardiac, intensive care and Indigenous health nursing—and the shortage of nurses in that area is deplorable. In every area of nursing there is a shortage.

We also have shortages of dentists, pharmacists, occupational therapists, physiotherapists and doctors. It is important to talk a little about the shortage of doctors. In 1996 the government introduced legislation that restricted the numbers of providers. There has been a decrease in the number of doctors that are training, and that has created quite a shortage of doctors. Throughout Australia people are having to wait to see their doctors.

In the electorate that I represent, a Central Coast electorate, there has been a dramatic decline in the number of doctors in the area, and that decline is projected to increase. To a large extent, this can be attributed to the fact that there is a shortage of doctors. I visited my own GP recently and she emphasised to me the need to train more doctors.

**Mr Lloyd**—Mr Deputy Speaker, I rise on a point of order. My point of order goes to relevance. The member should be speaking on the Higher Education Legislation Amendment Bill 2003. I ask you to bring her back to the subject of the bill, please.

**The DEPUTY SPEAKER (Mr Jenkins)**—I understand that there is a second reading amendment, which I believe and hope the honourable member for Shortland is taking into regard in this debate. I will be listening most carefully to make sure that that is the case.

**Ms HALL**—Thank you, Mr Deputy Speaker. I understand the member for Robertson's sensitivity on this issue because he also represents the Central Coast. He should be arguing for more places in universities for doctors. Unfortunately, under his stewardship the number of doctors on the Central Coast has continued to decline. The member for Robertson is noted for his inaction in fighting for more doctors on the Central Coast. As I was saying, in Australia, because of the government's policy, we have developed shortages in a number of areas. That means that we lack skills and that innovation has declined in Australia, and it has all been under the stewardship of this government.

The other thing I would like to say is that tertiary education should be for all; tertiary education should not be for a select few. Unfortunately the government's approach to tertiary education is that the deserving few should have access to education. The gov-

ernment policy, *Backing Australia's Future*, was released in March 2000. It would be more appropriate if it were called *Back to the Future*, because it is dragging us back to a future where only those people who have money, position and go to the right schools will be able to access higher education. I think that is very sad.

Yesterday in this House the Minister for Education, Science and Training asked why a talented student with a score of 99.2 should not be able to go to university. A talented student with 99.2 can go to university. Maybe they cannot get into medicine or the faculty they wish but they can still go to university, and if they achieve in one course they can transfer to another course a little further down the track.

The minister may feel that someone in his electorate of Bradfield, with a score of 99.2, should be able to pay money to go to university—should be able to buy their way into university—but I ask why that student, with 99.2, should have a better opportunity of attending the university of their choice than a student from my electorate living in the suburb of Windale, which is very disadvantaged, who maybe comes from a single-parent family or a working-class family with a low income. Why should somebody with money have a better opportunity of going to university than someone from the suburbs of Windale, Belmont, Swansea, Lake Haven, Gorokan or Toukley who comes from a working-class family and whose parents do not have the ability to pay \$150,000 up front? I think it is quite immoral for the minister to stand up in this parliament and argue that someone with 99.2 cannot attend university. They are being disadvantaged if they cannot pay.

I argue that, under this government's policy, not only will those people be disadvantaged but all Australian students will be disadvantaged. Each year there are 20,000 peo-



ple who qualify for university and miss out. This is because this government has provided insufficient funding to the universities. Once again, this government has committed itself to fee-paying students. Further down the track it is looking at increases in HECS fees and postgraduate loans for which students will be paying real interest rates. In the area of nursing there is a shortage of midwives. For a student to undertake postgraduate studies in midwifery it would cost \$4,300. Rather than charging people, we should be paying them to do it. We need to encourage people to train to be midwives and to take on postgraduate training in nursing. That is why I concentrated on nursing when I spoke earlier.

Under the government's policy, loans for students to attend university will become a reality not only for postgraduates but for all students. The implications of that and the higher HECS fees are enormous for us as a community. Under the government's proposals, at Sydney University a bachelor of arts degree will cost \$15,000, a law degree will cost up to \$85,000 and a science degree will cost \$21,000. I must emphasise that science is an area we want more people to study in.

Under this government, a young person who finishes university will be faced with an enormous debt. This will mean they will not be able to afford to buy a house, because they will be constantly struggling to pay off their HECS debt or student loan. When it comes to having a family, they will have to think twice about whether they can afford to have children. I think this will link into our already declining birth rate. If people cannot afford to have children, the implications for Australia are enormous. As I mentioned, we are already an ageing population. It will increase the impact of the brain drain. More students will be going overseas, because they

can get around their financial obligations and get away from the impact of this government's draconian legislation.

It also means we will lose these people—along with all their expertise—who are our future. Postgraduate students are going overseas all the time because of the costs involved here and because of the opportunities. I think this government has a very narrow approach to education. There is an alternative: the proposal put forward by the Labor Party—an outstanding proposal, I might add—in the document *Aim Higher* which was recently released by the Leader of the Opposition and the shadow minister for employment, education and training and science. It is a \$2.34 billion package. It emphasises that, under a Labor government, \$150,000 degrees and university places for sale would be gone. We believe that all students should have equal access. Labor's policy will create 21,660 new full- and part-time places in university and 20,000 new places in TAFE colleges.

The government's education policy will force more and more students into TAFE—if we were to go down that track. There is already a shortage—they have already ripped the guts out of TAFE. We believe we have to create places in both universities and TAFE so that we have a variety of skills and occupations available for young people to train in.

We will be providing \$35 million to secondary school students from disadvantaged backgrounds to help them go to university. Rather than making higher education more accessible to the people of the minister's electorate of Bradfield who can afford to pay, we believe that people who come from suburbs like Windale in my electorate should be supported and helped to go into higher education. There will be no increase in or de-

regulation of the HECS fees. I think that is very important when you are looking at those cost factors. There will be no introduction of a real rate of interest on loans for postgraduate courses. As I mentioned earlier, there will be an abolition of full fees for all new undergraduate course students. We will extend the rental system and reduce the age of independence of students on Youth Allowance from 24 to 23 in 2007. The HECS threshold will be \$35,000 a year from 2004. These are all things that make higher education more accessible for young people and mature age students.

I think it is really important to mention that, under this government, there has been a decline in the number of mature age students attending university—a decline of some 17,000 students—which I think is very sad. I attended university as a mature age student myself and I must say that, under the changes this government has brought in, there is absolutely no way that I would have been able to afford to go to university. I think that more and more people are being put in that position. The Labor Party will also reduce HECS fees for science and mathematics students and it will fully fund an additional 3,125 new undergraduate nursing places by 2008. As I was saying earlier, it is very important that we address these areas of shortage.

This vision will ensure that, as a nation, we move forward. It gives us hope and vision for the future. It will ensure that we will be a nation that can embrace the 21st century, not a nation that is always playing catch-up. Our position in relation to the rest of the world has fallen considerably under this government. The Labor Party's vision and aim is to bring us forward, not take us backwards. We aim not to look back but to actually aim higher for the future. (*Time expired*)

**Mr GIBBONS** (Bendigo) (9.55 a.m.)—I firmly believe that the best investment a nation can make in its own future is a properly funded and fairly based higher education system. On both counts, the Higher Education Legislation Amendment Bill 2003 and this government fail miserably. There has been concern in the wider community for some time about the future of Australian universities and how they are funded. I intend to concentrate on the impact of the Howard government's so-called reforms, as contained in this bill, on regional universities such as La Trobe University in Bendigo, which is the centre for the Faculty for Regional Development; on the VET sector; and on the Bendigo Regional Institute of TAFE.

My concerns are about access and equity for all students, the need for enough tertiary places for students who want to learn and the need for places to be equally and fairly available to all who qualify to undertake studies. There needs to be an acknowledgement of the ongoing economic importance of regional universities and TAFE facilities. We need to ask whether the proposed reforms and current funding schemes represent the aspirations of the majority of university communities and whether they acknowledge and accept the vital role that regional universities and TAFE facilities provide within their respective communities. I intend to argue the case for maintaining and enhancing regional universities and TAFE institutions by acknowledging the significant contribution they make to their respective communities not just in the provision of education programs but also through their role in the economies of the regions in which they are located.

It is estimated that the federal government has effectively reduced funding to Australia's universities by almost \$5 billion since gaining office in 1996. La Trobe University in Victoria has had an effective reduction in

funding of \$227.7 million since 1996. This has caused increased financial pressure and hardship for the university. At the same time, there has been an increase in demand for university places. The federal government claims that it is attempting to meet some of that demand, but in fact its response is inadequate and places a burden on Australian families. It disadvantages students and families by increasing HECS fees by up to 30 per cent. It reserves an increased proportion of university places for full fee paying students. It introduces \$50,000 loans at six per cent interest and adds only 2,116 university places for new students by the year 2007.

We have already seen the administration of one university, the University of Sydney, readily fall prey to the government's push to slug students with bigger fees. That university has slapped a monstrous 30 per cent hike in fees onto its student population. Quite clearly, the government also wants to force La Trobe University to jack up its fees, because the government wants to impose new penalties and deterrents on students and their parents. The Bendigo region needs more university places, but it is going to get fewer places from this government's policies. The federal government encouraged overenrolment in universities in 1998 so as to allow universities to offer places that did not attract full government funding. It wanted to get away with offering higher education on the cheap in central Victoria and it still boasts that it is providing more places than it is actually funding. Places at La Trobe University are currently funded at only \$2,700 per student, when the actual average cost of providing those places is nearly four times that amount—around \$11,700.

This skinflint government is actually paying less than 25 per cent of the real cost of educating these students and it has been forc-

ing La Trobe and other universities to make up the huge shortfall. In other words, universities like La Trobe can only get out of the government's financial straitjacket at the cost of a blow-out in class sizes and a mounting drain on their own finances. The situation has rapidly become untenable for Australia's cash-strapped universities, particularly for La Trobe University in Bendigo. The government claims that, through its reforms, it will provide adequate funding for these places. This is not a measure of generosity or vision. It is a transparent confession that it has placed our universities in the shocking position where they are struggling to survive.

I have no doubt that the Bendigo region will be deluged with rubbery coalition promises that it will not take away any of the 500 places it is threatening to eliminate at La Trobe University in Bendigo. But it is La Trobe University itself that has stated publicly that these places will be wiped out by the so-called reforms of the government. As for government promises, we in central Victoria have heard them all before with the Prime Minister's false promises that he would not bring in a GST, that he would not privatise Australian Defence Industries and that he would jointly fund the Calder Highway to completion with the Victorian government. He broke the lot! He has been breaking his promises to central Victoria for seven years. He is a recidivist pledge cheat.

The government's so-called reforms do nothing to address the needs of central Victorians who are missing out on a university education. They are among the 20,000 young Australians who, despite having the marks, are being locked out of university each year because of the shortfall in the number of places made available by the government. While other developed nations have been investing in higher education and increasing

the opportunities for their young people to get into university, this government has virtually strangled the growth in new university places. Between 1992 and 1996 the number of university places increased from 194,000 to 233,000, an increase of nearly 40,000. This is nearly 10 times the increase that took place in the following five years. Between 1996 and 2001 just 4,000 new places were added to the system. The government plans to continue to choke university places. Over the next seven years only 2,116 new commencing places will be created.

The federal government's reforms for university funding will impact severely on all regional universities that have been struggling under the weight of the huge funding withdrawal of around \$5 billion. As I have said in a submission to the Senate inquiry into the government's tertiary education plans, reforms should take into account the differing aspirations of individual universities, their need to relate to their local communities and their role in each region. La Trobe University campuses, for example, provide essential economic and cultural support for the regional Victorian community. They provide vital centres of learning throughout regional Victoria. It is important to stress that they are indispensable components of the economies of the regions in which they are located.

Statistics from La Trobe University in Bendigo indicate that 83 per cent of its students are from Bendigo and country Victoria. I am delighted that the minister is at the table. I have a meeting with the minister tonight with representatives from La Trobe University to speak about the very matters that I am raising in this speech. In 2002 around 7,500 students indicated they were interested in studying at La Trobe University. Only 1,042 first-year undergraduate places were available. More than 1,500 students nominated Bendigo as their first choice.

Country students choose to study at La Trobe University in Bendigo because the university's courses are being increasingly appreciated as quality degree programs that are equal to those offered by metropolitan universities. La Trobe provides a more personal study environment and there is more staff-student contact in smaller classes.

La Trobe University in Bendigo estimates it could lose up to 500 places by 2005 under the federal government's reform package, which will massively scale down enrolments through the simple technique of scaling back overenrolments to around two per cent. This would mean a reduction from 3,000 places in 2003 to 2,500 places in 2005. The Bendigo region simply cannot afford these losses. Let me highlight just how important the university is for its region. The student population of 4,167 of La Trobe's campus at Bendigo represents around 19 per cent of the total student enrolments for the whole of La Trobe University in Victoria. The university is directly responsible for generating 532 full-time, part-time and casual jobs in the Bendigo region. When the effects of student expenditure are added, another 344 jobs are generated. On the university's own calculations, once flow-on effects are taken into consideration the university is responsible for the generation of 1,359 jobs in the Bendigo region. This amounts to about 4.2 per cent of the total regional work force. La Trobe University in Bendigo is responsible for an initial \$62.4 million effect on Bendigo's economy each year. The flow-on effect is estimated to be an additional \$58.8 million, bringing the total to \$120.2 million in outputs—that is, it generates \$120 million in household income.

The federal government's cuts to universities have cost central Victoria dearly. In addition, La Trobe University in Bendigo has lost in excess of \$15.5 million over the past five years as a result of internal transfers. Internal

transfers of dollars and control to La Trobe University's Bundoora campus have worsened Bendigo's problems. The reason for this is obvious: La Trobe University in Bundoora is attempting to alleviate its own budget problems caused by federal government cuts by extracting about \$2.5 million per year for the past five years from La Trobe University in Bendigo's operating budget. This is in addition to various off-the-top funding amounts withheld for specific centralised services which, to Bendigo's detriment, have increased progressively. Approximately \$3 million in capital funding has been withheld from Bendigo. This has severely hampered La Trobe University in Bendigo's ability to continue to provide its excellent service. The loss of over \$2.5 million each year limits the Bendigo campus's ability to provide its diverse range of courses and services. It also results in a de-skilling of its administrative support staff and a substantial stripping of much needed and valuable assets. This is all a direct result of the federal government's policies for higher education.

The federal government has shown through its self-styled reform agenda that it thinks more of the big end of town and less of the country. It is creating a two-class system of higher education. A study of the higher family incomes in the electorates of key federal ministers compared with the lower incomes in the country electorates says everything. La Trobe University in Bendigo draws the majority of its enrolments from central and northern Victoria, which include the electorates of Bendigo, Murray and Mallee.

ABS median weekly family income statistics show Bendigo has a median weekly family income of \$736, Mallee has a median weekly family income of \$755 and Murray has a median weekly family income of \$813.

This contrasts decisively with the Prime Minister's electorate of Bennelong, with a median weekly family income of \$1,300; the Treasurer's electorate of Higgins, with a median weekly family income of \$1,570; and the higher education minister's electorate of Bradfield, with a median weekly family income of \$1,759. In other words, the average weekly family income in the three country electorates that are the backbone of central and northern Victoria is \$768. The average weekly family income in the three elite electorates represented by the elite coalition politicians is \$1,543—twice the income of families in northern and central Victoria.

Young people from the wealthy city electorates are already far more likely to go to university than young people from country areas and lower income suburbs. They expect to. This is the advantage they already have in abundance through coming from well-off and well-educated families in the big cities. Any decent government would be setting out to increase the proportion of country kids who go on to higher education, but this government just keep shifting the goalposts and making sure that the playing fields are kept uneven. That is what these so-called reforms are all about: rigging the rules, playing foul and tripping people up while pretending all the time that they are making the game fairer.

The Howard government always governs for the wealthy. It not only preserves the advantages of the wealthy but wants to give them more—and it wants to give other families less. It sees universities as refuges for the rich. Its idea of social justice is to burden lower and middle-income students with bigger fees and longer debts while it piles up more places for wealthy queuejumpers whose well-heeled families have no hassle paying the government's big up-front fees.

The average family income in the electorate of the education minister is more than double the average income of families in the Bendigo electorate. The education minister represents the second wealthiest electorate in Australia. It is not surprising that the federal government's policy of moving to a user-pays principle for higher education funding clearly favours families from the wealthy metropolitan suburbs at the expense of rural and regional Australia. Labor sees higher education as an open road to a fairer society and a way for more people to get a better start in life. The Liberals and Nationals see higher education as a fortress of the privileged. They think that they are the kings of the castle and they want to keep what they fancy are the lower orders out.

I now turn to the vocational education and training sector. Publicly funded providers of vocational education and training received \$95 million less in their total revenue from government in 2000 than in 1997—a reduction of 2.7 per cent in real terms. Revenue from the Commonwealth government declined by \$149 million between 1997 and 2000—a reduction of 12.7 per cent in real terms. Revenue from the state and territory governments increased by \$57 million, or 2.6 per cent, and other forms of revenue from government declined by \$3 million between 1997 and 2000. The main reduction in revenue from the Commonwealth was suffered in income from the specific purpose programs. VET revenue from this source more than halved, from \$220 million to \$98 million, between 1997 and 2000. Reductions in revenue from the Commonwealth SPPs affected all states and territories, with the biggest losses occurring in Victoria and Tasmania. The Commonwealth's share of VET revenue declined from 28 per cent of total revenue in 1997 to 24 per cent in 2000.

The Bendigo Regional Institute of TAFE has been meeting the training needs of cen-

tral Victoria since its establishment in 1854. It operates from its two main campuses in Bendigo and has other facilities at Castlemaine, Kyneton, Maryborough, Echuca and Kerang. Its annual wages bill in 2001 was \$16.57 million, and it has 519 full-time, part-time and casual employees. In EFT terms, that is a work force of 362. It had 10,469 enrolled students in 2001 over all campuses. Applying to the Bendigo Regional Institute of TAFE, or BRIT, the same analysis for estimating the economic importance of the university I have mentioned, I estimate that together BRIT and La Trobe University, Bendigo, are responsible for contributing around \$120 million worth of economic benefit to our region. So any loss in education and training opportunities caused by a reduction in government spending would severely impact on the region's economy.

Labor has higher education policies that offer a real alternative. Labor will invest \$2.34 billion to provide a secure tertiary education funding base which does not rely on \$100,000 degrees and driving students into massive debt. Labor's TAFE and university funding policy, entitled Aim Higher: Learning, Training and Better Jobs for More Australians, will provide vision, investment and direction for a diverse, world-class Australian university system. Labor will address the funding crisis in our university system and encourage reform by providing \$312.7 million in additional funding to maintain the value of funding to universities. This will be done by including the wage cost index in education in a composite index to increase university grants over and above existing increases and improve the quality of university education. Labor will establish the competitive \$450 million universities of the 21st century fund to encourage universities' transition to 21st century learning institutions. It will establish a \$150 million community engagement fund to support regional, rural and

outer suburban universities in their leadership roles in local communities. Labor will also establish a \$150 million teaching and learning fund to recognise and reward teaching and learning excellence, including the provision of support for new university teachers.

Labor will encourage the transformation of universities through increased forms of collaboration, nationally and internationally, between and across education sectors, with different sectors of the community and through new forms of information technology. Labor will also secure the foundations for high standards and improved quality by funding all university places at the full Commonwealth rate, including approximately 25,000 full-time equivalent places which are currently funded at a marginal rate, at a cost of \$347.6 million. Labor will provide \$3 million to establish quality assurance of student assessment in consultation with the university sector and an additional \$2.4 million to the Australian Universities Quality Agency to audit offshore campuses to the same standard as domestic campuses of Australian universities. Labor will also introduce an enforceable national quality and accountability code.

Young people make a fantastic effort to get a higher education, and they get enormous support from their families. They are not asking for the world, just a fair start so that they can show what they can achieve. They want a level playing field, not the minefield that the coalition parties have laid for them. Labor will give them the support and encouragement that they deserve.

**Mr SIDEBOTTOM** (Braddon) (10.14 a.m.)—It is always a pleasure to follow my colleague the member for Bendigo, who I know pays considerable attention to all matters in his electorate, particularly issues of

higher education. I say good morning to the minister who is at the table this morning, the Minister for Education, Science and Training. I always welcome the opportunity to talk on matters of higher education because it affects so many people in Australia and is so important to the future of Australia. That is quite clearly recognised by all parties in this House. The thing is that we have different ways of going about trying to achieve the outcomes that we think are so important to our nation. The bill before the House today, the Higher Education Legislation Amendment Bill 2003, has a number of amendments and the opposition supports those, although with some reservations in terms of emphasis. The opposition's reservations have been clearly outlined by the shadow minister for education. I noted that in the minister's second reading speech he spent some time discussing his and his government's policy—*Our Universities: Backing Australia's Future*. I thought I would take the opportunity to comment on that and also to talk about Labor's higher education policies, in part for the future, named *Aim Higher: Learning, Training and Better Jobs for More Australians*.

Earlier on, when there was more considered and comprehensive investigation into the state of our universities in terms of higher education, the term 'crossroads' was used, and this is most appropriate. Indeed, we are at the crossroads. For most Australians now, their choices are literally at the crossroads, because Australians will be given the opportunity at the next federal election to choose which way, which path and which journey that Australia will take in higher education, and they have clear alternatives—that is as it should be. When we talk about crossroads, we not only have choices but we also need to know where it is that we want to go and where we are coming from. I ask my-

self: where essentially is the higher education sector presently after seven years of this government? Constantly, on this side, we are berated by the statement: 'Look what you did in 13 years of government.' Fair enough. If I had sat through 13 years of opposition, I would have a long memory too, and I would be able to cite examples of things that were done and were not done. But here we are, seven years on since 1996, with a government harping and continually commenting on what happened 13 years ago. The government has had seven years. I know the minister at the table is quite prepared to take his package forward. He is ready for the future and not harping on about 13-odd years ago plus seven. I welcome that opportunity to look forward to the future and for Labor to present its alternative view of the future in higher education.

Where have we been since 1996? As I am in opposition I have been able to observe what has been going on since 1996. We have had thousands of students throughout Australia discouraged from continuing further education, something recognised on both sides. We have had thousands of mature age students who have been discouraged from taking on the further higher education option for a variety of reasons. Since 1996, \$5 billion has been gutted from our higher education sector. That has had to leave a negative impact and a deficit in many areas, right the way through from the development of curriculum to research and development, facilities, the provision of class ratios and so forth. The number of students per teaching staff member has blown out by more than 20 per cent. That has to have an effect on the quality of education and learning in our universities. There is a lack of student HECS funded places. I know in my university, the University of Tasmania, there is a shortfall of 1,000 places. We have made representations on this to the minister on a number of occasions, and

indeed it was even accepted by the last opposition spokesman for education in Tasmania. I have spoken in this House of the number of students who have had to leave our state in order to do particular courses at other universities that we cannot offer. That is a brain drain from our state. Fortunately, that brain drain is being addressed now in Tasmania.

We have overcrowded classrooms—that is not denied. We have inadequate facilities that are depreciating in value. We have infrastructure in disrepair in our universities. Threats to quality and compromised standards have become increasingly common. Staff morale is low. Public confidence is being undermined in our centres of higher education. Rising student debt, through HECS and increased living expenses, has been greatly exacerbated by the GST. People are doing it harder and finding it harder to study. They are particularly finding it harder to study full time—that is, those who are able to get into their particular courses. We have an increased number of students required to work part time in order to meet the cost of living and study expenses. That has been clearly documented for some time, and I have spoken on it on several occasions in this House. We all know that this impacts on students taking longer to complete their courses and a greater number of students dropping out of courses. It is tough, and we need to be able to provide policies that encourage people to continue their education, not drop out.

More students are required to depend on their parents to financially support them. That was one of the social engineering policies that this government introduced: changing the age of dependants to 25. I was amazed that that slipped through this parliament and did not receive much societal debate until much later—until people had to face the fact that their children, adults most of them, were dependent to age 25. That has had a significant financial impact on fami-



lies. The youth allowance threshold had increased and there was no rental assistance for Austudy students. These are significant imposts not only on the students who are studying but, importantly—and this is most difficult to measure—also on those students who made the decision not to go on to further their education in the higher education sector. So this is part of the legacy of the decisions that this government made in 1996 and of the gutting of funding for higher education.

The Minister for Education, Science and Training, who is at the table, assures us that he wants to do everything to get more students to be able to study in life-long education, particularly in the higher education sector including universities and TAFE, and he has produced his policy for the future, the *Our Universities: Backing Australia's Future* package. The government point their finger at our side and say, 'You're a policy-free zone. What have you got to say about further education?' We do have things to say about further education and we offer an alternative. It is an alternative that does not look at the creation of the two-tiered education system that we presently have offered to us, indeed one that we have had offered to us for health. What Labor offer is the opportunity for all young people and people who wish to pursue their higher education options to do so on merit, not on how much they have got in the bank. We do not want to means-test people into or out of higher education. That is exactly what is at the heart of both the health and higher education policies of this government.

Labor's recent announcements on our higher education plan—and we have not finished with education by a long shot—have some really exciting initiatives. It is a \$2.34 billion plan to rebuild our gutted higher edu-

cation system, to reform it and expand our universities and TAFEs without crippling students with debt, because that is at the heart of this government's policy on higher education. We want to offer over 20,000 extra places in our universities and TAFE colleges. That is one of the major stumbling blocks for people going on to further education: they cannot get in, they cannot get a place. Those places cannot be offered—unless they charge you. That is at the heart of this government's policy of being able to offer courses to the highest bidder, so if you have got money you can get in; if you do not have it, it is too bad.

Labor will improve the quality of university education through a new indexation measure that will deliver an additional \$312 million to our universities. It is pretty fundamental to the funding of universities that we have a proper calculated indexation system that will allow our universities to sustain themselves and plan and prepare for the future. We want to relieve the financial burdens that I mentioned are on students by extending rent assistance to Austudy recipients, who do not receive rent assistance at present. We want to progressively lower the age at which students become independent and make the means test on parental income for youth allowance cut out at 23 years of age. That will significantly help families and students. We want to establish a competitive \$450 million Universities of the 21st Century fund to support university reform. That is an incentive and an initiative, not a stick to beat universities over reform.

Most importantly, and certainly so for my university in Tasmania, we want to provide \$150 million to support regional, rural and outer suburban universities. We want to establish a \$150 million fund to reward excellence in teaching and learning. We want to

fund all university places at the full Commonwealth rate, including 25,000 places which are currently funded at a marginal rate, at a cost of \$347.6 million. We want to increase funding for Indigenous participation by \$20 million and create 200 scholarships for Indigenous university students. We want to provide an additional \$6 million over three years to help people with a disability to access and complete tertiary education.

We want to expand the opportunity to get a TAFE and university place through a number of initiatives, and I have mentioned those that are most important: the creation of 20,000 new full- and part-time commencing TAFE places each year by 2008 and providing \$35 million to support secondary school students from disadvantaged backgrounds to progress to university and TAFE. We want to ensure fair access to affordable tertiary education. How can we do this? By increasing the HECS repayment threshold to \$35,000, to add a greater incentive for people to do higher education and to make it a bit easier for them to carry that debt, and by having no increased HECS fees and no deregulation of HECS fees. We want no real rate of interest on loans for postgraduate courses and we want to abolish full fees for Australian undergraduate students.

Given the whole story of education, particularly higher education, we need to address national skills shortages in key professions like nursing and medicine and teaching itself. We want to fund an additional 3,125 new full- and part-time undergraduate nursing places by 2008. We want to create 500 additional new full-time HECS funded postgraduate nursing places. We want to provide \$43.4 million in extra funding for clinical training for undergraduate nurses. We want to fund an additional 1,404 bonded medical places by 2009. We want to cut HECS fees for science and mathematics students by \$1,600 per year.

We want to fund an extra 4,600 new full- and part-time teaching places by 2008. We want to create 500 additional new full-time HECS funded postgraduate teacher education places, as well as provide an additional \$86 million to increase the quality of teacher education, which is so important in our nation. We want to provide \$43.9 million to establish 300 postdoctoral fellowships and provide \$9 million to establish a new multimedia design and technology centre. These are the things that Labor wishes to offer the Australian people, Australian families and prospective Australian students to assist them to take up the option to further their education in higher education.

Now it is not as if I am the only person making a comment about the minister and his government's policies in regard to higher education: I would like to share an email I have just received from an education officer from the Tasmania University Union. This person writes in part to express their concern on behalf of university students from all over the state at the proposed changes to our higher education system as outlined in the government's policy. The author says:

These changes will adversely affect students and their families, as well as academics and staff, and, ultimately, the whole country.

The proposals set forth will be bad for students because the deregulation of fees will lead to a potential 30% increase in the financial burden for students and their families. This increase will clearly lead to many prospective students opting out of a university education in preference to taking on this rather formidable debt. These trends, already apparent, result in university enrolment favouring the wealthy and further exacerbate the shameful gap between rich and poor in this country, which prides itself on its sense of a 'fair go'.

The author, an education officer from the University of Tasmania, talks about how staff and academics will be adversely affected by

the government's proposals, going on to conclude:

... the proposed changes will be bad for our future because the introduction of a financial criterion into the selection process for university (through increased HECS and new full-fee paying places) means that good students from disadvantaged backgrounds will be lost to the system. This represents a criminal waste of human capital that will lower the quality of Australian graduates and short changes Australia at a time when we should boost public investment in education and not shift the cost to students.

That comes from an education officer from the Tasmania University Union. That is a student's assessment of this government's proposals on higher education. I now look forward to seeing this student's assessment of my own party's policies for higher education. When I receive it, I will be happy to share it with this House so that we can all appreciate it. The Labor Party offers a different path at the crossroads. Our path is about offering students places in our higher education institutions based on merit—not means tested and certainly not based on how much money they and their families have now or will have in the future.

**Mr HATTON** (Blaxland) (10.34 a.m.)—I am happy to follow my colleagues in this debate, because they have got to the core of the problems that are attendant upon this Higher Education Legislation Amendment Bill 2003. In and of themselves, the matters dealt with in this legislation go to the provision of more funding, under the aegis of the existing arrangements, because the government have not yet pressed forward to finality—and I doubt that they will—with their announced program for the wide-scale and broadly spread changes to higher education indicated by the Minister for Education, Science and Training earlier in the year. But in his second reading speech the minister indi-

cated that he was intending to press forward with those changes. As an opposition, we have indicated that we will not support them.

We have put up an entirely alternative approach, one which we believe is fair, just and equitable. It is an approach that has an eye to not just the operation of this current system but also a sustainable higher education system for the future, for the benefit of all Australians who wish to access that in the manner that is most appropriate to their circumstances. Whether they are from the major cities—either the inner city areas, the mid part of the cities, the very centre of the cities, like my area of Blaxland, for instance, or the outer western suburbs of Sydney or Melbourne—or from regional areas, we believe that access to education is enormously important, and we are fundamentally opposed to the provisions that the minister would seek to incorporate, which would change the fundamental nature of the access regime and create a situation where some, through their ability to pay, would have greater access than others. The stress would not be on ability but on ability to pay.

In a range of different areas, we have seen over time from 1996 a hacking down of existing programs—in most cases, I think; in the 1996 budget we saw a hacking down of most of the programs that we had built up during our period in government—and then following that either a drift, where no major changes have been sought and where underfunded institutions have just been hacked back in successive budgets, or a situation where, instead of drift or after a period of drift, there is a great revolutionary charge to put in something new and different. Such a charge is often allied to people wanting to make a name for themselves in this place.

This particular bill is tangential to that, but it is covered not only by the comments of the

minister in his second reading speech but also by the amendment that we have moved, and I will come to those. First of all, I want to deal with two specific aspects of the legislation directly before us. The first is that, since 1996, the department of finance has taken a particular approach to how funds should be provided to the higher education sector as against how they should be provided to the state government schools sector. Again, I am indebted to the Parliamentary Library for an excellent detailed and purposeful study of just what the problems are in the two different funding models that have been used.

The person who wrote this study points out that if you look at the way in which funds are notionally apportioned you see there is a way things are supposed to be done—a model way of doing things: a split of 75-25 between the safety net adjustment and the consumer price index. Seventy-five per cent is supposed to cover the salary cost of institutions and 25 per cent is for non-salary costs, and that is encompassed by the CPI. That is all notional. The reality is that the figures are different depending upon the actual expenditure. For instance, the author points out on page 2 that in 2001 salaries and salary related costs constituted about 59 per cent of total adjusted university operating expenses. If you look at those for academic activities alone, you see that those costs would constitute 69 per cent of the total. There is a disjunction between the notional formulas and the reality of these things, but there is also a fundamental disjunction in the way in which the indexation schemes operate to the great advantage of schools when they are seeking grants and to the great disadvantage of higher education grants.

The author argues that the significant variation is best pointed out over two years. In 2001-02, the average indexation for school grants was 5.8 per cent. In 2002-03,

the average indexation for school grants was 5.9 per cent. What is the situation when we come to higher education grants? It is 2.1 per cent and 2.2 per cent. There is a pretty significant variation, one might think, in these figures. There could not be much doubt that the school grants must have a greater indexation factor at their base, given that there is more than twice as much as there is for higher education. There is a reason for that. If you look at the way the indexation is put together, you see that the average government school running costs index is based on the total expenditure on government schools less capital expenditure on buildings and grounds, redundancy payments and Commonwealth specific purpose grants. So that index reflects actual cost movements for the sector, unlike the index for the higher education sector, which is based on a different set of parameters.

The department of finance have their particular language for this. They say that school grants are based on program specific parameters and that higher education indexation is based on economic parameters. Whatever you call it, the reality is that if you are getting a school grant you get much more. The indexation is much greater at 5.8 and 5.9 per cent versus 2.1 and 2.2 per cent in the higher education area. Commentators and the Australian Labor Party have pointed directly to the fundamental fact that this disjunction has led, from 1996 to now, to a dramatic underfunding in the higher education sector. That underfunding has created extraordinary pressures on Australia's university system and it is one of the keys that have driven the vice-chancellors of universities Australia wide to look at their particular funding problems and to commit, as a group, to trying to redress that.

It is also part of the key for some of those institutions to loudly applaud what the minister put up earlier this year—I think it was in

May—when he put forward a proposition for how things could be changed. If you have a captive population and you starve the captive population of funds, it is pretty likely that they are going to be looking at a number of means to try to redress that balance. But if you have done that progressively year after year since 1996, you have put them in a position where they are not only starved of funds but also told that there will be less in the future—they have to find much more than they did in the past—and that there is a way through that by bringing in full fees just for two per cent of the population. But we know, just like the experience of all countries overseas where a goods and services tax was introduced, two things have happened over time: first, the rate increased; and, secondly, it was extended to cover more and more goods and services that it originally did not cover.

So, equally, we know the ability to pay full fees to cover two per cent is just a foot in the door and, inexorably, that will be expanded. The universities are being told—and of course they know it from experience with overseas students—that full fee paying students are extraordinarily valuable to universities. The universities are being held on this promise: ‘We might have cut you back in terms of funding but, if you have this two per cent and more, you can make up that shortfall.’ We believe that is reprehensible and we totally reject it. Our shadow minister has indicated that in what has come forward.

The other matter in the proposals that I want to deal directly with is the \$7 million for the rebuilding of the Mount Stromlo Observatory. After the fires which ravaged Canberra took one of the great scientific institutions that the national capital and, indeed, the nation had, one might think it laudable that this government has taken the decision to

bring back the Mount Stromlo Observatory. There was a determination that had to be made at the scientific level as to whether, given the encroachment of light with the expansion of Canberra and its suburbs, Mount Stromlo Observatory was still viable and could be actively used as an observatory in the future. The determination of the experts was that this was indeed so and that this historically important institution should be rejuvenated and brought back to the condition it was in.

What do we get from this government? As a response, it said, ‘You can have half the money and go and chase the rest.’ This is a major scientific institution with a proud and great history. But, after it has been burnt to the ground and when so many people in Canberra have suffered so much, this government’s response is: ‘This is not fully a national government responsibility. We’ll give you \$7 million. You go and set up a bushfire fund. We’ll let people pay into that. They can show their charitable natures by putting money into that bushfire fund and into the redevelopment fund for Mount Stromlo. We’ll allow the corporates in Australia and people generally to pay for it.’ This is a federal government responsibility that the government is choosing in this bill to only half meet. We argue that it should not half meet it; it should fully meet it.

The people in Australia’s major scientific institutions, the people working at Mount Stromlo and the Australian community deserve no less. It is not just niggardly; this is indicative of this government’s approach. Where they have not contracted out, they have told people to take the McDonald’s approach to the funding of major institutions. We have seen this Australia wide, where McDonald’s, Coca-Cola and every other organisation around the country have been told

that they should provide funding for schools, which allows them corporate entry and marketing within schools Australia wide. I think that is a reprehensible approach. A number of governments Australia wide have chosen to do that at the state level.

Equally, it is reprehensible to put the burden of the refunding of destroyed Commonwealth infrastructure on the back of the general Australian community and the corporate community. Most of that will come back to the federal government in terms of having to pay at least half that impost in giving benefits at taxation level. Why doesn't the minister just get real and amend this, and get the Prime Minister and his cabinet to change it and to do what they should have been doing all the way and fully fund it?

The shadow minister moved a second reading amendment, the first part of which relates to seven issues. The very last one is in relation to the underfunding of the rebuilding of the Mount Stromlo Observatory. In the time remaining I want to go through some of those issues. The opposition:

- (1) condemns the Government for:
  - (a) the failure of its policies to tackle the real issues facing higher education in Australia, including in the following areas:
    - (i) the increasing financial burden its policies are placing on students and their families, and the related growth of student debt ...

These issues have been extremely well dealt with by my colleagues who took part in the debate prior to me. The amendment goes on to state:

- (ii) the continuing inability of universities to enrol qualified students who wish to take up a publicly-funded place ...

The shadow minister and others prior to me have dealt with these important matters

which go to the question of viable access to higher education. The amendment further states:

- (iii) the inadequate provision for growth in higher education, especially in the period 2004-2007;
- (iv) the inadequate planning for meeting key areas of skill shortage through higher education, including teaching and nursing—

and the matter I have dealt with already—

- (v) inadequate indexation of university funding ...

If you take all those matters and lump them together and if you deal with the key question of adequate provision and what the government proposes to do with the new changes it wishes to impose by either getting them through the Senate or a double dissolution election, you will find that particular universities—those that are non-sandstone universities, those that can never pretend to be world-beating universities up there with what the United States offers—will not be advantaged by the government's package and deliberately so, because it is part of the government's attempt to try to build this notion that at least a couple of our universities, through private funding and access to private students, should be able to build into something like the United States model, something that is antithetical to the way we have proceeded so far.

However, if you go to the electorate next door to mine—the electorate of Banks—to Milperra, Campbelltown or Hawkesbury, or if you look at the campuses of the University of Western Sydney, or if you do as I did and attend a briefing lunch in town with the Vice-Chancellor of the University of Western Sydney and two of her colleagues—the member for Banks and the state member for Canterbury were also there—what becomes utterly apparent is the level of alarm. At the

University of Western Sydney, once they had done their figures and had effectively analysed what the government proposes, their initial slight disquiet became raging alarm at the prospect of how the university, which in the past few years has already gone to extraordinary lengths to sort out its financial basis, was to be funded. It would be seriously underfunded and put in a position where it would be not be able to adequately offer a university education to the people of Western Sydney that is in line with not only their aspirations but also their needs and the necessities that face this nation in terms of training young people for an increasingly complex future. Their arguments are very cogent and very well put together.

Yesterday, during the debate on the matter of public importance, the minister wanted to be asked questions about this today. He said that the Labor Party's proposals are not adequate for the University of Western Sydney. No doubt, we will get an enumeration of different figures all over the place, as we do almost on a daily basis. But you cannot hide from the students of Western Sydney, from their parents, from the educators and academics and from the staff and the people of the university system the fact that they will take a caning if this government's proposals get through either the Senate or a joint sitting of the houses after an election.

That is in there by design because this government's entire procedure is to dramatically alter the structure of Australian higher education. We do not believe that is right, particularly for people who come from a city such as Sydney. This government has taken us from a situation where we had the lowest immigration intake in the history of Australian immigration in the four years of the Keating government to a point where we are now taking in 120,000 people a year, with

very high retention rates. Those people are feeding into Sydney, which is 40 per cent of Australia's economy. Their education needs and their education demands will be met in large part by the University of Western Sydney, which would be deprived of funds and gutted in terms of its capacity to deliver a key part of our program: the teachers and nurses that we so much need now and in the future.

The last point I want to stress is that there has been inattention to the links between higher education and TAFE, save for the minister's rhetoric, which is nothing but rhetoric. In our program we seek to add tens of thousands of higher education places in the TAFE area. I believe this very fundamentally, and I will come back to it in other speeches. Unless we have an equality of vision between higher education at the university level and higher education at TAFE, this country cannot prosper. We have a giant, yawning gap in the education of our tradespeople and that needs to be amended. (*Time expired*)

**Ms KING** (Ballarat) (10.54 a.m.)—I rise to speak on the Higher Education Legislation Amendment Bill 2003, which has three main purposes. In addition to some technical adjustments, the bill amends the Higher Education Funding Act 1998 to provide indexation for cost increases, it amends the Australian Research Council Act 2001 to change research grants administration and it provides an additional \$7 million to rebuild the Mount Stromlo Observatory.

In general I support the changes in the bill, but the government must improve its position on indexation. You do not have to be Einstein to work out that there are some very real problems within our higher education sector, many of which are of this government's making. A bit later I will refer to

some of these, but it is clear that the government's cuts to universities and inadequate funding have led to pressure on the higher education sector, lecturers and students themselves. Overenrolments, overcrowding of lecture theatres, a significant increase in the student to staff ratio, pressure on infrastructure and other resources, such as libraries—all of these things have potentially undermined the quality and standards of university education in Australia.

The level of indexation provided through this bill is inadequate. Labor has a much stronger proposal and I urge the government to consider it. Labor's proposal reflects the proper process of indexation that would see the universities' operating grants from the Commonwealth being far more reflective of their actual costs. The bill also provides \$7 million for the rebuilding of the Australian National University's Mount Stromlo Observatory. The observatory not only is an important part of our heritage but has enormous significance within the scientific community across the world. Its loss in the Canberra bushfires was a devastating blow, and it is appropriate that the Commonwealth commit to assisting with the rebuilding of this national icon. The minister and I are both graduates of the Australian National University and I am sure we are both very proud of—

**Dr Nelson**—No, I am not. I attended a dinner.

**Ms KING**—Sorry, I misunderstood, but you did attend the ANU parliamentarians dinner.

**Dr Emerson**—I am.

**Ms KING**—I am proud, and certainly the shadow minister at the table, as an ANU graduate, is proud as well. We are both exceptionally proud of the Australian National University. It is one of Australia's premier universities. Certainly the Mount Stromlo

facility has been one of the most significant scientific facilities within this country. Its loss has been a devastating blow to the scientific community. I think that it is incredibly important that this facility be rebuilt. The ANU needs \$20 million to rebuild the facility. The \$7 million that is being offered within this bill is certainly welcome, but the government needs to continue to talk to the university and assist it in finding the funds for the remainder. Seven million dollars is just not enough to rebuild this facility. The Australian National University has very limited options in terms of where it can actually go to get additional funds to rebuild this facility. The Commonwealth does have a fairly significant responsibility in this regard.

Whilst this is not the bill to introduce the government's regressive higher education policy, Labor has moved a series of amendments that outline the very different approaches the two sides in this debate have to higher education. On the one side we have the minister who believes that if you value education then it is up to you to pay for it, no matter how much it costs, while on our side we believe that the values underpinning education policy should be affordability and access.

Interestingly, the Minister for Education, Science and Training had a bit to say in his maiden speech about the difference between 'value' and 'values', but that was not the first time we have seen him wax lyrical about his views on the world, only to have a bit of a change of heart. Jokingly, we on this side refer to him as 'Braveheart'. His first campaign slogan was 'Put your heart into it'. Given the minister's capacity for changes of heart, both in his political affiliations and in his commitment to values, I really wonder if he should be called the 'Tin Man', the man desperately in search of his heart.



Labor have moved a second reading amendment which outlines our concerns about the government's lack of vision in higher education policy and its failure to address the problems experienced by university students and TAFE colleges. Given that we have heard so much from the Prime Minister over the last couple of days about the importance of context, let us just have a look at the context in which this legislation and Labor's amendments are occurring.

Universities across Australia have experienced over \$5 billion in budget cuts since this government came to office. In my own electorate, and now in your electorate, Mr Deputy Speaker Hawker, the University of Ballarat—a fine institution—has experienced cuts of over \$50 million. This has put significant pressure on the University of Ballarat. Universities such as the University of Ballarat and the Australian Catholic University, which also operates in my electorate, have muddled through, but there is no doubt that the government's funding cuts have had a significant impact on the ability of universities to deliver high-quality affordable and accessible education. At the same time, the government has increased the burden of debt on students.

Universities—and regional universities in particular—have experienced significant problems as a result of the cuts this government has instituted. Pressure on infrastructure, with the need to keep up with new technology, has outstripped universities' capacity to pay for it. We have seen lecture theatres in need of upgrading, cramped conditions and scheduling problems to accommodate tutorials and lectures. We have seen student-staff ratio increases. On average, between 1999 and 2001 the number of students to teaching staff increased by 22 per cent. Students have been complaining about

lack of access to lecturers, lack of tutorial time, lack of individual attention in relation to their learning needs, time-consuming enrolment and other administrative procedures, and lack of library resources. Academic staff have been warning about the slip in academic standards and the low morale amongst academic teaching staff.

We have also seen significant numbers of students unable to access university places. About 20,000 people who are qualified for a university place miss out on a place each year as a result of the government not providing enough funding to universities. In courses such as nursing and teaching where there have been desperate shortages of professionals, significant numbers of students are knocked back due to lack of university places. At the University of Ballarat, nursing has been one of the courses to experience significant growth in demand, yet each year large numbers of eligible students have been denied a place because of the government's underfunding of the university.

We have significant shortages in TAFE places, and each year people who want to go to TAFE are knocked back and unable to do so because that sector is not being funded adequately for its places. We have also seen the loss of a number of courses, and there is a very real concern that universities during the time of this government are being forced to focus on purely vocational education—which is important in itself—but that the broader concept of education as learning and the importance of education as learning are being sacrificed because of this government's budget cuts.

The government's response has been pretty simple, I have to say, despite the enormous amount of review resources and effort that have gone into looking at how we are going to reform higher education into the

future. It has been a pretty simple response: students should pay more. That is basically the crux of this government's policy. Students and their families should pay more. That is basically it. That is what they have decided after all that time, after that enormous amount of money and effort and all the consultation and submissions that went into the higher education reform package: students and families should pay more. That is pretty much what they have decided.

In our amendment we have focused on the government's failure to address the crisis in higher education. They have fundamentally failed to tackle the issue that was before them—the underfunding of universities—at the same time as tackling problems of student debt, lack of access and improving the quality and standard of higher education in this country. They have failed, I would say, to actually show any vision in relation to higher education at all. What they have done is to simply say: 'The only solution that we can see to the crisis in higher education is that middle- and low-income families in particular should pay more and that people who come from higher income and more privileged backgrounds should be given a special fast track to their higher education through full fee paying courses and increasing the number of full fee paying courses in the higher education sector.'

You would have thought, given that the minister claims to be incredibly across his portfolio and that he quotes statistics to us endlessly in this House, he might have been able to come up with a more complex solution, a solution that actually deals with the problems that universities are facing in this country. But no, the solution that we have seen from this government is a pretty simple one and one that we think is going to lead to increasing student debt. Average student contributions to higher education have increased

significantly under this government, and students are increasingly in debt.

The government's proposal to fix this is to increase the burden of debt on students by allowing universities to increase their HECS fees by up to 30 per cent. Clearly, some universities will benefit more from this policy than others. The University of Sydney has indicated that it intends to put fees up by the full 30 per cent, which increases the cost of an arts degree to around \$15,000, a science degree to around \$21,000 and a law degree to \$41,000. These are significant increases.

Starting out in your first paid job is hard enough, particularly when you come from a low-income family or from a middle-income family—particularly where you are often the first person in that family to have ever been able to access higher education. They are significant increases and they will place a significant debt burden on Australian families. Starting out in your first job is hard enough without being burdened with these sorts of debts. They are crippling debts, particularly if you have to pay back a \$41,000 HECS debt for your law degree. Your first year of earning is quite significantly a year of low earnings. If you come from a low-income family, often there have been significant sacrifices within your family to actually get you there in the first place. So not only do you have your HECS debt; you generally have some debts that you have to pay back to your family as well. I think the proposal that is on the table really is a disincentive for students from low-income and middle-class backgrounds to access those sorts of degrees.

Getting back to my electorate, the University of Ballarat has stated that it does not think that, given the average income of the catchment area for its university—and 75 per cent of students who attend the University of Ballarat come from the actual catchment area—it will be feasible to increase univer-

sity fees. The real benefit of the government's proposal to increase HECS fees by 30 per cent—and the vice-chancellor has stated this—will go to the sandstone universities. That is where he thinks the real benefit will be. So the government is really not assisting the University of Ballarat in that way at all.

I am pleased to say that the vice-chancellor has seen the reality that, given the average incomes across my electorate—the average household income is around \$33,500—and given that 75 per cent of students who attend the university come from the catchment area itself, it is a realistic assumption to make that increasing university fees by up to 30 per cent will not be realistic. There is no indication yet from the university as to whether any of the courses will increase their fees. I suspect there will be some. But I agree with him that, with the income levels experienced in my electorate, the government's proposals would place a significant burden on Ballarat students and, if fees were to rise, that would dissuade many from attending universities.

The minister, in his maiden speech, decried the lack of opportunities available to our young people. He even said:

Every hour of the day our children are going into debt ...

He got that right. Certainly under this government that has been the experience. But what we did not know was that he meant: 'Every hour, children across Australia are going into debt, and—guess what?—I am going to increase it. I am going to make it less affordable for you and your children to go to university.' That is what he meant. Somehow I think he may need to revisit the sentiments he expressed in his maiden speech.

We also think, and I believe quite strongly, that the government's proposals are creating

a significant barrier to university participation. Higher fees create a barrier to university education. The government already knows this and was complicit in a decision by the minister's department to remove comments and evidence from a government report that highlighted this. The government has been sitting on this report, but it was released at 5.30 p.m. last Friday in the hope that it would not get too much news coverage. In that report the research highlighted that we are already seeing young people, and over 17,000 mature age students, being deterred as a direct result of the government putting up fees for our university students over the last seven years.

In 1998 the government introduced full fee paying student places, meaning that students who had the money could buy their way into universities. Instead of access being based only on merit, the government for the first time created the opportunity for students and families with the money to purchase a place at university. The minister likes to pretend that this is all okay because overseas students have to pay full fees for their university places. Of course they do, because their families do not pay taxes in Australia. Of course we expect them to contribute significantly if they are going to get an education in Australia. Their parents do not pay 35 to 40 years of taxation in Australia; our parents do. The minister likes to pretend that he is not playing a race card on this issue. In fact he decides that questions that are about that will become 'inaudible'.

**Ms O'Byrne**—Or 'misspeaks'.

**Ms KING**—Or if he says something that he does not think he should have said it suddenly becomes a 'misspeak' in the transcript. It is quite extraordinary editing of a transcript. The minister likes to pretend he is not playing a race card on this. He really needs

to have a bit of a think about that. If he is quite prepared to take the words 'race card' and 'Hansonism' out of a transcript of a journalist's question to him, he has to wonder why he thinks those words suddenly become inaudible to him. Are they things that he just does not really want to hear, so they become 'inaudible' to him in a transcript?

Not satisfied with making it harder for those on lower incomes to attend universities by raising fees, the government wants to make it easier for the rich to attend. That is what the government wants to do. Its solution to the crisis in higher education is to say, 'We're going to make sure that you pay more and we are also going to say that the rich, even if they don't get the score that's required to get to university through the competitive system that we have at the moment, can buy a place. That's okay, they can buy a place into university.' I do not think that is okay.

At the University of Ballarat, as I have already said, 75 per cent of students come from the catchment area—from Wimmera through to Ballarat and the Ballarat surrounds—where the average household income is around \$33,500. Sixty-three per cent of commencing students at the University of Ballarat are the first from their families to ever attend a tertiary education institution. Seventy per cent of the students are currently employed part time or are seeking part-time employment in order to meet their basic education costs and their rental housing costs and to buy books and food for basic survival.

I recently visited one of the secondary colleges in my electorate and spoke with the year 12 students to find out what things were influencing their decisions as to what they were going to do after year 12. At this school, 40 per cent of the parents are unemployed, and 40 per cent are in part-time, low-skilled jobs and have not got any qualifica-

tions at all. Only three per cent of the parents of the students at this school have got any tertiary qualifications at all. I asked the students—and I was very careful about how I phrased it, because I am very careful when I go to schools about not politicising things too much; I think young people have to make up their own minds about these issues—what they were going to do next year. They had a range of options. Some of them were going to seek work and almost 50 per cent of the students there wanted to go on to tertiary education or to TAFE. But they were saying that they did not think they were going to be able to afford it. All of them had contacted the institutions they were thinking of going to. They were not sure what the fee structures were going to be yet, but they were hearing things that had them very worried. I am worried that we have VCE students out there this year who are having to make choices about what to do while being faced with this government's proposal to increase university fees and make it more difficult—particularly for students from the secondary school that I visited—to attend university.

In the short time I have remaining—I have not managed to get to Labor's proposals, but I will have the opportunity to speak in this debate more broadly—I want to speak about the issue of overenrolment. I am very pleased that the minister has come back into the chamber, because I wish to ask him to do something. The University of Ballarat is currently overenrolled by 350 places, which is about nine per cent. Under the government's proposals, it would have to reduce that amount of overenrolment to around one per cent. We are already seeing some impact of that within the university as it tries to reduce its overenrolments. In the Main Committee, the minister promised that the university would be able to keep those 350 places. He made a promise, which is in *Hansard*, that the University of Ballarat will keep those

350 marginally funded places. I would like the minister to write to the University of Ballarat to confirm that that is the decision he has made—it is on the *Hansard* record—because the University of Ballarat is awaiting that confirmation before it can decide what to do with its courses. (*Time expired*)

**Mr ORGAN** (Cunningham) (11.14 a.m.)—I rise to speak on the Higher Education Legislation Amendment Bill 2003. The bill seeks to amend both the Higher Education Funding Act 1988 and the Australian Research Council Act 2001. Commonwealth funding for the higher education sector is provided under the Higher Education Funding Act, which enables grants for universities, and under the Australian Research Council Act, which funds the research grants schemes administered by the ARC.

The indexation of higher education grants, as we are all aware, has become a subject of some controversy in recent times, and this bill lies at the heart of that controversy. The government has come under increasing pressure to alter the current indexation regime and replace it with one that reflects the real cost increases faced by Australian universities. This bill indicates a maximum aggregate funding of approximately \$2.8 billion in 2002 and \$2.9 billion in 2003. These figures reflect the various liabilities, overenrolment commitments and supplementations applying to the sector.

Higher education grants are currently indexed on the basis of movements in the higher education cost adjustment factor—the CAF. Unfortunately the CAF does not measure actual price increases in the sector. It has been criticised accordingly. The CAF has two components: 75 per cent is based upon the safety net adjustment, which is determined by the Australian Industrial Relations Commission and is meant to reflect the sal-

ary costs of institutions, which notionally constitute 75 per cent of grants; and 25 per cent is based on the consumer price index. This component is meant to reflect non-salary costs, which notionally constitute 25 per cent of grants. These proportions are notional only because they bear no relation to the actual expenditure of higher education institutions. In recent times, wage increases have exceeded the amount of money provided under indexation. The result is that universities have been forced to fund staff wage increases from other sources—sources which are also needed to support infrastructure developments and teaching resources.

The Australian Vice-Chancellors Committee has called for reform. It has called for a more realistic indexation formula to be put in place that reflects actual costs so that our universities can more appropriately pay their staff and provide up-to-date facilities to enhance the education experience. We need to halt the so-called brain drain from our shores as talented academics and support staff head overseas to higher paying jobs and students do likewise to avoid a HECS debt.

In his second reading speech on this bill, the Minister for Education, Science and Training claimed that the coalition government is committed to the development of a sustainable, quality higher education sector. Sustainability and quality have driven developments in the sector over the previous decade. However, what the government is in reality delivering is not a quality higher education sector at all but a higher education sector which is diminishing in quality due to sustained funding cutbacks.

Since coming to office in 1996, this government has slashed some \$5 billion from the sector. The \$1.5 billion in new funding, announced as part of the recent Crossroads budget package, does not go far enough in

righting the wrongs of the past six or seven years and addressing the current funding shortfalls. The fact that our universities continue to operate at a high international standard, despite the not inconsequential financial pressures, is an absolute credit to the hard work and commitment of the staff and students in those institutions who, despite the mounting difficulties, struggle to maintain the quality educational standards which were more readily achievable before the current government came to power.

I can speak from first-hand experience in this area. I was the first person in my family to attend university and, prior to being elected to this House last year, I spent approximately 15 years working at both the University of New South Wales and the University of Wollongong in academic and general staff areas. Over that period, I saw ever increasing wage pressures placed upon university administrators and a cutback in infrastructure funding—that is, funding for classrooms, libraries, computing facilities et cetera.

The failure to adequately fund the sector resulted in staff cuts, which impacted most severely upon the general and support staff, although academic staff were not exempt either. With less support staff, higher academic staff to student ratios and cuts in capital works funding and equipment allocations, there is no doubt that there was a decrease in the quality of the educational experience provided by Australian universities after 1996. Staff morale also plummeted. New technologies, improved teaching methods, the introduction of quality assurance and the onset of the Internet and online learning made a difference, but they did not, in my opinion, make up for the negative impact of increasing student numbers along with fewer staff and facilities. Staff, both academic and general, were working harder because there were fewer of them. The result was less face-

to-face time and support for individual students.

Of course, during this period we also saw more and more emphasis from this government on making students and their parents pay for a university education. HECS levels rose, course fees became more common and Austudy assistance became significantly harder to obtain. This has placed increasing pressure on individual students, many of whom are now forced to take on casual work in order to scrape up enough money just to survive. This increased work commitment takes away from the time they can give to their studies, and it must result in a decrease in the quality of their educational experience.

There is no doubt that quality education, whether it be at the primary, secondary or tertiary level, all comes down to money: money to pay the wages of good teachers and support staff; money to pay for classrooms and equipment; money for books; money for online access; money for all manner of educational resources; money for food and accommodation for students; and money to provide a quality educational experience for Australian students, regardless of their ability to pay. It is here that this government is out of step with the Australian community. All fair-minded Australians accept that education is a right; it is not a privilege. A quality education is the right of all Australians. Yet we constantly hear from this government that education is a privilege and that we must pay for that privilege.

The government is not delivering a sustainable public higher education sector. The government is obviously not intending that our universities continue to be sustained by the public purse. Costs are being shifted onto individuals, while educational services are becoming increasingly privatised. The mantra is 'user pays'. Just as with Medicare and the increasing privatisation of the Australian

health care system, we are now seeing the privatisation of Australia's higher education system by this government. This government is obviously a firm believer in the capacity of privatised services to deliver quality services over a sustained period of time, despite evidence to the contrary. Apparently, the core aim of this government is to shift the costs of funding education back onto the so-called consumers or, to use a more old-fashioned term, students.

The value of an accessible and quality education system cannot be measured just in dollar terms. The provision of quality and accessible health care and education to citizens lies at the core of government responsibility. Yet this government is seeking to off-load these core responsibilities and push more and more costs onto individual students and their families. We have seen how the government has dramatically and drastically increased the Higher Education Contribution Scheme. It now wants 50 per cent of all university courses to be filled by full fee paying students.

The whole culture of Australian universities is changing for the worse. When a university is continually stretched for funds—the very circumstance that this government has deliberately created—the university is forced to operate more like a business than an educational provider. This leads to compromises in quality. The fact is that high-demand courses can attract more full fee paying students. Therefore, if allowed to, vice-chancellors will embrace the opportunity of making money from rich students who can afford to pay.

The government will argue that this is fair, but the ultimate impact of this policy is that students who do not reach the academic requirements for prestigious and attractive courses will gain entry only through the back

door, by paying. Their academic scores do not have to be as high and, ultimately, the standards expected of students in such degrees will drop. They will take the places of eligible students with higher marks who are excluded because they cannot pay or the government will not support them. Is this fair or just? No, of course not. If this is how the Howard government plans to deliver a quality education system into the future, I would suggest that this plan is doomed to failure.

If this government truly valued quality, it would not pursue such an agenda. Instead, it would seek to provide a freely accessible higher education system for all eligible Australians, not one in which the size of your parents' bank balance is the determining factor. This shift of responsibility from government to individuals will have a long-term impact on the social and economic fabric of this nation. We are already seeing statements in the media from families and students indicating that they will not be pursuing a university education because they cannot afford to pay and they are fearful of the debt burden and its impact on their lives post-university. As the member for Ballarat said, fear of this debt exists throughout Australia and is turning people away from universities.

If you visit any university and talk to the students, they will tell you the problems they are facing. Based on discussions I have had in recent times with students at the University of Wollongong and with the National Union of Students, I can say that there is no doubt that more and more are finding it increasingly difficult to justify the cost of attaining a university education. They are faced with rising HECS debts, the loss of income during the term of the degree, the effects of holding down casual employment whilst studying and the impact on family and friends who may be called on for support

through loans, accommodation et cetera. The government must play a greater role in supporting the higher education sector, as it has in the past, so that students can concentrate on their studies and not be lumbered with the distraction of economic worries and debt.

One's capacity to flourish as an individual should not be determined by the ability to pay or by an accident of birth or circumstance. This flies in the face of the very foundations of Australian society. This is a democratic society which aims for egalitarianism and non-elitism. This government is committed to a higher education sector which favours not an academic elite but a financial elite. Those who can afford to pay are now finding it increasingly easy to pursue a tertiary education, whilst those from the poorer sections of our society are finding it harder.

It is ironic that the minister should argue that, in his view, the changes that need to be made to our universities will ensure that the excellent reputation of Australian universities is not eroded. Yet the government, in its time, has dealt a massive blow to Australia's tertiary education sector through financial strangulation. Students, parents and academics alike awaited with dread the recent *Higher education at the crossroads* review and shuddered when they heard the proposals that emerged from it. It is clear that the government no longer wants to be responsible for this investment in Australia's future. It prefers instead to pass this responsibility in large part over to the private sector.

Government spin doctors have called this higher education package *Our Universities: Backing Australia's Future*. 'Living in the past' would be a more appropriate title, I feel. It promises an extra \$1.5 billion over four years, but it also allows universities to lift fees by up to 30 per cent as an added source of funding. Once again, the govern-

ment is slowly stepping back from its financial responsibilities to the sector, forcing university administrators to rely on other sources of funding. It is interesting to note that in 2003 the largest single funding source for the University of Wollongong was overseas student fees. For the first time, government funding was not the No.1 source. This, of course, has implications for how universities operate.

Also, ironically, in his second reading speech the minister talked about extra funds for regional universities. As many would be aware, the University of Wollongong, somewhat strangely, missed out on this additional \$2 million to \$4 million per annum in funding as it was not classified as regional. This government wanted to play with words and definitions to avoid its obligations to this significant regional university. I hope the government will reconsider its decision on the University of Wollongong and recognise this award-winning institution as one of Australia's premier regional universities.

With money being such a core issue in the higher education sector, it is interesting that the government is also tying allocations to workplace relations reforms and attacks on student unions. The minister stated:

There will be ... more funding for each Commonwealth supported student, linked to improvements in how universities are managed.

This means that the minister will impose new governance protocols aimed at administration and decision making. We also see within this bill changes to the way in which the minister can interact with the Australian Research Council and influence its allocations. In both instances, it appears increasingly to be a matter of: 'Do what we say and we'll give you the money.'

The government's proposed reforms also mean that staff unions will be denied campus facilities and services so that universities can



qualify for extra funding under the government's proposed reforms. In order to qualify for \$404 million in extra funding, universities will have to demonstrate compliance with the government's workplace relations policies. It has been reported in the media that one option the government is considering is that universities would be able to demonstrate their compliance by denying staff unions access to office space, telephones and other services on campuses unless they pay for them. Not surprisingly, the workplace relations minister has lobbied hard for tough new industrial relations reforms to be included in the government's Backing Australia's Future package.

At the end of the day, the government's present policies are adversely impacting on staff and students in our universities. The government is trying to deny this and to hide the reality. The paper 'HECS and opportunities in higher education' issued late last Friday found that the changes introduced by the government in 1996 reduced the number of older people applying to study at university by about 17,000 per annum. The number of school leaver applicants fell by 9,000 per year. The number of men from poorer families studying in the most expensive courses such as law, medicine, dentistry and veterinary science had dropped significantly by 38 per cent. The report said:

The lesson from this study is that any future changes to HECS arrangements would need careful design to minimise their impact, particularly among groups more sensitive to student charges.

Being careful in its design of HECS arrangements is not necessarily in keeping with the government's plans for tertiary education in this country. The crisis in education is not, as the government suggests, due to poor management in the sector; it is due to a failure of this government and previous governments to recognise their responsibility to the higher

education system, which makes a fundamental contribution to our economic, social and cultural growth as a nation.

In real terms universities now receive on average \$1,173 less per student than they did in 1996, yet the number of government subsidised student places in Australian universities has steadily increased since then. As a result, students are paying a higher share of the cost of their education. Australian universities, as I have shown in the example of Wollongong, are now more reliant on private income than their international counterparts. According to the latest OECD data, Australia has the fourth highest proportion of private investment in higher education. Australia's standing in research and development has slipped from fourth in 1998 to sixth in 2000 in the OECD nations due to the government's expenditure cuts in research and development areas.

The government's approach to the higher education sector has resulted in overcrowded lecture theatres, erosion of basic infrastructure, higher student-staff ratios, a decline in the number of academic staff in key areas and the casualisation of the work force. All of these factors have a profound impact on the quality of the education environment, and this bill is part of the problem. It does not go far enough in providing the necessary funding for our higher education sector. The problems caused by reduced public funding and increased competition will not be solved by more reductions in public funding or by increased competition, yet this appears to be exactly the direction the government is taking. The Greens call on the federal government to rethink its fundamental approach to funding our tertiary education system and the indexation regime associated with this bill.

**Dr NELSON** (Bradfield—Minister for Education, Science and Training) (11.33

a.m.)—I thank all honourable members for their contributions to this debate on the Higher Education Legislation Amendment Bill 2003. Of course I do not agree with all of the comments that were made, but I do appreciate them. It is terrific that we are now having a debate in Australia about education and university education in particular. There are some particular remarks to which I would like to draw the House's attention. Last year the government conducted the first major review of higher education policy in many years. The product of this debate was released in the budget under the government's higher education reform package, *Our Universities: Backing Australia's Future*, with \$1.5 billion in additional public investment in the first four years and \$10.6 billion over the first decade. The Higher Education Legislation Amendment Bill 2003 consolidates the government's ongoing commitment to Australia's higher education system and, in particular, to world-class research. It builds on the achievements of this government to date in developing a sustainable quality higher education sector, as evidenced by record levels of funding, strong growth and increased participation.

The bill provides \$7.3 million in 2003 to assist the Australian National University to rebuild its world-class research facilities at Mount Stromlo Observatory following the Canberra bushfires in January 2003. The research school has long been recognised as an important player in national and international astronomy, providing leading edge training for students and world-class pure and applied facilities. I have told Australia's astronomers, as I have told the Vice-Chancellor of the Australian National University, that I will be taking an ongoing personal interest in the costs of the rebuilding, and the government will ensure that the facility will be rebuilt as it was.

Funding amounts in the Higher Education Funding Act 1988 are also updated in the bill to reflect the indexation of grants for 2003 and the latest estimates of HECS liability. One of the largest single initiatives of *Backing Australia's Ability*—which is the \$3 billion, five-year commitment by the Commonwealth to research, innovation and commercialisation—is an additional \$740 million for research funded through the Australian Research Council. Over a period of five years this will double the Australian Research Council's capacity to fund research through the National Competitive Grants Program. The bill appropriates \$275 million of the additional funding to be provided in 2006-07.

The bill also amends the Australian Research Council Act 2001 in order to streamline the administration and financial management of the Australian Research Council, its advisory structures and research programs. It will update the composition of the Australian Research Council board, strengthen disclosure of interest requirements, provide for the appropriation of funds by financial year, update funding amounts to reflect indexation and insert a new funding cap for the out year of the budget estimates.

The member for Jagajaga has moved a second reading amendment. Naturally, I do not agree with the points that are made in the amendment about government policies on higher education. The Howard government is committed to funding an accessible, high-quality system of public universities in Australia. The opposition should take heed of pleas from university leadership to pass the government's reforms that will soon be before the parliament. As outlined in her second reading amendment, the member for Jagajaga has flagged an amendment in the Senate on the minister's determination to specify for the ARC the funding split between research programs. We await the detail

of the amendment, but in the interim I should explain the proposed provision and its importance.

The bill provides increased flexibility in determining research program funding splits to facilitate more efficient administration. The current legislation requires the minister to determine the funding cap and split between the categories of research programs—currently the linkage and discovery programs. In practice this means that each time there is a change to an approved proposal—for example, when a grant is handed back because a researcher ceases a project and funds then become available—the split can be affected, thereby triggering a process which requires the minister to approve a new split. The bill allows the minister to delegate funding split variations in those instances. The purpose of this change is to provide the ARC with greater administrative efficiencies by ensuring that proposals for minor funding variations are able to be approved by the minister's delegate. Under the current legislation there is no specified range within which the minister can vary program finding splits. Similarly, this bill does not propose adding a range. However, funding split variations made by the minister to date have been minor—usually less than five per cent. As always, the minister will be accountable to the parliament for the effective, efficient and responsible administration of the legislation.

During the second reading debate members made a lot of contributions. There was a particular focus, especially from members on the opposition benches, on some of the changes in the government's proposed higher education reforms, which I would like to address in this summing up. About three-quarters of the Labor Party's higher education policy replicates that of the government's higher education reforms—for which

it ought to be given credit, I might add. But the Labor Party has diverted from the government's reforms on the things that are necessary but difficult. It is very important that universities, whose budgets range from \$50 million to \$880 million, are governed and administered in ways which are appropriate to modern institutions and organisations. It is important that there be governance reform in universities and that people who come to university councils bring to them skills and experience as trustees, to do the very best they can for the university rather than simply being delegates for someone else. Whilst I have a very high regard for MPs, whatever our political parties, I think it is important that we do not have serving members of parliament on university governing councils.

It is equally important that the changes in productivity, which have been driven in part by workplace relations reform in almost every other sector of Australian working life, continue to be applied. There has been a lot of reform in university work practices, but we continue to drive work practices in the higher education sector. Professor Gerard Sutton, Vice-Chancellor of the University of Wollongong, observed that every vice-chancellor 'has a professor who is worth twice what we pay him or her and one who is worth half'. One of the things we found in the Productivity Commission review of universities, comparing them with North America and Europe, was the very narrow range of salaries which academics in Australia attract.

It is also important that we move to a funding system in universities which actually funds them for what they do. We currently have what is called a relative funding model, which was established in 1990. The government are now proposing to fund universities on a discipline mix—to fund them on the basis of the courses they provide. In that

process, we have found that some universities have been quite desperately underfunded. Curtin University of Technology, for example, in the first three years alone will attract an extra \$54 million from Commonwealth grant money. The University of Tasmania will attract \$17 million extra in the first three years.

One thing was argued by all of the vice-chancellors. Professor Kerry Cox at the University of Ballarat, Professor Di Yerbury at Macquarie University, Professor Lance Twomey at Curtin University of Technology and Professor Gavin Brown at the University of Sydney all agreed on what was necessary in order to deliver a 20/20 vision for higher education and in order for Australian higher education to quite reasonably compete with the rest of the world—because, increasingly, the only benchmarks that are going to count are international ones. We are very proud of where any institution, individual, sporting person or musician ranks within Australia. But, if you take a 10- to 20-year view of it, what will be increasingly much more important is where we rank in the rest of the world. The University of Queensland is an outstanding university. It is competing increasingly not so much with the University of Sydney or QUT but with the rest of the world, yet we fund and administer all Australian universities in exactly the same way—and, I might add, from 22 different programs in my department alone. All the vice-chancellors said that if you want to build a world-class higher education sector it is important that the universities themselves set the HECS charge. That is the contribution that students subsequently pay back when they have graduated and are earning an income which, under our proposals, is in excess of \$30,000 a year. All the vice-chancellors said that it was very important that the universities themselves have the flexibility to set that charge. It would be sup-

ported by the current HECS loan. We have 14 years experience with HECS.

That is very important, not because some universities will get extra money for teaching and supporting students by increasing HECS charges in some courses but because it goes to the heart of quality and differentiation. The University of Western Sydney, as well as a number of other universities, said that it would not be increasing HECS charges to its students. The University of Sydney, on the other hand, has already passed a resolution which says that it would increase its charges by 30 per cent. This creates an environment where, for the first time in this country, students will have choices and will think about the cost of attending a certain institution, the cost to them of repaying their HECS once they have graduated and the quality of what they are actually getting. The Vice-Chancellor of the University of Tasmania told me again on Sunday that that university will not be increasing any of its HECS charges. Currently, 2,000 Tasmanians are studying in Victorian universities. We may well see very good students who look at the quality of what is being received. Systematic student evaluation and the publication of that evaluation in part will be one of the criteria which will be used so that prospective students have meaningful information upon which to judge the quality of what they are about to receive. That kind of tension will be introduced for the first time.

At the moment, the most mediocre course in the least regarded university in the country charges exactly the same to a student as that in the most competitive, highly regarded, highly valued course in the most highly valued university in Australia. I might add that, the same as we have in the school system, people choose to go to universities for the wrong reasons. If someone had asked me two years ago if I were to go back university which university would I attend, it would be

a different one from the one I would choose now, now that I am much more familiar with the system and the standards of Australian higher education.

The other thing that is very important is that the Labor Party has said that in its policy, should it win government, it would abolish full fee paying places for Australian students. The argument which we have heard throughout this debate is that access to a university education should only be on the basis of merit. We ought to be a bit careful about this particular argument. I think that all of us, every single one of us, believe that access to higher education should be merit based. The HECS funded places—the ones that the taxpayers fully fund three-quarters of the cost, and the students fund a quarter and then pay it back through the tax system—are by and large allocated on merit. The student who gets the highest tertiary entrance score gets the first place and so it goes down. The students who are full fee paying—Australian students, of which there are 9,400 in the system at the moment—are offered places and by definition have lower entry scores than the last student who attracts a HECS place or gets a HECS place. Those students are described by some people as thick or dumb.

I would like to point out to the House an article in the *Melbourne Age* two weeks ago—last Saturday fortnight, I think. It profiled a young man who went to a middle level Catholic school in Victoria. He achieved an entry score of 98.75. He wanted to do law-arts at Monash University. When he opened his results, he was quoted as saying, ‘You beauty, I am in.’ The cut-off score for law at Monash University was 99.1. Under the Labor plan, he would have no choice. He is currently doing law at Monash University. His parents work respectively at a local council and in the library. The three of them

start at six o’clock at night and spend three hours cleaning buses to pay the fees for his university education. Under the Labor plan, he would have no choice. However, if he had been a citizen in Hong Kong, Jakarta or Beijing he would be welcomed as a full fee paying student at Monash University. Under the Labor plan, he would be forced to take up a HECS place in a course that he does not want because he would have no choice.

The inequity of the current arrangement is that if you do come from a high-income family, it is much easier to take up a fee paying place because parents either have the money or they borrow the money. But if you come from a low-income family and you get a very high tertiary entrance score but miss out on a HECS place, you might as well be offered a ticket to Mars. I have spoken to parents who have kids who have taken up full fee paying places who have taken out second mortgages on houses. The parents have four jobs between them. They come from low-income families. If they come from my electorate on the upper North Shore of Sydney and they are offered a full fee paying place in most cases, although not in all, they can take that up. Mr Deputy Speaker Price, if they come from your electorate, I think you know it would be far more difficult for them. The solution to the problem is twofold. The first is to do what the government is doing and say, ‘We will lend you the money. We will lend it under the same arrangements as HECS, except we will add a 3½ per cent real interest rate to the loan, so at least you can get the financial assistance if you want to take up the place.’

In regard to this argument about merit and HECS places, I want to point out to the parliament that in South Australia, for example, seven per cent of students who got a university place in South Australian universities

this year did not get there purely on academic merit. Their tertiary entrance scores were elevated by virtue of where they live, the schools that they attended and the socio-economic backgrounds from which they come. Do you know what? I strongly support that. The same is replicated in New South Wales and in other states. In other words, something like one in 15 students who got a place in universities this year are not there with a public subsidy three-quarters paid by the taxpayer purely on academic merit. I defend that because I think that a student who was educated in very difficult circumstances deserves assistance to get a place—a publicly funded place. Please do not then turn around and say to students who are very gifted, by any standard, that they can only go to university if they receive a public subsidy to do so. If they are prepared to pay for it themselves, then allow them to do it.

What about the 30,000 to 40,000 students who are in the 84 private higher education institutions in Australia—for example, the Australian Institute of Music in Sydney? Mr Deputy Speaker, you ought to talk to the director because you will find that there are students from your electorate who get access to this outstanding musical institution, who get no public subsidy and who go away—as he said to me—and they do not hear from them for two years. Then they come back and they say, ‘I have saved up the money.’ Under these proposals, they will be able to take up the place, whether it is at Tabor College, Notre Dame, Bond University, the Melbourne College of Divinity or the Christian Heritage College. They will be able to take it up because there will be assistance available to them.

**Dr Emerson**—Mr Deputy Speaker, I rise on a point of order. I note that the minister’s time has just about expired and a number of members from this side of the parliament want to ask specific questions. We are not

going into consideration in detail, but I would ask that the minister answer questions such as those raised by the member for Ballarat before finishing his tirade.

**The DEPUTY SPEAKER (Hon. L.R.S. Price)**—The honourable member for Rankin will resume his seat and not make frivolous points of order.

**Dr NELSON**—With these issues there is a kind of reverse elitism, no matter who is in government and no matter how many publicly funded places there are. The demand in veterinary science and medicine and law and dentistry and arts-law will always be higher and we should not live in a country in which we say that we will have greater opportunities made available for people who have the freedom to take up a full fee paying place because they have a passport from another country rather than one for this. Every Australian deserves a fair go, and the reverse elitism that says you should only go to university to get a public subsidy needs to end, particularly if we want not only equity but, indeed, internationally competitive institutions.

**The DEPUTY SPEAKER**—The original question was that this bill be now read a second time. To this the honourable Deputy Leader of the Opposition has moved as an amendment that all words after ‘That’ be omitted with a view to substituting other words. The immediate question is that the words proposed to be omitted stand part of the question.

Question agreed to.

Original question agreed to.

Bill read a second time.

Message from the Administrator recommending appropriation announced.

**Third Reading**

**Dr NELSON** (Bradfield—Minister for Education, Science and Training) (11.54 a.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**WORKPLACE RELATIONS  
AMENDMENT (COMPLIANCE WITH  
COURT AND TRIBUNAL ORDERS)  
BILL 2003**

**Second Reading**

Debate resumed from 13 February, on motion by **Mr Abbott**:

That this bill be now read a second time.

**Dr EMERSON** (Rankin) (11.55 a.m.)—We have just heard a tirade from Braveheart on the higher education legislation.

**The DEPUTY SPEAKER (Hon. L.R.S. Price)**—Order! The member will refer to the minister by his title.

**Dr EMERSON**—Thank you, Mr Deputy Speaker. But now we are going to be subjected to a similar tirade during this debate by his colleague the Minister for Employment and Workplace Relations, otherwise known as Flintheart. That is because this legislation, the Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003, applies very tough sanctions to one side of the workplace relations bargain. It applies very tough sanctions to any union official or any member of a union who may do anything that the minister considers to be unacceptable. He is a bully. He is a class warrior, certainly an apostle of the far Right, and he is now here in the chamber. It is appalling that now there are 12 pieces of legislation in the parliament introduced by this minister that are being debated and that each and every one of those

has the one consistent objective. That consistent objective is to weaken the bargaining position of working Australians in any bargain with their employers. This minister consistently seeks to intervene in workplace bargains on one side of the equation, on the side of the employers. He seeks to intervene to create conflict where no conflict is necessary and to inflame conflict where there is already a dispute.

This bill imposes new penalties on union officials, employees and members of unions for non-compliance with commission or court orders under the Workplace Relations Act. It is no surprise whatsoever that the legislation is only aimed at employees, officials and members of unions. It does apply to registered employer organisations but it has no effect on employers who flout the law. So there we have it again: this one-sided approach from this one-eyed minister, this zealot of the far Right who comes into this chamber, time and time again, arguing for legislation that would yet again tilt the bargaining table very heavily in favour of employers and consistently against the interests of working Australians. The legislation provides for automatic disqualification from holding union office for up to five years for anyone who is fined under these provisions. That of course would deny union officials the right to earn a living if they get even a minor fine for some minor breach. So this is yet another instalment in this minister's union-busting campaign, given his obsessive right-wing zealotry, to try to destroy every trade union in this country, because he hates trade unions and he works consistently against the interests of working Australians.

The legislation potentially fines union members, not just officials but members of unions, up to \$2,200 for even the slightest slip in respect of a procedural direction or

order of the commission. Members of trade unions are not trained in all of the law associated with this legislation, the law associated with the issuing of court orders. Any slight slip and they could be fined up to \$2,200. I refer, for example, to the Morris McMahon dispute, to which the minister turned up. This was where union members wanted to be represented in negotiations by their trade union. The minister goes along and Van, who is a worker who receives about \$11 an hour—this is not a highly paid worker; this is a very lowly paid worker—says to the minister: ‘Yes, but we don’t want the agreement with them, the Australian workplace agreement. I have my right. My choice is the union. If the union can help us, yeah.’ And the minister says, ‘You have every right to ask for a collective agreement, every right in the world.’

This week in the parliament we have been addressing the issue of honesty. In this instance, the minister was, at the very best, being mean and tricky, because in the most literal sense he was correct—that is, they have every right to ask for a collective agreement. However, the employer, under the minister’s legislation, has every right to refuse it. The minister did not point that out to Van, on \$11 an hour, did he? No, he did not. He was being tricky, saying that Van has the right to ask for a collective agreement. He did not tell the truth, and the truth is that the employer has the right to say no, under the minister’s legislation.

Subsequently in those conversations, the minister said, ‘People who want a collective agreement can have one.’ That is untrue—truth has gone overboard yet again. The minister is in on the act on truth overboard, because he says that people who want a collective agreement can have one. That is what he told Van at the Morris McMahon picket line that involved a lockout for 17 weeks. He told Van that if those union members want a col-

lective agreement they can have one. That is untrue. Truth has gone overboard yet again. Why are the members of this government constitutionally incapable of telling the truth? Why would you mislead a worker on \$11 an hour; why would you give that worker false hope that the workers at that particular factory could be represented in the negotiations by a trade union when, under the minister’s own legislation, they could not? That is mean, tricky and untruthful.

This flint-hearted minister is the minister who said there is a risk of people getting too fussy and becoming job snobs. He talks about compassion; in fact, he gave a speech to the H.R. Nicholls Society—it says it all, doesn’t it?—on constructive compassion. Does calling people job snobs show compassion? Where is the compassion there? This government complains that Labor claims it has a mortgage on compassion; we do have a mortgage on compassion! There is no compassion from the flint-hearted minister. There is no compassion for low-paid workers in this country from this government.

This is the same minister who, we remember, talked about a bad boss and said, ‘If we were honest most of us would accept that a bad boss is a little bit like a bad father or a bad husband: notwithstanding all his or her faults, he tends to do more good than harm; he might be a bad boss, but at least he is employing someone while he is a boss.’ So here is the minister condoning abusive relationships in the workplace, where employers can dismiss their employees unfairly.

Just the night before last Labor was able to get the support of the minor parties to defeat completely unfair legislation; the basic protections of Australian workers would have been torn away through the termination of employment bill. That bill would have allowed employers to dismiss their employees unfairly, as would the double dissolution



triggers that are already before the parliament in the form of unfair dismissal legislation for small business. That legislation would allow small businesses with 20 or fewer employees to dismiss their employees unfairly. Of course, in typical Orwellian fashion that legislation is called the Workplace Relations Amendment (Fair Dismissal) Bill 2002. That is the government's understanding and appreciation of the notion of fairness—that it can dismiss people unfairly and then call the legislation it uses to do that the fair dismissal bill. We will not have a bar of it. We will not have a bar of the flint-heartedness of this government, and whenever it introduces legislation into this parliament that further disadvantages working Australians we will oppose it. We opposed the legislation the night before last, and we are opposing this particular bill, because yet again it is flint-hearted and it is unfair.

This legislation also allows the minister—not just the employer but the minister—to continue divisive legal proceedings long after disputes have finished and the parties are trying to work harmoniously again. We know the minister has form on this. He has written to the automotive industry, and he has told them that they are not muscling up enough in their negotiations on enterprise bargains with trade unions—and with the AMWU in particular. The minister is very disappointed with the fact that there have been some 1,400 enterprise bargains and, despite the minister's prophecy that there would be rampant industrial disputation in the automotive industry, there has not been. The negotiations, on the whole—overwhelmingly—have been proceeding without industrial disputation, and the minister is disappointed, because he is the minister for conflict and division. He prophesied that there would be rampant industrial disputation in the automotive industry, and he is very

disappointed because there has not been. So he has written to them and said, 'What is wrong with you employers? It is about time to muscle up.' Now he has legislation in this parliament that would allow him to intervene: if the employers will not do it, he will.

The minister consistently talks about the rule of law. In an interview with *Business Review Weekly* in April this year he said, 'Business generally has done too little to ensure that the rule of law is the reality in workplace relations.' There have been instances where employers in the automotive industry have decided not to proceed with or not to continue legal proceedings against union officials, and the minister is very angry about that, because he wants conflict and division. If a minister of workplace relations is going to intervene in a dispute, he or she should intervene to try to resolve the dispute—but this minister intervenes to inflame disputes. Even when disputes are over he wants to intervene through this legislation to restart them. Talk about an apostle of the far Right! All the minister is interested in is conflict.

Who does this bill apply to? It applies to members, officials and employees of registered organisations, which, effectively, are trade unions. Yes, it applies to employer associations but not to employers. Because employer associations or organisations are rarely direct participants in industrial action, it has no practical effect on them. If this legislation were to pass through the Senate, what would be a contravention? A contravention is being involved in contravention triggers, and that is what triggers the punitive measures in the legislation. It includes aiding, abetting, counselling or procuring the contravention; inducing the contravention by threats or promises or otherwise; or being in

any way knowingly concerned in or party to the contravention.

So if you are an employee who is represented by a union and you know that the union is doing something that is in contravention of an order then you can be prosecuted—not by the employer and not by an employer organisation but by this minister. He wants to get in on the act and he wants to prosecute low-paid workers who happen to know that their union, which they expect is operating in their best interests, might be contravening an order. So do not go after the union; go after the defenceless worker. This guy—this minister—wants to use industrial thuggery to initiate actions to go after vulnerable workers so that he can get an order and get them fined up to \$2,200 and, if they happen to be a union official, take away their livelihood for up to five years.

What penalties would apply? A person who has been ordered to pay a pecuniary penalty is automatically disqualified from holding office in a registered organisation for up to five years. The amendments would empower the Federal Court to impose pecuniary penalties of \$11,000 for bodies corporate and \$2,200 for individuals—that is, \$2,200 for some of the most lowly paid, vulnerable workers in this country who would be targeted by this minister's thuggery. It would also empower the Federal Court to order a person to pay compensation to a registered organisation that has suffered damage as a result of the contravention. So, again, it may be available to the court to determine that an employee, essentially minding his or her own business but who happens to know that the union which is representing them may or may not be contravening an order, could be subject to damages from the employer—ordered by a Federal Court and encouraged by this minister. Why wouldn't we say that he is a flint-hearted minister? He

lacks all compassion. This is completely unfair legislation.

Who could apply for these orders? The minister could, or his Industrial Registrar could—so he can intervene directly in these disputes—or any person authorised in writing by the minister or the Industrial Registrar could. In fact, a registered organisation can apply for a compensation order against a union official, an employee or a member. Let me point out that the Industrial Registrar who would be empowered is Nicholas Wilson, who commenced a five-year term in December 2002 and who used to be the Assistant Director of the South Australian Employers Federation. So here we are again: the minister, as when entering into any dispute, is taking one side—the side of the employer—and exercising his one-eyed, right-wing zealotry. We will not have a bar of it. We oppose this legislation completely and we are moving a second reading amendment. 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 condemns the Government for:

- (1) systematically intervening in workplaces against the interests of working Australians who choose to be represented by trade unions; and
- (2) its double standards in attacking working Australians and their trade unions through selective changes to the legislative framework while refusing to take comparable action against corporate misbehaviour including:
  - (a) introducing new offences and penalties for trade union officials while failing to amend the Corporations Act to introduce comparable offences and penalties for highly paid executives and directors;
  - (b) failing to introduce legislative provisions to rein in obscene executive payouts; and

- (c) failing to take action against the use of corporate insolvencies and ‘phoenix’ companies to avoid paying employee entitlements and debts owed to small businesses”.

The point of the second reading amendment shows that this government is systematic in what it does. It is systematic in inflaming industrial disputes and it is systematic in creating industrial disputes. When it does, it always comes in on one side: against the interests of working Australians. This minister pointed out earlier in his tenure that he understands that the second wave of industrial relations legislation failed to pass the Senate because it was indigestible. It came too closely on the heels of the first wave. The Senate rejected it because it could not and would not digest it. So the minister has responded by breaking up the second wave legislation into a series of bite sized chunks—some 11 bills altogether. Each and every one of those bills is designed to weaken the bargaining position of working Australians vis-a-vis their employers. He said:

By contrast, there were no comparable industrial milestones in the Howard Government’s second term. The Government’s ‘second wave’ legislation never made it through the Senate partly, it was argued, because the 1996 reforms hadn’t been given enough time to work and partly because omnibus legislation gives critics an excuse to reject everything on the basis of one or two issues. The Government’s third term challenge is to regain its earlier momentum ...

That is what he is trying to do. He is trying to break up this second wave of legislation into bite sized chunks. I can tell you, Labor does not find the bite sized chunks any tastier than the original full loaf, because it is all tilted against the interests of working Australians. This minister has been at it since the time he took office as the minister for workplace relations. He does not know his legisla-

tion. He misleads workers on picket lines, who have been locked out for 17 weeks, in terms of the impact of his own legislation, and he tells workers on \$11 an hour that they have every right to be represented by their union in negotiations with the employer when they do not.

The minister does not even understand his legislation or, worse, he understands it very well but, when faced with the sadness, as we would see it, of a worker locked out for 17 weeks and earning only \$11 an hour, cannot say with courage and honesty to that worker, ‘Under my legislation, it is true you don’t have the right to be represented by your trade union because the employer doesn’t want you represented by your trade union.’

This flint-hearted minister is pursuing this package of 12 pieces of legislation for one reason and one reason only—that is, to ingratiate himself with the Prime Minister. The Prime Minister over 25 years in this parliament has consistently said that dearest to his heart—if we can find his heart—is the so-called reform of workplace relations. That first wave of legislation set back very savagely the interests of working Australians. But this minister knows how to curry favour with the Prime Minister in his competition with the Treasurer to become the leader of the Liberal Party. That is what this is all about. With every piece of legislation that he puts into this parliament, he gets a pat on the back from the Prime Minister—who also has no understanding of the word ‘compassion’, just like this flint-hearted minister—for continuing to pursue the Prime Minister’s ideological obsession with creating a situation where there is no bargaining strength on the part of an employee.

The Prime Minister and the minister’s preference would be individual contracts in all cases—no collective agreements. What

this minister likes and embraces is Australian workplace agreements. If Australian workplace agreements were ever applied around Australia in numbers, we would have working Australians in a shocking bargaining position with their employers. But that is exactly what they are after. They are after the complete deregulation of the labour market—far right wing ideology—so that the employee in a negotiation has no bargaining strength whatsoever. There is a method to this. Why would they want that situation? It is because, first, they are Liberals, and Liberals do like a situation of very uneven bargaining power; and, secondly, the philosophy and economic policy of this government has been to enter Australia into a race to the bottom—a race to the bottom of low skills and low wages, where working Australians are forced to compete on wage costs against the countries of East Asia.

We know from the 1996 first wave of legislation that that is what the government sought to achieve. We know from the 1996-97 savage cuts to education and training budgets that this government is not interested in investing in the skills of the Australian work force. And you would not be: if your goal were to enter Australia into a race to the bottom, to take the low road, to low skills and low wages, why would you invest in the skills, the intelligence and the talents of working Australians? That is where the most savage budget cuts are. The government is saying, 'We're taking you down the low road, to low skills and low wages, so that you can compete on wage costs against the countries of East Asia, most particularly China.'

This is a race that Australia and working Australians should never have been entered into. It is a race that we should never aspire to win. Labor's approach is to take working Australians along the high road, to high skills and high wages, and to invest in the

talents of working Australians. It is not to compete on wage costs against the countries of East Asia, most particularly China, but to compete on the basis of innovation and the talents of working Australians. We want a situation where working Australians can command high wages, but this government has entered us into this race to the bottom.

These are the choices that will be confronting working Australians at the next election. Will they continue down this low road of low skills and low wages or will they get an opportunity, by changing the government of this country, to go along the high road of high skills and high wages? That is the choice that will be available, and I know what the Australian people will do. They want to go along the high road. They do not want to go any more along this road of the flint-hearted minister, who says that a bad boss is better than no boss at all and that an abusive relationship between an employer and an employee is okay. These are appalling comments from which he has never resiled. When he was asked about it, he said, 'I could have put it slightly differently.' That was his greatest concession; he said that he could have put it slightly differently. But the minister spent a lot of time thinking about this; this was no off-the-cuff remark. It revealed the true mentality of this man. This man from the far Right thinks that an abusive relationship in the workplace is okay. Why do we know that? We know that because he wants to empower employers to dismiss their workers unfairly—that is, to be in an abusive relationship with an employee. If in those circumstances an employee says, 'I'm not going to cop this,' and the employer then dismisses the employee, there will be no remedy.

That is what this minister wanted to do two nights ago in legislation that went to the Senate. He wanted to take over the unfair dismissal legislation of the states, using the

corporations power, and then weaken it to this very weak level where an employee would have no real remedy. For small businesses with fewer than 20 employees, there would be no remedy whatsoever. You would think, though, that from time to time the government would like to say, 'We've tried to even things up and we're now going to take a few measures against the big end of town.' But, no, when it comes to regulation against the big end of town, they will not have a bar of it. They allow for excessive corporate salaries. They have allowed consistently for very poor corporate behaviour in this country. They have opposed just about every measure that we have introduced—including private members' bills to try to create more information in the marketplace on the activities of corporate cowboys—because those at the big end of town are their mates. It is a consistent pattern of behaviour. That is why we moved this second reading amendment. This legislation—one of a dozen pieces of legislation—is, yet again, one sided and unfair.

As I said when I was first asked to take on this position of shadow minister for workplace relations, my presumption will be that if legislation is brought into this chamber by this minister it is almost certainly antiworker legislation, and it is therefore bad and we will oppose it. The night before last, we opposed the legislation that would have ripped away at the social safety net and the basic protections of vulnerable Australians—protections against being dismissed unfairly. We opposed that legislation and we are proud to be able to stand up for working Australians in this country through that opposition.

This legislation too will allow this minister to get into the middle of industrial disputation, to inflame industrial disputes, not

only where industrial disputation is already taking place but even when the parties have settled—even when they have said, 'Look, we've had a bit of a blue here, but it's time to move on.' The minister is saying, through this legislation, that he reserves the right to intervene after a dispute has been settled and then apply punitive sanctions to some of the poorest, most vulnerable workers in this country who may have had, in his view, the audacity to be represented by a trade union, who may only tangentially have been involved in a contravention of an order of the federal court by a trade union.

The minister wants to strike terror into the hearts of working Australians, saying, 'You could be hit with these punitive fines and, therefore, it is not in your interest to join a trade union.' That is what this is all about. He is making working Australians think seriously about the risk of becoming a trade union member in this country because, if they do, this minister, through this legislation, would reserve the right to intervene in a dispute that is ongoing, or even when it is settled, and have penalties of \$2,200 applied to innocent working Australians who did nothing more than choose to be represented by a trade union. He is a flint-hearted minister, he is an apostle of the far Right, and we will not have a bar of this legislation. Every breath in our bodies will be applied to defeating this legislation in the House of Representatives and in the Senate.

**The DEPUTY SPEAKER (Hon. L.R.S. Price)**—The honourable member for Rankin has moved an amendment. Is the amendment seconded?

**Mr Zahra**—I am happy to second the amendment.

**Mr RANDALL (Canning)** (12.25 p.m.)—As a result of hearing that 30-minute dissertation from the shadow spokesman, the

member for Rankin, I would like to say that it is no wonder that I was only too delighted to be one of the first speakers on the Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003. It is a crystal clear argument before this House today: do we want to support the rights of the Industrial Relations Commission and the courts to enforce their rulings or do we want to continue the current practice of refusal and snubbing of the commission and court orders by militant unions and employees in this country? That is what is really before us. Are we going to support the courts and the commission of this country or are we going to do what the opposition have just said they are going to do: try and vote down this legislation because they are required to do so as the captives of the people who put them here?

Let us put that in context. The fact is that we know that 78 per cent of the Labor people in this House and in the Senate collectively are former members of union organisations or former officers of a union. We even have several ACTU bosses in this House. Putting that in context, about 78 per cent have a past working history with the unions, and yet only 20 per cent of people in this country belong to a union. That shows how unrepresentative the opposition is in this House and in the Senate of the real needs and aspirations of Australians. It is totally out of whack in terms of what the Australian people want to see being represented.

In terms of the shadow minister, the member for Rankin, his speech really did demonstrate that he did not have his heart in it. He spent 30 minutes directing an ideological diatribe and personal abuse towards the Minister for Employment and Workplace Relations, Tony Abbott. It was a personal attack on the minister because the member for Rankin has decided, as the member for Werriwa has decided, that he is going to try and muscle up to try and make some sort of differ-

ence. It just will not cut ice with the Australian public. They do not like that sort of muscling up and hairy-chested behaviour; they want decent negotiation and decent debate in this House. As a result, the shadow spokesman was right off the mark on the issues. To indicate also the context of this legislation, as a member of this House from Western Australia, I will shortly refer to a lot of Western Australian examples. The proof of the pudding is in the eating.

The fact is that, due to the government's change in industrial laws in Western Australia, 37,000 people have shifted to federal Australian workplace agreements. How many have shifted to enterprise bargaining arrangements under the state regime? The answer is 12. So we have 37,000 versus 12. People have voted with their feet because they can see what Labor has done to their workplace and to their workplace relations. They have voted with their feet and they have come to the federal jurisdiction because they see safety, certainty and integrity in this government's legislation in the area of workplace relations.

The Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003 is the continuation of a commitment by this government before the last election that they would continue to enforce the rule of law as it particularly relates to industrial relations. This bill will provide for sanctions against officials of registered organisations who do not comply with orders of the Australian Industrial Relations Commission and the Federal Court. It is very simple: it needs to be toughened up, because at the moment there are many who, as I say, wilfully snub the orders of the commission and the courts, to the extent that you have some union officials bragging about having 127 orders in their top drawer which they have just left there and ignored. I repeat that, because it is worth noting: 127 orders have

been given to this union official, and he says he put them in the top drawer and ignored them. Is it any wonder there needs to be legislation like this to deal with that sort of insolence and arrogance towards the Australian industrial relations framework?

One of the reasons we need a decent industrial relations framework in this country is that it produces greater productivity and certainty for workers. One of the greatest myths in this country is that the Labor Party is for the workers. The Labor Party is not for the workers. The Labor Party has become the party for the union elites and the hereditary peers of the Labor Party in this place. It has nothing to do with the workers of this country. In fact, under previous Labor regimes, workers' conditions and wages went backwards. Under this government, wages and conditions for workers have actually been enhanced. That is the difference between those on this side and those on that side over there.

But what have we got? We have an industrial relations spokesman from that side who has again repeated in this House that he will oppose any legislation the Minister for Employment and Workplace Relations brings to this House. This is typical of the Crean-led opposition. They will oppose, on ideological grounds, anything that this side does that is decent or good. What sort of opposition is that? It is just an obstructive opposition. They are not only doing it in workplace relations. We have seen now that they are piling up bills in health care—the pharmaceutical benefits bills et cetera—where we are trying to put this country on a decent financial footing, and there is opposition from the Labor Party and their minor faction called the Greens all the way along.

As a result, we are getting to the point where, yes, there are quite a number of dou-

ble dissolution triggers being piled up due to the intransigence of the Australian Labor Party in this House. As one of the most marginal seat holders in this House, can I say that I would be happy to go to a double dissolution election with John Howard on these issues at any time that he calls it, because I know the feeling of my electorate towards the Australian Labor Party's attitude towards the government in this country at the moment. They see them as totally opportunistic and obstructionist. As a result, they will pay for it at the next election.

I must outline very carefully what this bill will do, before citing some examples. The bill that we are speaking to today inserts provisions into the registration and accountability of organisations schedule of the Workplace Relations Act 1996 to, firstly, specify general duties of officers and employees of registered employer and employee organisations in relation to orders and directions of the Federal Court or the commission; secondly, enable the minister to obtain civil penalties for breaches; and, thirdly, provide for the disqualification from holding office in registered organisations of persons on whom certain prescribed pecuniary penalty orders have been imposed. It actually puts some teeth into the enforcement of this legislation so that we do not have that union official just throwing his 127 compliance orders into his top drawer and ignoring them.

What is the net result when that sort of thing happens, besides the loss of productivity? When somebody decides to wilfully deny the rule of law in this country, it actually costs workers their jobs and their time. I will cite a few examples in a moment. The integrity of the workplace must be enhanced by this legislation and the rulings that are brought down by independent institutions such as the Australian Industrial Relations

Court and the Federal Court. I can assure you, given some of the rulings by the Federal Court in this country, it is certainly not a court favourable to many of the decisions of this government. But, because they are an independent body and a generally unbiased body, we can expect them to interpret the law as it should be. That is all we are asking in this case—that the law be actually enforced.

What are some of the reasons we need to enact this legislation? The fact is that, if those who receive rulings in their favour to instruct union officials or the organisation to desist from certain actions—the employers, for example—decide to take them on in the courts, it is a very expensive exercise. We know that registered organisations such as unions in this country are very well cashed up as a result of fees from their workers. They are very well cashed up and so they can obtain the best legal advice. That is against an individual company or organisation that is trying to take them on in the courts. Secondly, as has been identified ad infinitum in the Cole royal commission, anybody who decides to take some sort of action against a militant union will find the retribution so great that quite often they are put out of business. The retribution that an individual employer can face can put them out of business and see all those workers—so much for the care of the workers!—out of work. Thirdly, if the individual employer takes on the role of the enforcement of this legislation or the court rulings, the financial recompense comes back to the federal government in any case. So why wouldn't the minister, on behalf of these organisations, then make sure that, for all those reasons, they were given the opportunity to be properly represented and take on this role and provide civil penalties and greater sanctions for those who are disobeying these laws?

I wish to point out some things in the Cole royal commission. I refer to volume 12 of the Cole royal commission as it relates to Western Australia. Commissioner Cole said on page 297:

In Western Australia there is a culture of fear, intimidation, coercion and industrial unrest which permeates those sites where the CFMEU has or seeks to have a presence. In the Perth CBD and its environs the CFMEU dictates to all head contractors with whom it has an EBA the operation of those sites. This control manifests itself in a variety of ways including through crantage, access to and from sites via traffic control, labour, and the extraction of payments for casual tickets and specialised training as the price for the CFMEU suffering non-union labour working on such sites. The CFMEU effectively controls all union EBA sites in Perth in the building industry. The control of the CFMEU in the building sector of the industry is entrenched. Most major contractors have been subject to the imposition of inappropriate payments for casual tickets and specialised training as part of the price of doing business.

It goes on ad infinitum. I will say in defence of the unions—speaking as somebody who has been a teachers union representative—that there is a very good place in this country for collective bargaining for decent unions. In a moment I will give you an example of how the Australian Workers Union has suffered from the harassment and militancy of the CFMEU in Western Australia and has complained bitterly and loudly about it. Where unions represent their workers rather than their own interests, it is a very good thing. We are talking about just a small portion of unions in this country who describe themselves as militant. Joe McDonald, who is the secretary of the CFMEU in Western Australia is quite proud to say, 'We do all this because we are a militant union and that is what militant unions do.' The Cole royal commission goes into vast detail about some of the things that the CFMEU have done in Western Australia.



The shadow spokesman spoke about contravention. I want to outline a few items of contravention from the Cole royal commission. For example, in volume 21, on page 165, the Cole royal commission report refers to Baulderstone Hornibrook contracting for the Woodside Tower in the central district of Perth. It goes into great detail, but on page 188 the findings are that this case study illustrates:

(a) disregard of and breach of the provisions of the *Workplace Relations Act 1996 (C'wth)* concerning payments to workers in relation to periods of industrial action;

... ..

(e) application of, and surrender to, industrial pressure;

... ..

(g) threatening and intimidatory conduct;

... ..

(j) disregard of the rule of law;

And on page 189:

(u) the ignoring by a union of a direction of an industrial tribunal;

This is clearly outlined in a public royal commission. There is a further case, on page 201 of the report, about what happened when Universal Constructions won the award to build the City Budget Hotel in Perth. As soon as they won the contract, what happened? Along came Kevin Reynolds, the secretary of the CFMEU in Western Australia, and he said:

Now that you're working in the city block, you will work to our rules, and we will show you what it's all about, we will show you how the union operates.

One of the conclusions, on page 216, says that this case study illustrates:

(c) disregard by a union and its officers and organisers of the right of entry provisions of the *Workplace Relations Act 1996 (C'wth)*, while

simultaneously purporting to utilise those provisions in order to obtain site access for ... safety ...

The royal commission report goes into great detail about how the CFMEU uses bogus safety issues to flout the rulings of the industrial court. This is the sort of thing we are talking about. The previous speaker, the member for Rankin, said, 'What is contravention?' He was talking about a few minor aspects. We are talking about serious aspects here. I am now going to read an article from the *West Australian* newspaper of 27 February 2001 about the case of the Woodman Point waste water treatment plant project. The article says:

The Australian Workers' Union has accused the Construction, Forestry, Mining and Energy Union of bully-boy tactics after it allegedly forced a strike at a big construction project yesterday.

This is not the government being punitive, as the previous speaker said—saying that Minister Abbott was making an attack on the union—this is the AWU complaining about the CFMEU's intimidatory tactics on a site. We need to put teeth into the courts of this country to stop this sort of behaviour, because of what it does to the workers. The article goes on:

AWU organiser Glen Anderton told The West Australian that the members of his union were told to stop work for 24 hours by CFMEU assistant secretary Joe McDonald or they would be banned from working on other jobs.

Mr Anderton said most of the 200 workers at the Woodman Point waste water treatment plant project were AWU members and their union rights had been trampled on by the CFMEU.

He said the incident was a payback for the AWU because the CFMEU were not party to an agreement signed with project manager The Woodman Alliance ...

"Fifteen of them just walked in, they stormed past security," he said. "This job has been running for over 12 months and we have had no industrial

trouble at all. Everything has been sorted out on the job.

“My members have not only lost a day’s pay but their bonus for the week as well, over \$200 a head all-up. All my blokes are going to lose that because of these irresponsible f...ing clowns. They had no vote. They weren’t given the opportunity to vote.

“He (Mr Macdonald) said, ‘I’m going over to these other sites on the project, when I come back, if you’re still here, you’ll all be blacklisted’.

“So they walked off the job, they don’t want to be blacklisted.”

The Premier and the local labour relations minister got involved. Mr McDonald denied that he had made any threats. Talk about honesty in government. There was an attack made by the previous speaker, the member for Rankin. This is the sort of honesty that we are addressing in this legislation.

McDonald denied that any ban threats had been made. He said the site was visited at the request of CFMEU members concerned about safety.

There was only one CFMEU member on there and he was a crane driver, and they tried to actually get rid of him and put one of their own blokes in there to take his place.

“As far as I’m concerned—

McDonald said—

Anderton is a disgrace to the trade union movement ...

“This is a site where the AWU did a greenfields agreement which locks us out.”

Then he complains about safety on the job and says:

“He (Anderton) has just written a (trade journal) article saying that he is really pleased with the relationship he has with the boss.”

So what? McDonald goes on:

“Well, I don’t have any relationships with any bosses. The workers are the people that concern me.”

So much for his concern for the workers. He just made sure they all lost 200 bucks a day.

Woodman Alliance project director Robert Jones denied it was an unsafe site.

“We have probably one of the best safety records in WA on this project,” he said.

“With the number of man-hours worked and the fact that we have only had one lost-time injury compared with an industry average of about 20 far surpasses any project I have worked on.”

This is an illustration of why we need this further compliance legislation to put teeth into the legislation to enforce sanctions and fines and to see that the minister has the ability to do that. The intimidation revealed in the report of the Cole royal commission demonstrates that the industry will not do it itself, because of the fear of intimidation and the costs, so we need this legislation to support the minister and the industry in general. *(Time expired)*

**Mr FITZGIBBON** (Hunter) (12.45 p.m.)—It will come as no surprise to those listening to this debate that the Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003 represents another attack on those who devote their lives to the protection of working-class people in this country, who are the weaker party in the employer-employee relationship and who rely on collective action and the support of trade unions and trade unionists to tilt the unlevel playing field back to somewhere close to level. The bill does two things: firstly, it provides a mechanism for the minister to seek penalties for failure to comply with orders of the Australian Industrial Relations Commission or the Federal Court; and, secondly, it provides for disqualification by default of officers and employees of registered organisations—in other words, trade unions.

What an unsurprising disgrace this bill is, and what typical hypocrisy it represents on the part of the Howard government. Under the Howard government, Australian society is being torn apart. We are becoming a nation

divided by a Prime Minister who will stop at nothing to create a society in which only the privileged prosper. At a time when corporate fraud and white-collar crime are reaching new heights, the Howard government's obsession with the trade union movement and its unabashed preference for the big end of town shine like a beacon. We saw that in the ethanol debacle which has been running in the parliament this week. We saw it in the government's weak Dawson report—a review of the Trade Practices Act—and we have potentially seen it this week in the early retirement of the chairman of the Australian Securities and Investments Commission.

The fact is that the Howard government is tough on misery and soft on the big end of town; it is tough on misery and soft on corporate crooks. That is the hypocrisy of this bill: it attacks the trade union movement but leaves the big end of town alone. It took the collapse of HIH for the full extent of that company's indiscretions to surface. Where was the Howard government prior to that collapse? We know where it was: it was focused entirely on its ideological obsession with the trade union movement and was, of course, happy to ignore what was happening at the big end of town. I will cite another example. Despite my urging, the government refuses to act on Macquarie Bank's role in the collapse of the Nardell coalmine in my electorate, which has cost the region more than 100 direct jobs, left 180 unsecured creditors more than \$10 million out of pocket and imposed misery upon dozens of small and medium sized businesses in my electorate. In many cases these businesses were run by hardworking, blue-collar tradesmen and engineers who now have the banks knocking on their doors—not just after their businesses but after their family homes.

The Howard government likes to feign support for small business. But what about the 10 or so businesses in Rutherford's industrial estate who face ruin as a result of Macquarie Bank's corporate bastardry and fraud? What about Peter Braun of Coal Management Operations and Processing whom Nardell—and, therefore, I contend, Macquarie Bank—hired to construct the mine's surface infrastructure? He is owed \$1.3 million for work done between January 2003 and the end of February 2003. Gerry Feeney, of Bulga Civil Constructions—a battling concreter—is owed \$98,000. Vince Martin, of Eastern Mining, who did the underground infrastructure at Nardell Coal, is owed \$1.2 million. The list goes on and on. It is a list of the victims of corporate crimes which should be punished by jail.

Let us not just talk about trade union leaders; let us talk about corporate crooks. They are thugs in suits—like Macquarie Bank's David Clarke and Allan Moss, and those who do their bidding—who are prepared to burn anyone who stands in the path of their corporate greed. Macquarie Bank's corporate symbol is the holey dollar. Those at Macquarie Bank consider the dollar to be very holy indeed and will stop at nothing to grab hold of one or two more of them. Macquarie Bank were here in Parliament House last night—as they are on an annual basis—shouting a beer, a glass of wine, a glass of champagne and a prawn or two for this country's political elite, including the Treasurer. There they were, Treasurer Costello and Allan Moss—the CEO of Macquarie Bank—patting one another on the back and, in front of all and sundry, telling one another what wonderful things they were doing in their respective roles as Treasurer and CEO of a big bank. Wouldn't my unsecured creditors love an opportunity to come to Canberra and meet with 200 or so politicians, shout those

politicians a beer and see whether they can get some sympathy from the legislators of this country? Wouldn't that be a wonderful thing for my unsecured creditors?

It just goes to show the modus operandi of Macquarie Bank: employ a few people from all sides of politics, shout a beer once a year, maybe offer a few trips, and make sure that you have friends on all sides of politics so that you can get away with whatever you like in this country. That even extends to actions which I say are in breach of the Corporations Law and the ASIC Act and, in this case, potentially in breach of the New South Wales Crimes Act for taking money under false pretences.

Allan Moss, the CEO, told the gathering last night, 'We do take seriously our responsibilities to the communities we are serving.' Let me tell you about the community in my electorate. Let me tell briefly the tale of the Nardell Coal Corporation. I refer those who are interested in a more detailed version to today's *Notice Paper*, where I have some 32 questions on notice to the Treasurer. In brief, the story begins around 2001, when a few pointy heads in the Macquarie Bank decided they would get into coalmining. It was obvious from the beginning that these pointy heads knew a fair bit about investment banking and managing risk but not too much about coal mining. But they thought they could make a killing out of this yet to be exploited and valuable resource of coal in my electorate.

So they organised some finance from two key sources. The first source was Bond Street Investments, which is 100 per cent controlled by Macquarie Bank and—surprise, surprise!—chaired by Macquarie Bank's chairman, Mr David Clarke. The second source was Macquarie Investment Trust III, which is one of those Macquarie Bank clubs for high-wealth individuals. Bond

Street forked out about \$10 million and MIT III some \$22 million, at the bargain basement interest rate of 23 per cent. Nardell could have got the money cheaper on Bankcard! Bond Street's loan was fully secured by both fixed and floating charge over the assets of Nardell, both the mine and the holding company. The make-up of the new board was also interesting. There were four directors, two of which were nominated by Macquarie Bank. The chairman, Mr Campbell Anderson, was also from Macquarie Bank. So Nardell Holdings was an entity wholly controlled by Macquarie Bank.

In July 2002 the board was directed by Macquarie Bank to do a pretty prudent thing. Given this was to be an exporting mine, it was directed to take out insurance against a potentially rising Australian dollar. It did so around July 2002. It also did a less than prudent thing around that time. The board entered into a domestic contract with Macquarie Generation—and I should say that there is no relationship between Macquarie Bank and Macquarie Generation—to supply coal to its power stations. We now know that the deal was entered into too cheaply. Therefore, for some time it continued to be a significant burden on Macquarie's books. Despite this, it is still a bit of mystery how a coalmine opened with such fanfare and presented as having such a bright future could, after only a couple of years of operation, collapse so quickly, costing all of those jobs and leaving all of those unsecured creditors in its wake.

We do know a few things. We know they had some geological challenges at Nardell. But we also know that there was celebration amongst the contractors that the strategy that had been embraced to overcome those geological problems had been successful. We know there was a rapidly appreciating Australian dollar, but we also now know that, on the direction of Macquarie Bank, Nardell had

insured against that rising Australian dollar. So they were fully insured on that basis. We know that coal prices fell on the international market. But, if we track those prices back, we see that it was not a significant issue between July and December 2002. We do know with every certainty that, from 20 December 2002, the Nardell currency hedge had disappeared. The mine was mainly engaged on the export market and it was struggling, yet, for some reason, someone decided to take away from the mine the very thing that was keeping it afloat: its insurance against a rising Australian dollar.

There can be only two explanations as to why this may have occurred. The first is that Macquarie and Nardell, either separately or together, decided that, because the hedge was a rolling options hedge, it was out of the money so it was allowed to lapse, even though the dollar was appreciating rapidly at that point. Why would you let it lapse? It was money in the bank. I have made reference to the value of that hedge in earlier speeches in this place. To let it go was extraordinary. The second is that Nardell had no money to pay the next premium. We know that with some certainty, and I accept that. So Macquarie decided to take the hedge and put it into its own books. What a wonderful prize that hedge was at that stage! The first instalment was I think \$500,000 and the second was \$3.7 million. At that stage I think the value of the hedge was approaching some \$10 million.

Of course, Macquarie denies that it did this, but I am very suspicious—or, at least, I am sceptical and cynical—about its response to these questions. In a taped conversation between former and present Macquarie employees—and it was a well-publicised tape; I think many will have seen it in the *Australian* around September last year—the senior

director of Macquarie Bank admitted that Macquarie likes to run two sets of books: one set for the auditors, ASIC and those who regulate our Corporations Law and another set for the back room. We know with absolute certainty that, from December 2002, the Nardell operation was no longer insured and was therefore an absolute basket case. We also know that the Nardell board continued to run up debts to unsecured creditors after 20 December 2002. It dropped the insurance against an appreciating Australian dollar but continued to run up debts.

The administrator appointed by Macquarie has himself acknowledged that, at some point at least, Nardell was trading while insolvent. But whatever the figures say, we all know that without that currency insurance Nardell was a basket case. What was Nardell doing ramping up debts between 20 December 2002 and the end of February 2003 when its board knew its business was effectively insolvent? These are comparisons between the government's approach to the trade union movement and its approach to the big end of town.

But there is a more important point to be made: in correspondence I have had with Macquarie's Mr David Clarke he assures me that the decision not to renew the currency insurance was entirely a decision for the Nardell board. Well guess what? I do not believe that to be the case and, in fact, I have the evidence that it is not the case. In front of me I have an email on Macquarie's email account address from Mr David Wrench of Macquarie Direct Investments. It is dated 19 December—a very important date. In the email Mr Wrench informs the Nardell board that Macquarie Direct Investments has approved the extension of its existing loan to Nardell holdings. The important thing is that Mr David Wrench put a very important con-

dition on the extension of that loan, which was that from that point on all material capital expenditure proposals and operating expenditure commitments were to be authorised by Macquarie Direct Investments.

From that point Macquarie Investments—Macquarie Bank—was wholly controlling Nardell. You cannot say that the decision on 20 December not to take the hedge was a decision for the Nardell board when Nardell had just entered a contractual arrangement with Macquarie not to make any expenditure decisions, including whether or not to take out the next instalment on the hedge, without going to Macquarie for approval. Here we have, contrary to Corporations Law and contrary to the ASIC Act, Macquarie not acting at arm's length from Nardell Holdings from 19 December but directly controlling Nardell and all it did. Therefore, who is responsible for the \$10 million or so in debts to unsecured creditors? Not Nardell Holdings, which can hide behind the cloud of Corporations Law but, of course, Macquarie Bank, backed by \$44 billion of net assets and having last week declared record profits.

I appeal to the Macquarie Bank to do the right thing. The amount of money it needs to find to pay out unsecured creditors is roughly equivalent to the remuneration of Allan Moss for one single year. Wouldn't it be a wonderful thing for Macquarie's PR to just do the right thing and pay up and admit it was wrong? I will be taking this a bit further if it does not. It has made an offer to the unsecured creditors first of 17c and then, when there was a public outcry, it went to 35c. When that was also rejected they decided they would embark on a divide and conquer strategy. They decided they would give all unsecured creditors who were owed between zero and \$5,000 one hundred cents in the dollar, all those owed between \$5,000 and, I think, \$10,000 fifty cents in the dollar, and the others can go and get stuffed—they can

cop their 35 cents. What did that mean? It meant they had a majority of unsecured creditors voting to take the offer. It was only about \$1.6 million in value and there must be something near \$10 million in debt to creditors in value terms sitting over here opposed to the deal. It was a divide and conquer technique to see whether they could get the majority of unsecured creditors to accept what I think is an unfair proposal—certainly it is unfair in the eyes of those who are owed more than \$10,000.

This is a disgrace. In my questions today I again appealed to the Treasurer to act under section 14 of the ASIC Act. He has the power, where there is an allegation of fraud and it is in the public interest, to direct ASIC to investigate Macquarie Bank and its relationships with Nardell Holdings. This is not just about Nardell; this is part of a pattern by Macquarie Bank, who will steamroll anyone to make a quid. We have seen them now entering the sphere of local government, where they think people are a little gullible and there is an easy take. We have seen that in the Oasis development in Liverpool. We have seen the case between Bell and Berg and Macquarie Bank in the Industrial Relations Commission—an unfair dismissals dispute where Macquarie stole the intellectual property of Mike Bell and his partner. We have seen the case of Brian Locke, which is again a case of theft of intellectual property. This is an organisation with a bad culture of corruption and bullying, and it is about time the Treasurer moved to pull Macquarie into line and used his powers under the ASIC Act to help unsecured creditors and get some justice for all those in the Hunter Valley and, indeed, for all those around this country who have been burned by Macquarie Bank and who are now regularly ringing me to share their story.

**Mr McARTHUR** (Corangamite) (1.05 p.m.)—I am delighted to participate in this

debate. I note my good friend the member for Hunter has not really stuck with the subject, which is the Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003. I note also that the preselectors of Hunter have now reconfirmed his preselection. I would have thought that he might have stuck with the bill because it might have enforced some of the rules and regulations of the Labor Party in the Hunter Valley, and that preselection might have been conducted in the normal branch-stacking manner in the Hunter. I congratulate the member on his preselection. I do not congratulate him on his contribution on this particular bill because he went into the normal rhetoric of attack on the workers and made no reference to the bill whatsoever throughout his 20-minute speech. Instead he made references to other matters not related to this bill.

This bill brings to account the rule of law under the Industrial Relations Commission and the Federal Court. Nobody opposite could challenge the particular set of philosophies that says this parliament should legislate to ensure that the rule of law is predominant and that the rulings of the Industrial Relations Commission have the backing of the Federal Court. In this case the minister is seeking amendments to the Workplace Relations Act so that financial penalties can be applied for noncompliance with the orders of the Australian Industrial Relations Commission.

The member for Hunter and others opposite proclaim the virtues of the Industrial Relations Commission, saying that it is the umpire, that it makes the decisions for both parties and that those decisions should be adhered to. But as I will refer to later, a number of those rulings and recommenda-

tions are flagrantly disregarded by unions and the union leadership.

The bill also talks about noncompliance with orders of the Federal Court and ensures that some of these orders will be able to be enforced. The legislation allows for the default disqualification of officers and employees of registered organisations if they do not comply with the orders, and they can also be fined. I make the point that this applies to both union officials and employees as well as employer organisations.

Some of those union officials who fail to comply with commission orders to cease industrial action will be subject to sections of this bill. With regard to orders to cease industrial action under section 127 of the Workplace Relations Act, this section has been a matter of considerable discussion in an attempt to ensure that orders of the Industrial Relations Commission are obeyed. This bill ensures that the Federal Court can enforce the orders under section 127 and make both employers and employees obey the industrial law as announced in the 1996 act.

Some employers, as we know, are reluctant to pursue their rights. We see this in the building industry—and I will refer to this again. Under this bill the union officials would be fined and in some cases prevented from holding office if they contravened the rules. It is interesting that there is evidence that some union officials have had these section 127 orders in their top drawer; in fact, they have made quite a point of having received these orders and flagrantly disregarded them—done nothing about them. This bill ensures that the rulings will be enforced and that the operations of the Industrial Relations Commission and the 1996 act will be improved. Small business owners do not have the industrial muscle to fight back when some of the union officials attack their small

enterprises in conjunction with attacks on larger businesses. They feel very threatened and generally comply with industrial muscle rather than the rule of law.

I want to draw the attention of the House to the Cole royal commission into the building industry. If you look at some of the examples in the transcript it is interesting to see exactly what took place. We can see some of the backup for this bill there. I will read some of the transcript in order to support the minister and the government and the way in which this bill, in quite a sensible manner, is being introduced into the parliament to reinforce and support the current legislation. The part of the transcript I am about to read talks about a subcontractor. It says:

On 27 February, a Dexion subcontractor sought to deliver a pallet load of steel bolts and fittings to the QP2 site. He was prevented from entering the site by what was described as an official picket line, and the driver was told: *"This is an official picket line. If you attempt to cross it, we will tip your—*

it is colourful language—

*... truck over."* The driver persisted. He said if he didn't drop off the load, he would get the sack. He asked to be able to make the single delivery, as it wouldn't take long. The leader of the picket line then said to him: *"If you don't leave, the large man with the beard over there will clean you up."* As he said this, the person pointed at a tall bearded individual standing in a group of five ...

So there we have it in evidence: intimidation at its worst—as we know happens in the building industry. There it is on the public record. I again quote from the evidence:

Later that day, the picketers began hitting golf balls over the front fence of the site, one of which hit the side of the site office. Others were being hit over the carpark area, causing at least the risk of damage to the vehicles of persons working on the site.

On 10 March, Beach J, of the Victorian Supreme Court, granted an injunction requiring the three

unions concerned, the CFMEU, AMWU, and CEPU, to refrain from directing and advising their members not to perform work in accordance with their contracts of employment, to refrain from taking part in any picket of the site or other business premises of the contractors. The unions were also ordered to recommend to their members that they perform work in accordance with their contract of employment or contracts of employment.

What could be more reasonable and sensible than that? Yet the transcript goes on to say:

Despite those orders and the injunction of Beach J, the picket line continued. It ceased formally to be an official picket line.

There we have it from the Cole royal commission: evidence of the sort of intimidation that goes on, particularly in Victoria, in the building industry. This legislation is an attempt to bring some law and order to building sites and to Australian workplaces. Under the legislation, a person who disobeys an order of a court or interferes with the process of the administration of justice will be in contempt of the court.

We had the interesting case back in 1986, as many members of this House would recall, of the AMIEU v. Mudginberri Station. That was a case in which the High Court in fact enforced sanctions for wilful disobedience of Federal Court orders. In that case, we had an industrial situation of the AMIEU—a meatworkers union—defying an abattoir operation in the Northern Territory. The important breakthrough there was that the court enforced legal sanctions against the union. Some of us will recall the importance of that case. The union could no longer bully and coerce employers and employees in the meat industry. The situation at the moment is that disobedience and coercion and other forms of intimidation still take place in the workplace, disregarding the outcome of Mudginberri and other similar cases where the force



of law was brought to bear on industrial relations.

Justice Merkel in the year 2000 found the Australian Manufacturing Workers Union and the Electrical Trades Union guilty of contempt of court and of wilfully breaching orders. They exacerbated the breach by telling journalists of their intention to breach those orders. We have, on the one hand, the court enforcing the orders and, on the other hand, union leaders wilfully and positively telling journalists and others that they would defy those orders.

The Australian Industry Group did not seek to enforce the payment of the fine by the AMWU secretary as the fine of \$20,000 would go into consolidated revenue—that was their response. I guess they were concerned that if that fine went ahead they would be the subject of intimidation. The Attorney-General did not consider it his duty to enforce the finding as it was considered the enforcement of a private right. Again, we have a grey area of the law as to the enforcement of the workplace industrial relations legislation regarding activities at the workplace. Justice Merkel went on to note that the refusal of a duty to enforce could raise the issue of obstructing the course of justice and that if such refusals to enforce continued then the court should make provisions for the enforcement of its own penalty for contempt.

The courts were in some difficulty. On the one hand, there was the Federal Court enforcing the industrial relations law of the Industrial Relations Commission as they saw it. In an order for the CFMEU to return to work the full court said that the union's conduct went beyond the failure to notify the members of the order to immediately cease strike action and found that the union had engaged in 'calculated and devious attempts

to disguise any knowledge of the order's existence'. So we have this grey area of what constitutes legal and industrial activity. On this occasion the CFMEU was penalised with a fine of \$120,000 plus costs. Obviously, the court took the view that there was industrial activity contrary to the spirit and the law of the Industrial Relations Act. Section 306 provides for a penalty of \$110,000 for an organisation and \$2,200 for an individual. The act has a number of provisions to ensure that the legislation can be implemented and that the fines are fairly severe. However, it is difficult to implement it and this bill is an attempt to bring about law and order in the workplace.

In talking about applications to the minister, the bill is fairly specific in saying that the disqualification in the present bill is automatic but is then subject to appeal. In deciding an application for leave to hold office the Federal Court must have regard to:

- (a) the nature of the contravention; and
- (b) the circumstances of, and the nature of the person's involvement in, the contravention; and
- (c) the general character of the person; and
- (d) the fitness of the person to be involved in the management of organisations, having regard to the contravention ...

We have some safeguards in place for those who wish to pursue the activity under the court order. Those opposite, who might wish to say that this is an attack on the workers, can see that the government and the minister have been very reasonable in trying to redress this sensitive and difficult problem of ensuring that the rule of law applies in the workplace. The minister is saying that the government will be more active in taking legal action and pursuing penalties. Even the member opposite would have to agree that, if the employers and employees incur a penalty, they should pay it if legal action is re-

quired on both sides—the employer's and the employee's. The member for Throsby, who has had a lot of experience in that and whose views I have very high regard for, would understand these arguments on both sides of the industrial fence.

The minister is suggesting that some of these matters will be referred to the Director of Public Prosecutions, including contempt of the commission if that does arise. If members opposite were thoughtful and understanding and had a desire to look after the 'umpire'—which I am sure the member for Throsby will refer to, as she has done over a number of years—they would see that the technical details of the bill allow the umpire to have the provisions and the capacity to deal with both parties: employers and employees.

I would like to run through the report of the Cole Royal Commission into the Building and Construction Industry. A number of the issues raised by that commission are interesting. The member for Throsby would understand a number of these issues. She comes from New South Wales where there is a different culture on the work sites up there, but down in Melbourne it is a bit different; it is tougher on some of those work sites. The Cole commission found a difference in culture there as compared to that in Western Australia. The member for Canning indicated what the situation was in Western Australia.

I wish to comment on a number of Cole commission findings. Under the heading 'Findings regarding conduct and practices' it is stated:

In the building and construction industry throughout Australia, there is:

(a) widespread disregard or breach of enterprise bargaining provisions of the *Workplace Relations Act 1996 (C'wth)*—

that is the initial finding of the commission—

(b) widespread disregard of, or breach of, the freedom of association provisions of the *Workplace Relations Act 1996 (C'wth)*—

that means: no ticket, no start; if you go on a building site in Victoria, New South Wales, Brisbane or Perth you have to have a building union ticket or you will not be allowed on the site—

(c) widespread departure from the proper standards of occupational health and safety—

I agree with that, but I will make some comments on that later—

(d) widespread requirement by head contractors for subcontractors to have union-endorsed enterprise bargaining agreements (EBAs) before being permitted to commence work on major projects in State capital central business districts and other major regional centres ...

If you work as a contractor in the CBD in Melbourne or Sydney you have to have all those union tickets signed up. Your men have to be paid up and there will be a show of tickets. You cannot be a normal independent contractor without being a member of the union. According to the commission there is also:

(e) widespread requirement for employees of subcontractors to become members of unions in association with their employer obtaining a union-endorsed enterprise bargaining agreement—

there is a coercive special agreement between the employer and the subcontractors in relation to union membership—

(f) widespread requirement to employ union-nominated persons in critical positions on building projects—

we know that in a practical sense people who spend most of their time on big projects can be absolutely critical to the failure of that project in meeting budget standards and being on time—

(g) widespread disregard of the terms of enterprise bargaining agreements once entered into—

we have very good evidence from the Cole royal commission that, once bargaining agreements have been entered into, they can be torn up halfway through the job and new claims put forward—

(h) widespread application of, and surrender to, inappropriate industrial pressure—

we know from the headlines the amount of pressure that can be applied to some of these big projects, for instance, the MCG is now looking for completion schedules and is under considerable pressure from the industrial activity of certain unions—

(j) widespread making of, and receipt of, inappropriate payments—

I accept that the member for Throsby will say that the employers also took part in such payments, and I agree with that; the royal commission identified those employers who took part in inappropriate payments and were in collusion with union leadership—

(k) unlawful strikes and threats of unlawful strikes—

there we have it: unlawful strikes and the threat of unlawful strikes—and in some cases, the threat is more damaging than the actual strike—

(l) threatening and intimidatory conduct ...

As we talked about in the outline of this bill, that conduct or intimidation in the building industry is very hard to identify. The evidence I read out earlier indicates what can happen. Again, identifying intimidatory conduct on the picket line and bringing it before a court of law can be a very hard thing to do. The commission also found there is:

(m) underpayment of employees' entitlements—

I accept that point in relation to employers doing that to the detriment of the employees—

(n) disregard of contractual obligations;

(o) disregard of National and State codes of practice in the building and construction industry;

(p) disregard of, or breach of, strike pay provisions of the *Workplace Relations Act 1996* (*C'wth*);

(q) disregard of, or breach of, the right of entry provision of the *Workplace Relations Act 1996* (*C'wth*);

(r) disregard of Australian Industrial Relations Commission (AIRC) and court orders ...

That last point is a key point which this bill tries to address, because court orders and Industrial Relations Commission rulings made to bring about industrial peace between employers and employees on the work site have been totally disregarded in the building industry to a large degree. The commission also found there is:

(s) disregard by senior union officials of unlawful or inappropriate acts by inferior union officials;

(t) reluctance of employers to use legal remedies available to them—

employers are reluctant to go to a court to participate in legal activity and legal sanctions because of the cost and the implicit intimidation of senior contractors—

(u) absence of adequate security of payment for subcontractors—

I accept the view that many subcontractors have been threatened, have not been paid and have been sorely upset by the lack of payment in a very difficult industry—

(v) avoidance and evasion of taxation obligations—

this problem is well known in the building industry and on the waterfront—

(w) inflexibility in workplace arrangements;

(x) endeavours by unions, particularly the Construction, Forestry, Mining and Energy Union (CFMEU) to regulate the industry—

and finally—

(y) disregard the rule of law.

*(Time expired)*

**Ms GEORGE** (Throsby) (1.25 p.m.)—As the saying goes, some things never change. With regard to the current Minister for Employment and Workplace Relations, it is quite clear that one thing that does not change is his constant and consistent effort to bring into this parliament legislation which is clearly aimed at attacking the union movement and working people. Despite the constant effort he makes, the Senate continues, as we have seen just recently, to apply sensible measures and reject the kind of extreme legislation and proposals that we see before us today. Another thing that does not change is that government members all seem to read from a pretty well prepared and rehearsed script. I think in the debate on the Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003 the member for Corangamite and the member for Canning have shown clearly that the script that they read from is a script prepared by the minister which only paints one small part of the overall picture as far as the workings of industrial relations in our community go.

With all due respect, I think this bill is another one of these bills that comes to the House under a guise this time of allegedly upholding the rule of law, making sure that the orders of the commission are obeyed and wagging the finger at all of those recalcitrant unions and unionists. Nothing I heard in the member for Corangamite's speech pointed to the lack of action on the excesses of corporations and the top end of town. It is almost as if the rule of law argument is being created to ensure that the allegedly noncompliant, nasty unionists and their representatives in the union movement are brought to heel.

If you look at the details of this bill before us and apply any intellectual reasoning to it, you can see that it is quite unnecessary because the powers already exist within the system to deal with any actions that could be

described as contempt of court orders, be it by employers or by unionists. We are told, and the argument is made, that we need measures to enforce compliance with orders of the Federal Court and the AIRC by members of registered organisations and, in the case of contravention, to impose financial penalties. Very seriously—and this is worth particular consideration—the bill would automatically disqualify a person who has failed to pay a fine that has been ordered from holding office in a registered organisation for up to five years unless the Federal Court orders otherwise. I do not think you have to be a genius to understand who the minister for workplace relations has in his sights. There is an automatic disqualification if a person does not pay a fine that has been ordered, and that disqualification is for up to five years.

When we look at the history of this government, this minister and the legislation that he brings to this parliament, we know that the main purpose of the legislation is to attempt to erode the representative powers of unions and to try to destroy the kind of collective representation that has been a hallmark of the labour movement in this country. While we have heard the member for Corangamite talk about the need for the rule of law to apply to all equally in our society, it is clear that the bill's focus is really to get at unions and unionists. And what is the purpose of all this? As I said, one thing that is constant in this parliament is this minister's continued ideological obsession against unionism.

The industrial relations act already contains strict provisions for the disqualification of people convicted of a prescribed offence, and no evidence has been presented by any government member, nor any compelling reason given, that the current prescriptive regulation of registered organisations is somehow inadequate or in need of improve-

ment. As I indicated, an action for contempt of a court order is currently available for acts of noncompliance with an order or for acts that interfere with the process of the administration of justice. So what we have before us is a bill that was brought before this parliament by a minister who has contrived both a situation and a problem that do not exist in the real world. This contrived situation and the so-called problem exist only in the mind of a minister who is driven by an ideological obsession against unionists and the union movement. The minister is clearly posturing as an upholder of the rule of law, and he introduced this bill supposedly to ensure and enshrine the rule of law. But in so doing I think he is trying to create a stereotype of unionists in this country as law-breakers, because he is proposing punitive measures to deal with a non-existent problem.

The existing law requires compliance with court and commission orders that industrial action cease or not occur. As we know, an application can be made under section 127 of the act and, if the order is not complied with, the beneficiary of the order can seek to enforce it by applying to the Federal Court for an injunction. If an injunction is not complied with, a prosecution can be brought for contempt, which is punishable by fines and/or imprisonment. As I know from personal experience, in addition to facing possible injunctions and contempt of court proceedings, union members and union officials are also exposed to financially ruinous common law actions if they engage in unprotected industrial action. I know this from first-hand experience of many cases of employers serving common law writs on union officials—and at times union members—through which they seek millions of dollars in damages, often for the reasons cited of lost production.

The point I am trying to make is that no evidence has been brought to the parliament by the minister which demonstrates any existing deficiency in the powers of the Federal Court to grant injunctions and to punish contempts of court. If any such deficiency did exist then any bill that was brought before this parliament should be aimed at remedying that deficiency. But, as the government and the minister know, that is a fallacy because no deficiency exists. In fact, if there has been a notable failure to uphold the authority of the law in the Federal Court then the fault lies clearly with this government's failure to give effect to existing laws. And I would suggest to the members for Canning and Corangamite that they might discuss this issue further with both the Attorney-General and the minister for industrial relations. We are told that we need this new bill because we have to uphold the rule of law. Our counterargument is that the rule of law is there to be implemented and enforced.

There is a particular case that I want to draw attention to. It goes back to 2001, when a union official refused to pay a penalty for contempt of court. The Australian Industry Group then wrote to the Attorney-General, asking him to uphold the authority of the Federal Court and enforce the penalty. The Attorney-General, much to the AIG's surprise, branded the dispute a 'private' one and refused to intervene. In a scathing judgment, the case judge had this to say:

... it is surprising that the Attorney-General has taken the view that a proceeding for punishment for contempt of the Federal Court is a "private proceeding" in relation to "private interests" and that when there is continuing wilful disobedience and public defiance of an order of the Federal Court that is not a matter that impacts on any "direct" interest of the Commonwealth.

The Attorney-General's view is at odds with decisions of the High Court ...

... ..

The Attorney-General's view of his role in relation to the judicial power of the Commonwealth is also at odds with long standing authority that the Attorney-General is the appropriate officer of the state to represent and safeguard the public interest in vindicating the authority of its courts.

... ..

It is also difficult to understand how the Attorney-General could form the view that the failure to pay a \$20,000 fine to the benefit of the Consolidated Revenue does not *directly* affect the interests of the Commonwealth.

I cite this case as clear evidence that, when provided with the opportunity, this government, this Attorney-General and this minister failed to uphold the authority of the Federal Court under existing law. So I would suggest that the members for Corangamite and Canning and others who have spoken from the government side have further discussions with these relevant ministers to ascertain why they failed to uphold existing law and why this bill was brought before this parliament—allegedly, because the current system was not working.

The failure of this government should not be visited on decent and law-abiding trade unionists, but this is what the bill, essentially, is all about. As I said earlier, the minister sets out to create problems that do not exist and then to create so-called new solutions to non-existent problems as a pretext for further union bashing. In this country there is no problem with compliance with court orders that cannot be resolved through existing processes, laws and institutions. Furthermore, there is no widespread industrial law-breaking by unionists, which the minister well knows but chooses to disregard as he continues to give effect to his antiunion obsessions. I want to repeat that because I think it is a very important point: there is no widespread industrial law-breaking by unionists or unions in this country.

The minister knows this. On 19 December 2002 the minister published a list of 22 alleged breaches of court and commission orders by unionists in the period 1998-99 to 2001-02, almost all of which were untested. In that time frame there were approximately 1,618 applications to the Australian Industrial Relations Commission for orders that industrial action stop or not occur. Assuming that all the applications were granted and the minister's allegations with regard to breaches are correct, then 22 breaches of 1,618 orders means the level of contravention occurring currently in Australia by unions and unionists is approximately 1.4 per cent. A 1.4 per cent level of contravention is the so-called justification for bringing this bill to this parliament. Government members and ministers are certainly drawing an incredibly long bow in trying to create a picture of industrial lawlessness and recklessness when, on the minister's own figures and the statistics that you can obtain, the level of contravention is less than 1.5 per cent.

A 1.4 per cent level of contravention by unionists is being used to justify this bill, but contravention by the top end of town leads to no action. The double standards of this minister are clearly evident. He wants to introduce new offences and penalties for trade union officials, but the government he is a member of has refused to support amendments to the Corporations Act to stiffen penalties for serious breaches of that act. Existing penalties for breaches of Corporations Law are far too lenient, yet this government opposed Labor's private member's bill to rectify this situation. It is a disgrace that hardworking taxpayers have continued to subsidise the most notorious recent corporate handouts—golden handshakes, often to failed CEOs—to the tune of \$50 million a year.

The government has failed to introduce legislative provisions to rein in obscene ex-

ecutive payouts. It has failed to take action against the use of corporate insolvencies and phoenix companies to avoid paying employee entitlements and debts. The minister tries—but very unsuccessfully—to pretend that his so-called even-handedness is the justification for the Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003. He wants us to believe that enforcement of compliance is intended for all, but we know clearly whom it is intended to get at.

Reference has been made by a number of government members to the proceedings of the Cole royal commission. I suggest to those government members that one does not have to look too much further than the Cole royal commission to understand and appreciate what the government's so-called even-handedness means in practice. The Cole royal commission was a political witch-hunt that cost Australian taxpayers \$60 million. The hearings of the commission were disproportionately devoted to issues concerning alleged misconduct by union officials and members. Ninety per cent of hearing time was devoted to allegations adverse to unions. Despite the fact that the commission was provided with the names of 200 companies suspected of illegal or inappropriate behaviour, only one company was properly investigated. Just 3.3 per cent of hearing time was devoted to allegations adversely affecting employers.

In an industry where one worker dies every week, not one employer was put in the box to be questioned about poor safety practices. The commission did not examine evidence of employer noncompliance with legal obligations referred to it by unions. It seems amazing that this could be so when everybody knows that the construction industry suffers from high degrees of tax evasion and

avoidance and that there is widespread incidence of phoenix companies being used to deny workers their legal entitlements and, often, drive subcontractors into liquidation. It seems everybody knows this except the minister, because this fact was verified by the ATO submission to the commission. The submission claimed that the industry hides up to 40 per cent of its income and is twice as likely as other industries to have outstanding tax debts.

You can see in the practice of the royal commission the pretence of even-handedness and impartiality. You only need to look at the time that was given to evidence against the unions, predominantly the CFMEU and its members, and the almost paltry examination of the practices of employers and companies in an industry that we know suffers from high degrees of tax evasion and avoidance, often at the expense of workers. The test of even-handedness and the so-called upholding of the rule of law were exposed in the proceedings of the royal commission as absolute bunkum. No effort was spared in attempting to get at the CFMEU as a registered union and, in addition, at its delegates and members. But little attention, if any, was given to employer breaches of the law, be they through tax avoidance, collusive tendering, use of strategic liquidations to avoid obligations, failure to comply with OH&S standards or the illegal employment of immigrant labour, which is being used to drive down wages and safety standards.

What happened in practice during the proceedings of the Cole royal commission is exactly the kind of sham that would be given effect by the carriage of this bill. This bill has nothing to do with upholding the rule of law. The law that exists should be enforced. There have been opportunities when it could have been enforced when the government

has failed to have it enforced. There is no rational reason for the introduction of this bill. If there are any deficiencies in the current operation of the legislative framework, we should deal with them. But, as we all know, some things never change. The minister's obsession with introducing antiunion, antiworker legislation to this parliament week after week—thankfully, to have it similarly constantly defeated in the Senate—just goes to show that the minister has learned nothing from the realities of industrial relations in this country. This legislation is a sham, and the proceedings of the Cole royal commission give enough reason as to why this bill should be comprehensively rejected by the House and by the Senate.

**Mr ORGAN** (Cunningham) (1.45 p.m.)—I welcome the opportunity to speak to the Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003. However, I must at the outset express my opposition to this bill. It is yet another piece of discriminatory, antiworker legislation in a long list of such legislation that the government has brought before this House. In the same week that this House has dealt with allegations of complicity and favouritism by the Prime Minister in assisting his mates in big business and in which the government has allocated a multimillion dollar assistance package to the firm Manildra, here we are yet again dealing with a piece of legislation which attacks workers in our community, many of whom are on low wages and minimal conditions.

It is clear that the government has got its priorities wrong. This government, from the Prime Minister down, has a long history of attacking workers and, in particular, trade unions. It is part of the ideological crusade by the far right, and the result is an attack on workers' wages and conditions and a diminishing of the quality of life for ordinary Australians. It reeks of pettiness and a lack of

compassion from this government. The Greens will continue to vigorously oppose such attacks and to support unions' and workers' rights both within this parliament and out in the wider community.

This bill seeks to amend the Workplace Regulations Act in the following ways: firstly, to provide the Minister for Employment and Workplace Relations with a mechanism to impose financial penalties for noncompliance with orders of the Australian Industrial Relations Commission and the Federal Court; and, secondly, to provide the minister with the power to pursue civil penalties against officers and employees of registered organisations—most obviously trade unions—who are fined by the court for failing to comply with court and commission orders. In other words, the minister wants the power to pursue union leaders personally for disqualification if they ignore return to work and similar orders. It is yet another savage and senseless attack on unions by the minister and the Howard coalition government. We have heard here in this debate the member for Rankin refer to the minister as 'one-eyed', 'a far right zealot', 'a bully', 'flint-heart', 'the minister for conflict' and 'the minister for division'. I must say that I have heard similar comments in my electorate of Cunningham, such is the widespread concern at the direction this government is taking in the area of industrial relations reform.

The Greens are strongly opposed to this bill, as we believe it will provide the minister with extraordinary, unnecessary and unjustifiable powers in regard to pursuing this government's misdirected and regressive ideological agenda. The bill reintroduces provisions which were withdrawn by government prior to the passage of the Workplace Relations (Registration and Accountability of Organisations) Act 2000. This act only passed due to a last minute deal between the ALP and the government after the most con-



roversial elements of the legislation had been removed. The workplace relations minister has been reported as saying:

People of a mind to defy the commission or the court, people who say—as one union official boasted not so long ago, he collected section 127 orders in his top drawer—people of that mind are now on notice that they will face heavy fines and possible disqualification from office if this government gets its way.

The extension of the workplace relations minister's power into the sphere of the Federal Court and the Industrial Relations Commission in this context is both unreasonable and unnecessary. The federal government wants to heavily fine and automatically disqualify trade union representatives who fail to comply with orders of the court, even if the court or the parties involved do not wish to pursue legal remedies. This necessarily entails an unacceptable venture by the minister into a decision making realm in which he does not belong and which this parliament, in good conscience, should deem unacceptable. The minister for workplace relations is not the appropriate person to be seeking extra powers in this area.

The minister has advised taking a narrow-minded approach to unions. He has an obvious lack of appreciation of the important role that unions have played and continue to play in Australian society. The minister is riding roughshod over entrenched legal, political and socioeconomic traditions—such as the right to defend workers' entitlements—that serve an important purpose in any democratic and free society. His convictions about what role the government should play in crushing the power of unions are dangerous and misguided. He and his colleagues have engaged in a war against the union movement, and he seeks to implicate the parliament in this war.

In an address last year to the H.R. Nicholls Society, the minister made the point that he believes the government should consider taking on the role of what he described as 'industrial policeman'. This militant approach to an important component of the Australian community is not the path that this parliament wishes to tread. The Howard government has taken too extreme an approach to the union movement, and this parliament must be mindful of the wider social and political impact of condoning this approach. The federal government prides itself on its record of responsible government. Government, in broad terms, has a role to play in certain circumstances as an arbitrator in the political sphere; however, its involvement should be as a disinterested party, not in pursuing a biased and narrow-focused ideological agenda. In this circumstance the government is seeking to impose its will over a matter which is clearly within the jurisdiction of the law. This is unacceptable. Under these circumstances we can conclude that, whilst the government is obviously driven, it is not being responsible.

The proposed legislation is unnecessary in respect of the court's existing powers. Currently, the situation of a party failing to comply with a court order can simply be addressed by an action of contempt of court. The government wishes to exert power in imposing fines where findings of contempt are made. In the past, impositions of fines by the court in civil cases of this variety were not considered acceptable. However, in more recent times, the court has proven itself more willing to make punitive orders in these circumstances. There is simply no need for the minister to have this capacity. Indeed, such powers should only be extended to a government minister in extreme circumstances when a pressing need is demonstrated. Even then, providing the minister with such pow-

ers is questionable. The government has provided no compelling evidence as to why these powers are required, aside from its obvious agenda against unions. Of particular concern is the fact that the minister wishes to pursue orders where the parties and the court have chosen not to. This is an extreme and unnecessary measure.

The Greens also have concerns about the provisions of this bill in relation to comparable corporate governance disqualification provisions; for example, the court currently has the power to disqualify managers where it is satisfied that disqualification is justified after going through the relevant process to ensure fairness. Importantly, applications are brought by an independent authority. However, under the proposed bill such a process is not followed; instead applications are made directly by the minister. Disqualifications are automatic but then subject to appeal. So the onus is shifted onto the official. Also there is no additional requirement that the court be satisfied that the disqualification is justified. The government is attempting to provide the minister with the power to bring applications at his whim, which is unjustified and irresponsible.

On the subject of disqualification, under the proposed changes a prescribed order is a fine that the Federal Court has ordered for failing to comply with the civil penalty provision. Once a prescribed order has been made, the subject of that order is automatically disqualified from holding office for five years unless an application for leave to hold office is successful. Disqualification begins 28 days after the prescribed order unless an application for leave to hold office is made. If the application for leave to hold office takes longer than three months to decide and has not been extended then disqualification begins after three months. At present, offences which attract disqualification are criminal type offences such as convictions

for fraud, violence towards another person or intentional damage to property. They also include offences such as committing electoral fraud. Including the failure to comply with a civil order, such as a return to work order, is an anomaly in this context. Including an act that a union official may engage in to protect the interests of themselves or a member shows that this government's assessment of the context and effect of such actions is askew, to say the least.

Trade unions play a crucial role in our society. They assist employees to address the power imbalance that necessarily exists between workers and their bosses. This power imbalance is widely acknowledged within the community, and indeed has been acknowledged by the highest court in Australia. Despite this and in the face of all the evidence to the contrary, the government refuses to acknowledge that unions play a crucial democratic role in our community. Without their contribution, Australian society would be a lesser society indeed. There are almost two million people in Australia who belong to a trade union. Trade unions represent the interests of ordinary Australian people, who would be far worse off if trade unions did not exist or did not fight the battles they have to protect and enhance employment conditions. It is clear that the Howard government is firmly focused upon protecting the interests of those that it actually represents. As the minister himself has said:

The Commonwealth has a duty to the community and the national interest to ensure that its laws are respected and upheld, particularly where this may prevent unlawful industrial action which threatens business performance ...

Recently we have seen the effect of the government's efforts, and a sign of things to come if the government gets its way, with the imposition of a \$300,000 penalty on three major building unions: the Electrical Trades Union, the Australian Manufacturing Work-

ers Union and the Australian Workers Union. These fines, which are far larger than usual, were imposed as a result of the government's pursuit of unions using commercial laws. All three unions agreed to the penalty as a means of settling the restraint of trade dispute. This penalty is part of a deal which includes an agreement by all three unions that they will no longer use picket lines around the Orbost area, where the dispute arose which had been delaying the construction of an East Gippsland gas plant. The government plans to continue this sort of action by setting up a \$7 million legal unit aimed at pursuing unionists.

The reason that the unionists and the community took action in this context was to prevent the company that would eventually operate the plant, Upstream Petroleum, from employing staff on contract. As a result of the deal, the company agreed to negotiate an agreement with staff collectively rather than use individual contracts. Union organisers do not take action for selfish reasons; they do so with workers in mind to ensure that hard-won conditions, including those to do with workplace safety and wages, are maintained and improved. They do not deserve to be pursued individually, and for the government to intimidate organisers in this fashion is unfair and draconian.

Recently we had a situation in the Illawarra where a stand-off between the unions and BHP Steel might have resulted in the federal government taking action if it had gained the powers it is currently pursuing. The government has promised that cases against unions will be pursued where there is evidence of the defiance of orders and where taking action is in the so-called public interest. In this context it appears that the public interest is, in actual fact, the interest of large companies. The government has promised it

will give particular emphasis to such matters, amongst other things, as the impact of the defined contact on third parties in the broader economy. The Greens wonder if recent industrial action in the Illawarra between unions and BHP Steel might have been a situation where the government would have used its extra powers if it were able. In this circumstance the company took unprecedented action against the unions as tensions increased. As justification, the head of BHP Steel, Lance Hockridge, said something which sounded very similar to the government's reason for taking action against unions. He said:

The bottom line is, this sort of irresponsible action puts investment in this region, by ourselves and other companies, at risk.

BHP Steel said that it had been forced to take unprecedented action against the steel unions to protect its business, its customer confidence and the security of its employees. During this time, BHP Steel initiated action for the contravention of return to work orders. Once again this was a situation where unions feared the company was trying to force employees onto individual contracts. This is an example of union officials taking action to protect the rights and interests of their members in an industrial context where negotiations have broken down and serious loss of rights and conditions may ensue. The pursuit of individual union organisers—such as Mr Andy Gillespie, the Australian Workers Union branch secretary, who in this context was representing the interests of workers—is unnecessarily heavy-handed and unfair. It would result in thousands of Australian workers sacrificing conditions that have been hard fought and hard won.

By introducing this bill the government is indicating its desire to put another nail in the coffin of a fair, just and equitable Australia. What is this government's vision for the fu-

ture of our nation? Is it to have no unions, union delegates in jail, unions bankrupted, workers and their representatives subjected to ongoing intimidation and a lowering of OH&S standards? The Greens condemn this bill and the government for its continued attacks upon the interests of working people in this country and attempts to whittle away the hard-won rights and entitlements of Australian workers and their unions.

**The SPEAKER**—While there is a question before the chair, I think it would be inappropriate for me to call a further speaker at this stage. The member for Burke, while anticipating the call, will be recognised later by the chair. It being 2.00 p.m., the debate is interrupted in accordance with standing order 101A.

#### QUESTIONS WITHOUT NOTICE

##### Veterans: Health Services

**Ms GILLARD** (2.00 p.m.)—My question is to the Prime Minister. Is the Prime Minister aware that the proposed new hospital funding agreements contain a clause—clause 37—that overrides the agreements that each state has with the Department of Veterans' Affairs and would require the states to pay for the medical treatment that veterans receive as public hospital patients? Why is the Commonwealth requiring the states to take on this responsibility when veterans were previously the sole responsibility of the Commonwealth? Will you rule out any changes to current funding for veterans' health through the Department of Veterans' Affairs that would pressure veterans to seek treatment as public patients and ignore their status as gold card holders?

**Mr HOWARD**—I thank the honourable member for the question. Before answering the detail of it I will have a look at the agreement. I have not seen the detail of the agreement. I take the opportunity to assert and confirm to the House that we will continue to

maintain in full the policy commitments that we have made to Australia's veterans.

##### Solomon Islands

**Ms GAMBARO** (2.01 p.m.)—My question is addressed to the Minister for Foreign Affairs. Given the importance of the issue to the security of our region, would the minister update the House on the current developments in the Solomon Islands?

**Mr DOWNER**—I thank the honourable member for Petrie for her question and for the interest she shows in this important issue for Australia. In response to the honourable member for Petrie's question, I am very pleased to inform the House that the Guadalcanal militant leader Harold Keke surrendered into the custody of the Solomon Islands regional assistance mission on the Weathercoast of the island of Guadalcanal earlier today.

The surrender of Harold Keke—and, I understand, three of his associates and some family members—results from discussions that Nick Warner, the special coordinator; Ben McDevitt, the senior Australian Federal Police officer in the Solomon Islands; and John Frewen, the lieutenant colonel, had recently with Harold Keke. As I said, three of Harold Keke's senior lieutenants have been taken into custody. Importantly, the weapons collection process in the Solomon Islands continues to work very well. In this particular case 40 weapons, including 28 high-powered weapons, were handed over subsequent to the surrender by Harold Keke. These weapons were handed over by villagers and militants from Keke's area. This opened the way to establishing a police post on the Weathercoast, which not surprisingly was an outcome very much sought by the people of the area.

Harold Keke and his associates are now being transported from the Weathercoast to Honiara aboard HMAS *Manoora*. They will

be transferred to a secure location on remand. The regional assistance mission—RAMSI, as we call it—will ensure that Harold Keke is kept securely, is protected while in custody and receives all the rights and privileges accorded to him under Solomon Islands law. Keke has been arrested on an outstanding warrant for robbery. A full investigation of the crimes, including murder, allegedly committed by Harold Keke and his group in recent times can now proceed. Keke's activities have caused a great deal of anxiety and fear for many Solomon Islanders over recent years. In early July we provided quite a lot of assistance to people from the Weathercoast in order for those people to be able to sustain their own living.

The surrender by Harold Keke sends a very clear message to other militants in the Solomon Islands that there remains no excuse whatsoever for not handing in guns before the end of the current gun amnesty on 21 August. This is a very important development in the life of the Australian led mission in the Solomon Islands. It is a very great success that the mission has, in the end, been able to persuade Harold Keke and his lieutenants to surrender and that 40 weapons have been handed in, including some high-powered weapons. It is an illustration of the simply extraordinary success of the intervention mission at this stage. Today's events—which are the greatest success so far achieved by the intervention mission—lead one to conclude entirely reasonably that this mission is moving ahead much more successfully and effectively than ever we could have anticipated or hoped.

#### **Health and Ageing: Reforms**

**Ms GILLARD** (2.05 p.m.)—My question is to the Prime Minister. Is the Prime Minister aware that in April 2002 the states and the Commonwealth agreed to establish nine ref-

erence groups which were to work through key health reform issues in the lead-up to the new Australian health care agreements? Is the Prime Minister aware that the executive summary to the report of the nine reference groups states:

The current fragmentation of the health system has been identified by all Groups to be the most significant barrier to realising optimal health outcomes for Australians.

... ..

The overwhelming message from the Groups is that this lack of integration is unsustainable, expensive—

**Mrs Bronwyn Bishop**—Mr Speaker, I rise on a point of order. The standing orders are quite clear that question time is meant to have short questions, not speeches. Indeed, the text from which the honourable member was reading sounded very much like a speech, not a question. She should be ruled out of order or told to get to the point forthwith.

**The SPEAKER**—I would remind the member for Mackellar that I am not aware of any standing order that dictates the length of questions. It has been a custom that questions are relatively brief, and that custom has not so far been transgressed. I have not heard the member for Lalor advancing the argument. I have listened closely to her question. Clearly, any quote should be limited. I recognise the member for Lalor.

**Ms GILLARD**—I will conclude the question as quickly as I can. The quote from the executive summary of the nine reference groups—an agreed Commonwealth-state process—concludes as follows:

The overwhelming message from the Groups is that this lack of integration is unsustainable, expensive and detrimental to health outcomes.

Prime Minister, despite these findings, isn't it a fact that the Commonwealth has aban-

done this vitally needed health reform process and has walked away from any opportunity to incorporate the recommendations of these reference groups into the new health care agreements?

**Mr HOWARD**—In answer to the honourable member's question, I have not read that document, so I cannot tell her whether what she asserts to be a fact is a fact. But what I can tell her from my certain knowledge is a fact is that the Commonwealth has offered to increase health funding to public hospitals by 17 per cent in real terms over the next five years. That represents an increase of \$10 billion. I can also tell her as a fact that, because of the introduction of our 30 per cent tax rebate for private health insurance, we have taken a massive load off the public hospital system of Australia. I can also tell her as a fact that neither the member who asked the question nor her leader can guarantee to the 45 per cent of Australians who have private health insurance that if Labor were to win the next election their tax rebate would be safe.

**Ms Gillard**—Mr Speaker, I rise on a point of order which goes to relevance. My question was about the health reform agenda. If the Prime Minister does not know anything about it—

**The SPEAKER**—The member for Lalor will resume her seat. The member for Lalor has been extended a good deal of licence in this question, as she is aware. The question was about health reform; the Prime Minister was responding to the matter of health reform. I do not think the matter should be widely canvassed, but his answer was entirely relevant.

**Mr HOWARD**—Good health policy in this country requires a contribution from both the public and the private sector. This government, in the 7½ years we have been in power, have not only increased support for

public hospitals; in fact, over the last five years we have contributed more to the support of the states' public hospitals than they themselves have done. Despite the fact that the public hospital system of this country is owned and operated by state governments, we have been more generous than the states have in the funding of them. The reason why the states have not signed the health funding agreements that we have sent to them is that thus far the states of Australia have been unwilling to match the increase in funding that the Commonwealth has offered.

There is this extraordinary situation where the Commonwealth, which does not operate the hospitals, is offering to increase its money by 17 per cent in real terms to guarantee the real-terms funding that they now receive and to give the 17 per cent if the states will match the increase. But so far not one state, not one territory, has been willing to match the increase that the Commonwealth has offered, despite the fact that it does not run these hospitals. They are not Commonwealth hospitals; they are state government hospitals. Every day that Mr Beattie, Mr Carr, Mr Bracks, Mr Bacon, Dr Gallop and Mr Rann refuse to sign those agreements, they are putting at risk the availability of hundreds of thousands—indeed, millions—of dollars extra for the patients of public hospitals. So I would say to the member for Lalor that good health policy in this country depends on having a private and a public contribution. We have made a generous public contribution. We are willing to increase our money by 17 per cent. We have brought in a private health insurance rebate. I can assure the 45 per cent of Australians who have private health insurance tax relief that it is safe under a re-elected Howard government. It would be in danger under an elected Crean government.

#### **Foreign Affairs: Travel Advice**

**Mr CHARLES** (2.13 p.m.)—My question without notice is to the Minister for Foreign Affairs. Would the minister update the House on Australia's current travel advice for Indonesia? Following the attack last week at the Marriott hotel, does the minister have any particular advice for Australians currently in Jakarta?

**Mr DOWNER**—I thank the honourable member for La Trobe for his question. I think he has done a marvellous job in representing the electorate of La Trobe. All of us will regret very much the press release he has put out to say that he will be retiring at the next election. I am very disappointed that he has done that, because he has been a great member. He is a great bloke as well.

**Honourable members**—Hear, hear!

*Honourable members interjecting—*

**Mr Tanner**—They love you when you leave, Bob.

**Mr DOWNER**—We love quite a lot of you, by the way, because you are so completely incompetent.

**The SPEAKER**—I appreciate the fact that the interjections have been good natured, but the minister has the call.

**Mr DOWNER**—Mr Speaker, to get to the serious business here, last night on the basis of new and concerning information my department amended its travel advice for Indonesia. Given the priority the government places on the safety and security of Australians travelling abroad, it is important to emphasise the key elements of this advice. I think the House generally would be quite interested in this because this is a very important issue that gets to the heart of the security of Australians who might be travelling to Indonesia or are in Indonesia. My department continues to recommend that Australians defer non-essential travel to Indonesia.

The message to defer non-essential travel is a serious one contained in fewer than 20 of my department's 139 country-specific advisories. In response to this new information that terrorists continue to plan attacks, Australians should avoid international hotels in Jakarta. This advice is based on new information which has led to an assessment that any international hotel in Jakarta could well be an attractive terrorist target. I remind the House that terrorists may also target other, what are sometimes called, soft targets, including shopping centres or identifiably Western businesses.

I strongly recommend that Australians in Indonesia, particularly those in Jakarta, closely heed this advice. The travel advice for Indonesia also continues to recommend to Australians that they exercise extreme caution throughout the country, especially in commercial and public places frequented by foreigners, and that caution should be exercised in particular in Jakarta, including the central business and embassy districts. Australians still planning travel to Indonesia should consider whether their travel is essential. Any Australians in Indonesia concerned for security should consider departing. The Department of Foreign Affairs and Trade continues to monitor closely the travel advice for Indonesia and will continue to review its advice in light of all new information about possible threats to the safety and security of Australians in that country. I would urge Australians to heed all aspects of my department's travel advice, particularly those in Jakarta at this time.

#### **Fuel: Ethanol**

**Mr CREAN** (2.17 p.m.)—My question is to the Prime Minister. Why did the Prime Minister repeatedly tell this parliament that at the meeting with Mr Honan on 1 August he did not discuss the importation of ethanol

from Brazil? Is it not a fact that this meeting was held only one week after commercial negotiations had broken down between Manildra and two of its biggest ethanol customers: the wholly owned Australian company Neumann and Trafigura? Is it not the case that the only option that Neumann and Trafigura had was to import ethanol from Brazil and is that not what Mr Honan discussed with the Prime Minister at the 1 August meeting? Why does the Prime Minister continue to mislead the parliament and the Australian people about the discussions he had with Mr Honan?

**Mr Abbott**—Mr Speaker, under the standing orders, an imputation of deliberately misleading the House can only be pursued by substantive motion; therefore, the Leader of the Opposition should be made to withdraw that.

**The SPEAKER**—The Leader of the House is right that standing order 144 suggests that questions should not contain imputations. A number of imputations have been contained in questions this week. It is customary though for the term ‘deliberately misleading’ to be deemed as unparliamentary, not the term ‘misleading’. Nonetheless, I do not think that the inclusion of imputations in questions, while tolerated in the past, should ever be acceptable.

**Mr HOWARD**—What I would say in reply to the Leader of the Opposition is that I have said, and I repeat, that the issue of a particular shipment by Trafigura was not discussed and there is nothing in the question or indeed in anything that has been drawn to my attention that would contradict that.

**Mr Crean**—What about the imports from Brazil?

**Mr HOWARD**—The Leader of the Opposition is at liberty to continue asking this as long as he likes, and I will be very happy to continue to respond as long as the House

pleases. What I have said repeatedly is that the context of the question, initiated by the member for Chisholm, was about a particular shipment and that was not discussed in our meeting on 1 August. As to any commercial negotiations, that is a matter that the Leader of the Opposition will need to pursue with the companies. I am not answerable for commercial negotiations of Manildra or indeed any other company. While I am on my feet on the subject, it appears that the Leader of the Opposition’s question could well be sourced from the front page story of the *Sydney Morning Herald* this morning, which of course is a real authority when it comes to stories on ethanol. The author of this particular story was exposed as telling porkies by one of his fellow columnists.

*Government members interjecting—*

**Mr HOWARD**—He was. It took Paul Sheehan of the *Sydney Morning Herald*—

**Mr Latham**—Mr Speaker, I rise on a point of order. The point of order is on the question of relevance. The question was clearly about the meeting with Mr Honan on 1 August, not an article that might have appeared in the *Sydney Morning Herald* last year or one that was written by Paul Sheehan. The Prime Minister should come back to the subject matter of the question that was asked by the Leader of the Opposition.

**The SPEAKER**—There is absolutely nothing inconsistent with my ruling that the Prime Minister is being relevant to the question asked. The member for Werriwa is welcome to check the *Hansard* record under any speakers to see whether or not the same amount of tolerance has not been exercised—as I check the record on a daily basis.

**Mr HOWARD**—That particular story, in a rather extraordinary fashion, carried the headline ‘PM’s officials labelled as spies’. Apparently, if a government is considering a policy change which is designed to protect



the interests of an Australian industry, it has become some kind of political crime to find out the facts. The reality is that this government went to the last election with a policy of increasing the use of biodiesel from domestically produced sources to 350 million litres by the year 2010. The policy context in which the decision was taken on 10 September last year and announced by me on 12 September last year was the threat to the implementation of that policy by large shipments of ethanol from a heavily subsidised industry in Brazil. That was a policy rationale. Of course, as always happens in situations like these, some companies are advantaged and some companies are disadvantaged. It is no secret that Manildra—which has invested, I am told, something in the order of \$250 million in an ethanol industry in this country—was a beneficiary. So indeed was CSR and so potentially would be other companies with the benefit of the capital subsidies that were announced at the time of the last election and reaffirmed by the Deputy Prime Minister—so would they. Before we took that decision we would have to know the facts about the importation—and of course inquiries were made. It was an entirely legitimate use of our post in Brazil to make those inquiries. To the suggestion that in the implementation of a policy like this in making those inquiries we were spying on the commercial activities of the company, as alleged by the managing director of Trafigura, could I simply say, in relation to that gentleman's complaints, that it was such a secret that he himself on 27 August—apparently two days after the inquiries were made by the Australian Embassy in Brazil—told a member of the Minister for Trade's staff of the pending importation. So it could not have been such a deep dark secret.

The other observation I would make is that in the same article he indicated that he

had written to me and had not received a reply. I have checked on that and I am advised that the letter he wrote to me was replied to on my behalf and fairly speedily. I also noticed that the opposition parties in the Senate are proposing to block an excise measure. I simply point out to them that if you do that you will inflict damage on Australian industries and potentially cost Australian jobs.

**Mr Crean**—Mr Speaker, arising from that, could I ask the Prime Minister to table the letter that he says he responded to Trafigura in.

*Honourable members interjecting—*

**The SPEAKER**—Order! Allow me, if I might without any assistance from either side of the chair, to deal with the matter before the chair. The Leader of the Opposition has asked if the Prime Minister will table a document. The Prime Minister has declined to do so but has said he will consider it after he has had an opportunity to evaluate the document. Is that so?

**Mr Howard**—Yes.

#### **Aviation: Security**

**Mrs DE-ANNE KELLY** (2.26 p.m.)—My question is addressed to the Deputy Prime Minister and Minister for Transport and Regional Services. Would the Deputy Prime Minister update the House on recent developments in the government's measures to further safeguard Australian aviation?

**Mr Sidebottom**—I notice the Prime Minister had airport security at Burnie on the weekend.

**The SPEAKER**—The member for Bradon!

**Mr Sidebottom**—What's happened to ours?

**The SPEAKER**—The member for Bradon is warned!

**Mr ANDERSON**—I thank the honourable member for Dawson for her question. We are all well aware—all too well aware—of the risks posed to aviation security by terrorist activity in both our region and more broadly across the globe. We tightened aviation security very significantly and very, very quickly after 11 September 2001 and the events of that date. We have introduced significant new measures since then, and they include tighter airport access control, enhanced passenger and baggage screening, the placing of air marshals on domestic flights, an increased Australian Protective Service presence at airports and working with the industry to introduce 100 per cent international check baggage screening by the end of December 2004, a year ahead of ICAO deadlines. We have also moved to introduce a domestic check bag screening capability by the same date. There are also proposals now being implemented for more stringent background checking for holders of aviation security identification cards—ASIC cards as they are known—including the introduction of politically motivated violence checks. The ASIC scheme is also being extended to cover all airports where passenger screening is mandated.

Despite these and other significant measures that have been introduced, I want to stress—and I think this is reassuring for the public; they would expect it and I want to reassure them that we do this—that we are constantly examining, re-examining and reviewing the adequacy of the system we have in place to ensure that it is as effective as it can possibly be. Naturally, this is judged by reference to the best and the most recent intelligence that we can obtain from our security agencies. As part of the continuous review process, as the PM has indicated today, the government has asked the Secretaries

Committee on National Security—or SCONS as it is known—to undertake an assessment of our aviation security system. That assessment will form the basis for advice to the National Security Committee of Cabinet. SCONS will draw on intelligence, border control, transport, policing and technology expertise from across the Commonwealth as part of its assessment process. Amongst other things, that committee will examine the latest intelligence and what its implications are, how immigration and border control and airport security arrangements contribute to an effective system, which of our existing arrangements we might need to change or augment or make less predictable to meet the emerging threats, what new technologies—and they are rapidly emerging and evolving—might be appropriate for us to consider and whether we need to expand our existing system, and if so how. I do want to stress that this is an absolutely high priority for the government. The work will proceed promptly and we will respond as quickly as possible and take whatever action is deemed necessary to ensure that our aviation security arrangements are as tight and as effective as we can humanly make them.

**Fuel: Ethanol**

**Mr CREAN** (2.29 p.m.)—My question is to the Prime Minister. I refer the Prime Minister to his meeting with Mr Honan on 1 August 2002 and ask him: although the specific shipment of ethanol from Brazil had not been finalised at the time, on the basis of Manildra's meetings and discussions with the wholly owned Australian company Neumanns and Trafigura in July, did Mr Honan inform you that a shipment from Brazil was likely?

**Mr HOWARD**—The shipment of Trafigura was not discussed. There was a general discussion about many aspects of ethanol policy. The position of domestic

ethanol producers would have been part of the discussions. I think there are matters relating to a takeover that is unrelated to this particular issue, and they were discussed. Certainly there were various competitors in the market, but at that time I had absolutely no knowledge of a pending shipment from Brazil of ethanol. What is more, I have been informed that at the time that the government first became aware that there was going to be a shipment from Brazil it was, in the knowledge of the officials to whom I have spoken, the first occasion that imports of ethanol had ever come into the calculations so far as Australia was concerned. And that is the significance of the policy that I quoted to you in answer to the first question.

You see, we did go to the last election with a policy to boost the amount of ethanol and other biofuels. In our policy, Biofuels for Cleaner Transport, there is the following paragraph:

The Coalition will set an objective that fuel ethanol and biodiesel produced in Australia—

not produced in Brazil, not produced in China, not produced in America, but produced in Australia—

from renewable sources will contribute at least 350 million litres to the total fuel supply by 2010.

That was the driving policy reason for the action taken by the government. That is the reason. That is the reason we took the decision. But the Leader of the Opposition, as I said in answer to the first question, can ask as many questions as he likes. The pending shipment from Brazil was not discussed, because I did not know about it, and to the best of my understanding—but you would have to ask Mr Honan—neither did Mr Honan.

**Mr Crean**—Mr Speaker, I rise on a point of order which goes to relevance. My question was quite specific: whether Mr Honan

informed the Prime Minister of a likely shipment.

**The SPEAKER**—The Leader of the Opposition will resume his seat. I have listened very closely to the Prime Minister's response, and the Prime Minister was being relevant by any measure.

#### **Economy: Performance**

**Mr PYNE** (2.33 p.m.)—My question is addressed to the Treasurer. Would the Treasurer advise the House of the results of recent surveys of business and consumer sentiment? What do these indicate about the strength of the Australian economy? What measures underpin this strength?

**Mr COSTELLO**—I thank the honourable member for Sturt for his question on such a significant day in the parliamentary year. I can inform him that the recent NAB business conditions index, which was released yesterday, rose six points to a reading of plus 14, the highest since November of last year, which the NAB noted was consistent with the ongoing strength of the local non-farm economy—growing, they said, at four to 4½ per cent.

In addition to that we had released today, on this significant day in the parliamentary calendar, the Westpac consumer sentiment index. Although it showed that there had been a fall of around 3.4 per cent—and that was coming off nine-year highs—the consumer sentiment index was at a high of 112.5 per cent, about 12 per cent above its long run average. As Westpac noted, part of the fall could be due to a correction from previous months, partly it could be due to reaction to employment figures and partly it could be due to reaction to the bombing at the Marriott hotel in Jakarta.

These indications of the strength of consumer sentiment are consistent with ongoing

retail strength and, indeed, record motor vehicle sales in Australia. I would just like to underline this point. Last year there was an all-time record for motor vehicle sales in Australia, and the sales of motor vehicles for July 2003 were higher than for July 2002, when we had the all-time record. So it could well be that Australia is now coming up for a second all-time record in relation to motor vehicle sales. What has underpinned that? The fact that one million additional jobs have been created means that people are in work and can afford to buy motor cars. Secondly, of course, lower interest rates make it easier to buy motor cars. But thirdly—and let us not understate this—the tax reform which this government implemented was one of the biggest benefits to the motor vehicle industry that there has ever been in this country. We abolished a 22 per cent wholesale sales tax and replaced it with a 10 per cent GST—and in relation to fleet sales the tax rate is zero, because business gets all GST reimbursed. So for fleet sales you came from a situation where Australian producers were paying 22 per cent tax to a situation where they are paying zero. No wonder fleet sales for Australian manufacturers have been so strong and the motor vehicle industry has been running so strongly.

Of course, all tax reform in this country was opposed by the Labor Party. If the Labor Party had had its way the Australian motor vehicle industry would not have had the benefit of tax reform. I was asked what other policies have underpinned our strong results.

*Mr Wilkie interjecting—*

**The SPEAKER**—The member for Swan!

**Mr COSTELLO**—Yes, taking taxes off exports was also part of it, and if the Labor Party had been successful we would still be taxing exports in Australia today. A big part of the story was—

*Mr Wilkie interjecting—*

**The SPEAKER**—The member for Swan defies the chair!

**Mr COSTELLO**—The member for Swan defies logic, Mr Speaker, not just the chair, if I may say so. A big part of it was also the way in which this government underwrote a fiscal policy. I said earlier that Saturday week ago Paul Kelly had a piece quoting the new shadow Treasurer as ‘discovering fiscal rigour’. Unlike the Howard government, Labor was the party of the budget surplus, not the deficit. Poor old Paul; his hands must have been shaking as he tried to type those words. This is a Labor Party that had \$80 billion worth of deficit, and this government has turned it around and reduced Commonwealth debt to GDP to five per cent. I want to explain to the House that, notwithstanding all those changes, Labor has not discovered fiscal rigour—not for a moment. If you want any evidence of that, look at the questions that were asked here in question time. What were they about? They were about more spending on health care agreements. Where is the fiscal rigour in that? This is a government which has increased spending by \$10 billion—a 17 per cent real increase. The shadow minister says that it is not enough and Labor is going to be the party of fiscal rigour. We have a situation where all the Labor Party—the frontbench and the backbench—

*Opposition members interjecting—*

**Mr COSTELLO**—with the shadow minister now intervening—want more spending and the shadow Treasurer wants to criticise the government over fiscal rigour. It is schizophrenic. Two spaces up the frontbench and we are into the height of schizophrenia in a political policy. You can either be for fiscal rigour and support the government’s moves on health care funding, or you can be for health care funding, in which case you do not stand for fiscal rigour. But please let us

know which side of the street the Labor Party want to walk, because we will meet them on either and we will do them on either, because there is only one side that stands for decent economic policy in this country and it is the coalition government.

**Fuel: Ethanol**

**Mr CREAN** (2.39 p.m.)—My question is to the Prime Minister and it relates to the answer he gave to my last question. Prime Minister, if it is true that you were advised that imports of ethanol from Brazil to this country had never occurred, and if, as you have just said in relation to the answer—

**Mr Howard**—I didn't say that.

**Mr CREAN**—You said that you were advised by sources that imports from Brazil—

**The SPEAKER**—Order! The Leader of the Opposition will address his remarks through the chair. The Prime Minister can then respond.

**Mr CREAN**—If it is true that imports of ethanol from Brazil to this country had not previously occurred and if, as you have just said in answer to a question, a pending shipment of ethanol from Brazil was not discussed at your meeting with Mr Honan on 1 August, why does the record of that meeting state that you:

... discussed the payment of a producer credit to ethanol producers to enable Australian ethanol producers to compete with the cheaper Brazilian product.

Isn't this just another example of your misleading this House on this very crucial issue?

**Mr Pyne**—Mr Speaker, I rise on a point of order. The opposition are being anything but propinquitous to standing order 153. Earlier, the Leader of the House advised you that they were making a slur against the Prime Minister that should only be by substantive motion. Under standing order 153, the sug-

gestion that a minister has misled the House can only be done by a substantive motion. I would ask you to require that the Leader of the Opposition either do that or withdraw that question.

**Mr HOWARD**—The position is that on 1 August, when I met Mr Honan, we did not discuss pending imports of Brazilian ethanol either generically or the specific Trafigura shipment. That is my recollection and that is what the record shows.

**Mr Crean**—The record shows—

**The SPEAKER**—The Leader of the Opposition has asked his question.

**Mr HOWARD**—The record does not show that. The record that has been released says that the Manildra Group has engaged Ernst and Young to develop a model for the introduction of a renewable fuel policy and it seeks particular policies designed to help producers in relation to competition with the cheaper Brazilian product. That does not of itself—

*Mr Crean interjecting—*

**The SPEAKER**—The Leader of the Opposition has an obligation to abide by standing order 55 and I expect him to do so.

**Mr HOWARD**—I do not for a moment suggest that there was any reference in that meeting to pending imports, either generically or the Trafigura import. I did not suggest that. The reference I made in an earlier answer to the advice that I received—

**Mr Crean**—Mr Speaker, I rise on a point of order. It goes to relevance. Is the Prime Minister seriously suggesting a record—

**The SPEAKER**—The Leader of the Opposition will resume his seat. That was a frivolous point of order.

*Mr Crean interjecting—*

**The SPEAKER**—The Leader of the Opposition will withdraw that interjection against the chair.

**Mr Crean**—I withdraw it against the chair, but I ask the Prime Minister to answer the question.

**The SPEAKER**—The Leader of the Opposition will resume his seat.

**Mr HOWARD**—I repeat what I have said from the beginning of this series of questions. Importations of ethanol from Brazil, either the particular importation with Trafigura, which was the starting point of the questions, or indeed generically, were not discussed. That is the case.

**Mr Crean**—The note!

**Mr HOWARD**—The note does not mention imports.

#### Fuel: Ethanol

**Mr McARTHUR** (2.45 p.m.)—My question is addressed to the Minister for Employment and Workplace Relations. Is the minister aware of job losses at the Manildra production facility at Altona in Victoria?

*Mr Zahra interjecting—*

**The SPEAKER**—The member for McMillan is warned!

**Mr McARTHUR**—What is the cause of these job losses? What is the government's—

*Ms Roxon interjecting—*

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

**Mr McARTHUR**—I will repeat my question. My question is addressed to the Minister for Employment and Workplace Relations. Is the minister aware of job losses at the Manildra production facility at Altona in Victoria? What is the cause of these job losses? What is the government's response?

**Mr ABBOTT**—I thank the member for Corangamite for his question. I regret to inform the House that the Labor Party's dis-

honest anti-ethanol campaign, a campaign which has nothing whatsoever to do with good policy and everything to do with grubby politics, has now claimed its first victims—not the Prime Minister; the victims are 50 innocent workers who are losing their jobs because of the pressure that this industry has been placed under by the Leader of the Opposition. In this parliament the Labor Party think that they are putting pressure on the Prime Minister, but out in the real world they are hurting the ordinary workers whom they say they are pledged to defend. I ask members opposite: what really counts—hairsplitting about who met whom or protecting the jobs of Australian workers and supporting a good Australian industry? I have a letter here from the Manildra Group which says:

I write to inform you that as a consequence of the Australian Labor Party's continuing attacks on the biofuel industry, in particular ethanol, and the anti-ethanol campaign being waged by the four big oil companies, the Manildra Group has reluctantly made the decision of severely reducing the operations of its Melbourne Altona production facility. As a consequence of this reduction, some 50 people will be made redundant over the next several weeks. The reduction in production output at this plant and the loss of so many jobs, with the potential of further redundancies, can be laid squarely at the feet of the federal opposition and, in particular, the honourable Simon Crean.

It was not always thus. Back on 2 November 2001, Dick Honan had a secret meeting with the Leader of the Opposition at which the Leader of the Opposition pledged to support the ethanol industry. I note that in that year Manildra gave \$55,000 to the Australian Labor Party. Not only that, but in 1993 the Leader of the Opposition, the then minister for primary industries, had several secret meetings with Dick Honan and the Manildra Group. As a result of those secret meetings, he agreed to provide the ethanol industry with the highest level of support it has ever

enjoyed—an 18c a litre ethanol bounty. I call on the Leader of the Opposition to come clean about his dealings with Manildra and to release all documents and all communications between him and the Manildra Group and, in particular, to reveal all financial donations from Manildra to the Australian Labor Party, including recent financial donations.

This is not just about the 50 jobs in Lalor, about which the member for Lalor has been conspicuously and cowardly silent; this is about 900 jobs around Australia—900 jobs that are being sacrificed on the altar of the political expediency of the Leader of the Opposition. Nine hundred jobs, \$143 million a year in exports and a \$350 million investment are all being sacrificed because of an unholy alliance between the Leader of the Opposition and big oil. What else can we expect from the Leader of the Opposition, who will betray any friend, sacrifice any principle and destroy any job if it helps him to keep his own job?

**Mr Latham**—Mr Speaker, I rise on a point of order. This is why he is known as the mad monk.

**The SPEAKER**—The member for Werriwa either has a point of order or will resume his seat.

**Mr Latham**—The point of order is on relevance. This personal attack on the Leader of the Opposition is not relevant to the question that has been asked.

**Mr ABBOTT**—Let me say that the member for Werriwa should be catching a taxi for that. The fact is that this is a Labor Party utterly without principle and utterly without commitment to jobs. This is a Labor Party which puts politics first, jobs second and principle last.

### Fuel: Ethanol

**Ms ROXON** (2.52 p.m.)—My question is to the Minister for Employment and Workplace Relations and follows on from his answer to the last question. Is the minister aware of this letter from the management to employees of Manildra Group's Altona plant, advising that job losses at that location were because:

Legislative restrictions have recently been introduced limiting the amounts of ethanol which is permitted in domestic fuel.

*Honourable members interjecting—*

**The SPEAKER**—Order! If the House has quite finished its childish amusement, I will recognise the member for Gellibrand. As all members must realise, the simple thing for the Speaker to do would be to apply a general warning. I have not done so, but should I choose to do so it will be because the House has asked me to.

**Ms ROXON**—Minister, isn't the legislative restriction being referred to a decision of the Howard government, one that the Prime Minister boasted of yesterday in question time, which places a cap of 10 per cent on ethanol blending?

*Honourable members interjecting—*

*Mr Crean interjecting—*

**The SPEAKER**—Does the Leader of the Opposition understand what a general warning means?

**Mr ABBOTT**—That was a legislative restriction that was demanded by the federal opposition. In support of that 10 per cent cap, members opposite—

*Honourable members interjecting—*

**The SPEAKER**—Order! I issue a general warning. Anyone who chooses to defy the chair will effectively be asking that they no longer have the opportunity to represent their

electors for the remainder of the day. It is in the hands of the members.

**Mr ABBOTT**—It was a legislative restriction demanded by members opposite and supported by a series of lies peddled by members opposite, including the lie that engines have been damaged by ethanol-additive petrol when in fact it was kerosene, as the member for Fraser well knows. In fact, if anyone in this parliament has misled it, it is the member for Fraser. I ask the member for Gellibrand, who will represent the 50 workers at the Altona plant who will soon lose their jobs—she will represent those workers after the next redistribution—what does she say to those workers who have lost their jobs because of the insane political campaign being run by the Leader of the Opposition?

**Ms Roxon**—I seek leave to table the document that I referred to.

Leave granted.

*Honourable members interjecting—*

**The SPEAKER**—I remind members, including the member for Rankin, of their status.

#### **Aviation: Second Sydney Airport**

**Mr BARTLETT** (2.57 p.m.)—My question is addressed to the Deputy Prime Minister and Minister for Transport and Regional Services. Would the Deputy Prime Minister further advise the House of the issues involved in selecting a second Sydney airport site?

**Mr ANDERSON**—I thank the honourable member for his question and again acknowledge his very real interest in the reopened and unnecessary furore of interest around the Sydney area, inside and outside the basin, about the ALP's desire to find a second airport site. Despite the fact that it is obvious that it will not be needed in the foreseeable future and, indeed, may never be

needed, the opposition is still pressing on with its search.

One option that I am concerned about, I would have to say, is that they might be considering expanding the Richmond Air Force base. The existing runway there is not long enough to handle a Boeing 747 aircraft, so the airport would be of little use in its current form. It could be extended, the member for Batman, I am sure, will be interested to know. He is feigning non-interest now in a second airport facility—it has gone a bit wrong. It could be extended. However, that would involve demolishing part of Richmond or Windsor. You could move it another way. There is a minor obstacle to the west of the airport, which would make it unsafe for passenger aircraft operations, and that is the Blue Mountains. You could move them, or part of them. The other option would be to build a new runway extending south-west across the Richmond-Windsor road, and aircraft landing on the new runway from the south would fly directly over Penrith at 3,000 feet. That, too, presents some technical problems.

In short, I want to say that there are very good reasons for rejecting Richmond, along with the sites that I nominated yesterday—there are a few to work through. Richmond, I want to note today, ought to be rejected, but I fear—and the residents of Richmond fear—that the Labor Party's new site selection committee, site selection committee No. 6, will want to look at it closely. My fears, I think, are well founded, because Labor's policy process here is exactly in line with the six stages that pundits say badly managed projects are sometimes said to go through. The first is wild enthusiasm; the second is total confusion; the third is utter despair; the fourth is the search for the guilty; the fifth is the persecution of the innocent; and the sixth is the promotion of the incompetent.



Labor is currently at stage 4, which is the search for the guilty. That is where they are at the moment. We have already seen the Leader of the Opposition and the member for Batman in a wild state of excitement and enthusiasm. They had identified the greatest electoral winner of all times for the Sydney basin. So there was great, wild enthusiasm at first. That was immediately followed by total confusion for the member for Grayndler because, as he pointed out, Labor's policy was, in his words, 'an example of a bad policy process leading to bad policy'. He said:

The fact is that people such as myself and other members around Sydney airport were not consulted about this policy.

And neither, astonishingly, it emerged, was the elder statesman of the ALP, the Premier of New South Wales. He went on radio after the decision and said that he had not spoken about it to the federal Labor Party either. That produced the next stage. On Monday we heard utter despair in the voice of the member for Sydney, who said:

... I think it was the wrong decision to make. I have been open about the fact that I thought all along it's the wrong decision to make but, you know, all I can deal with is what I've got in front of me ...

The opposition has now moved on to stage 4—that is, the search for the guilty. The member for Batman, having made a complete mess of advising his leader not only on transport policy but on the politics of the Sydney region, is now claiming that it is all Bob Carr's fault. In the *Sydney Morning Herald* this morning he said:

Having succeeded in removing Badgerys Creek from consideration, the Carr Government must now accept its responsibilities in helping to find and protect a new site.

So the Leader of the Opposition and the member for Batman decided they wanted to look for a new second airport, even though

Sydney does not need one. They did not consult their colleagues; they did not consult the New South Wales Labor government. The Leader of the Opposition did not consult Labor's elder statesman, Bob Carr, which is just amazing when you stop and think about it. At least the Leader of the Opposition now knows that his adviser on transport is not up to it in either policy terms or political terms, and we hope he will take notice of that. But now we suddenly find that it is all Bob Carr's fault. All I can say is that we will be waiting with very great interest for the remaining two stages of the Labor Party's site selection process, which I remind the House are the persecution of the innocent and then the promotion of the incompetent. But you would have to say that it is very obvious that they have already started promoting the incompetent.

#### **Fuel: Ethanol**

**Mr CREAN** (3.03 p.m.)—My question is to the Prime Minister. It goes to the answer he gave before the very helpful intervention from the Minister for Employment and Workplace Relations. Is the Prime Minister seriously suggesting that the record of his meeting with Mr Honan, which talks of assistance for Manildra to compete with cheaper ethanol product from Brazil, did not involve discussion of imports of ethanol from Brazil? Is that what you are seriously suggesting, Prime Minister? And, if that is the case, which record are we to believe—the record that has been tabled as a result of the freedom of information request or your statement in this House just before?

**Mr HOWARD**—I stand by what I have said before—that there was no discussion of generic imports or indeed specific imports, meaning particularly the Trafigura shipment. I would simply add that the reason I did not disclose that meeting in September of last

year was that the series of questions was asked in relation to a pending shipment by Trafigura. I remind the Leader of the Opposition and I remind those who are disagreeing with what I am saying that, after that meeting took place—indeed, about three weeks after that meeting took place—the character of this issue was changed when, amongst other things, a representative of the Biofuels Association got in touch with various ministers and got in touch with my office and the managing director of Trafigura spoke to Mr Vaile's staffer, and all of them said, 'There's a shipment coming from Brazil.' It was knowledge of that which provoked Mr Honan to write to me on 28 August. If Mr Honan's discussion with me on 1 August had surrounded this shipment from Brazil, why would he have written to me in the terms that he did almost four weeks later drawing attention to this?

The reality is that Mr Honan had been lobbying for a lot of things. Some of the things that Mr Honan had been lobbying for the government agreed with. He obviously lobbied us after he heard about the Trafigura shipment for something along the lines of the policy change that was made—there is no secret about that—and his company was clearly a beneficiary. Because the excise exemption was removed for everybody and a producer's subsidy confined to the domestic producer, Trafigura suffered and Manildra benefited, just as in relation to the 10 per cent cap on ethanol Manildra has suffered. That is obviously the case.

But that does not alter the fundamental assertion I make, which is the gravamen of the whole debate that is going on around this. The reason I assert that I did not mislead the parliament is that, when I was answering those questions in September of last year, I had in mind the trigger for the whole series of questions—and that was the reference to the Trafigura shipment. I can understand why

the opposition would want to pursue this. It is a perfectly legitimate thing to do, and I do not seek any quarter in relation to that.

But let me assert very firmly to this place and to the Leader of the Opposition and to all members of the House: I have never set out in my parliamentary life to mislead this parliament. I have never set out to mislead this parliament. I believed, when I was answering those questions, that I was answering questions relating to a decision that we took on 12 September to remove the fuel excise exemption and to bring in a production subsidy. That is why I answered as I did. That is why I repeat to this parliament that, when I saw Mr Honan on 1 August, we talked about a whole range of matters; we did not talk about pending shipments by Trafigura from Brazil, because we did not know about them. That remains the case and nothing the opposition has produced in any way disturbs that defence of mine. I stand by what I have said.

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

**Mr BALDWIN** (3.08 p.m.)—My question is addressed to the Minister for Small Business and Tourism. Would the minister inform the House how the federal government is helping to reduce the tax burden on Australia's 1.1 million small businesses? Is the minister aware of any recent reports of excessive state taxes and charges being placed on small businesses?

**Mr HOCKEY**—Thank you to the member for Paterson, himself a former small businessman. Like so many on the coalition side, he has real experience in small business. We still lament the passing from the Senate of Barney Cooney, the last remaining Labor member ever to have worked in a small business. This side of the parliament, the coalition, is committed to reducing or abolishing taxes on small business. That is why we reduced company tax from 36 per cent to 30 per cent. That is why we abolished

the debits tax. That is why are abolishing FID. That is why we abolished provisional tax. That is why now, as a result of our tax reforms, nearly 80 per cent of Australians pay no more than 30c in the dollar in income tax. That is why we halved capital gains tax. These are all big wins for small business, and that is because on this side of the House we believe in lower tax for small business.

In contrast, you have to judge the Labor Party not on what it says but on what it does. Only yesterday we saw Bob Carr try to make political gain out of some tort law reform in relation to public liability insurance. The truth of the matter is he did nothing about the state taxes on insurance. All he did was mouth off about some initiatives in public liability that are not going to make an ounce of difference. I challenge Bob Carr to go and speak to the small businesses in Port Stephens or in Newcastle or in Sydney, or to go and speak to the owner of the Big Banana in Coffs Harbour and ask him how he has had to try and cope with the challenges of high public liability insurance.

*Mr Crean interjecting—*

**Mr HOCKEY**—The member for Hotham talks about the Big Banana. Around the world and around Australia there are some big icons—there is a Big Pineapple, a Big Prawn, a Big Banana, and a Big Mistake. The Big Mistake is in the Labor Party. No amount of public liability insurance purchased by the backbench of the Labor Party is going to cover the accidents of the Leader of the Opposition.

In the lead-up to the small business ministers' meeting, I thought I should find out a bit more about state taxes and charges on insurance. I commissioned a report from Trowbridge Deloitte and I asked them to tell me the 18 jurisdictions with the highest taxes in the world on insurance. They came back and

they said that, coming in at No. 1, with up to 78 per cent tax on insurance, is Victoria. No. 2 is New South Wales, No. 3 is Tasmania, No. 4 is France, No. 5 is South Australia, No. 6 is the ACT, No. 7 is the Northern Territory, No. 8 is Queensland and No. 9 is Western Australia, followed by South Africa, Germany, the United Kingdom, Canada, the United States, Ireland, Singapore, Hong Kong and Japan. Australian states are charging up to 78c in the dollar in tax on insurance premiums. They are collecting up to 78c in every dollar. So, for any small business in regional Victoria that is paying \$1,000 in insurance premiums, \$780 is going to Steve Bracks in tax.

You would think that a state leader would be apologising to small business. I can tell you what Jon Stanhope, the Chief Minister of the ACT, has said. Get a load of this. His response to the claim that Australian states are charging more tax than anyone else is:

While Australia's insurance taxes are high compared to the world, within Australia, the Territory's general insurance rate is competitive with other jurisdictions.

He says we have got the highest tax rates in the world but, sure, we are competitive with other jurisdictions! I am happy to table that and I am happy to table my press release warning the Chief Minister of the ACT that someone has stolen his letterhead and put out a hoax press release.

#### **Fuel: Ethanol**

**Mr CREAN** (3.13 p.m.)—My question is to the Prime Minister. I refer the Prime Minister to the story in the *Sydney Morning Herald* today that the government directed embassy officials in Brazil to make investigations into the shipment of ethanol from Brazil. Is the Prime Minister aware that a Mr Paul Moreton, head of the wholly Australian owned company Neumann Petroleum, a co-

owner of the Brazilian ethanol shipment, told ABC radio today:

This lack of direction and leadership demonstrated by the federal government has deprived Australia of what could have been a real scale ... industry ...

... ..

I find it odd that the Prime Minister can have resources chasing around shippers in Brazil and not contact us.

Prime Minister, why didn't the government advise the wholly Australian owned Neumann Petroleum of its intentions on ethanol policy, a decision which cost that company \$400,000, when clearly Mr Honan had prior knowledge, on or about 28 August, of this decision—a decision which has benefited his company already \$21 million in the first year of operation? What is fair and decent and transparent and open about such a process?

**Mr HOWARD**—The decision to remove the excise exemption was taken on or about 10 September. It was a cabinet decision and it was taken on the basis of papers presented to cabinet. The Leader of the Opposition shakes his head. I did not notice the Leader of the Opposition at the cabinet meeting. The reality is that the decision was taken on 10 September. The Leader of the Opposition asserts that Mr Honan knew on or about 28 August. What is the basis of the Leader of the Opposition's assertion? The Leader of the Opposition makes assertions. In his question, the Leader of the Opposition said Mr Honan knew on 28 August. How does he know that? No decision had been taken.

**Mr Crean**—Because he wrote you a letter thanking you.

**Mr HOWARD**—Oh, I see; because he writes me a letter, that is automatically a decision. We took the decision on 10 September. It was taken by cabinet and, I repeat, it was taken against the background of our policy that we took to the 2001 election. Self-

evidently, if we had allowed a flood of imports from Brazil we would never have been able to achieve that policy. We may have got the consumption of ethanol and other biofuels up to 350 million litres, but we would never have been able to achieve any gains for the local industry. The reason, fundamentally, in policy terms, why this decision was taken was to ensure that if we were to move towards 350 million litres it would be the local Australian industry that would benefit. That plainly included Manildra, included CSR and in time would have included a large number of other small organisations that were to get the benefit of our capital subsidies.

Was Mr Honan lobbying? Yes. Do other business men and women lobby? Yes. Were Trafigura and Neumann disappointed with the decision? Yes. Were they economically affected by the decision? Yes. Were other companies economically helped by the decision? Yes. Every time a government takes a decision that alters the normal flow of the market and affects barriers and impediments you will get some winners and some losers. We had a policy objective which was the background for the decision that was taken. I find the unwillingness of the Leader of the Opposition to accept the value of a policy that helps a local Australian industry quite extraordinary.

#### **Trade: Free Trade Agreement**

**Mr BAIRD** (3.17 p.m.)—My question is addressed to the Minister for Trade. Is the minister aware of media reports of comments by United States Undersecretary of Commerce Grant Aldonas about the implications for the Pharmaceutical Benefits Scheme in the United States free trade agreement negotiations? Would the minister inform the House of recent developments in these important negotiations?

**Mr VAILE**—I thank the honourable member for Cook for his question. I acknowledge his interest in—and, of course, his very strong support for—our ambitions in our negotiations with the US for a free trade agreement. I am aware of some comments, reported in today's media, made by Undersecretary Grant Aldonas with regard to the PBS. I have had a discussion today with Undersecretary Aldonas. He has, in fact, been on ABC radio today clarifying his position and that of the US in this regard and indicating that that particular story, which was printed this morning, was partially a misrepresentation of his intentions and what he had to say. He has said that the US is not trying to rewrite the Australian health policy and that both the US and Australia need to be sure the existing arrangements deliver the goods for our citizens. We certainly agree with that.

He also acknowledges that many of the issues associated with the PBS are not in the scope of the free trade agreement. For the information of the member for Cook, throughout the year we have had lengthy discussions with US negotiators and explained the structure of the PBS and the way it works. That included a number of meetings that I have had with the USTR, Ambassador Bob Zoellick—most recently about two or three weeks ago in Washington—explaining exactly how the system works in Australia. As part of those discussions, I have spent a fair bit of time drawing a comparison between the structure here and the formularies that work in the US. The US negotiators have a much better understanding of how the system works. To that effect, US chief negotiator Ralph Ives earlier this year said publicly that the US 'is in no way going after the PBS'. He went on to say:

Let me stress ... that the FTA will in no way affect the basic framework of the PBS or the way medicines are delivered to Australians.

Our government's position is very clear, and we have enunciated it on many occasions. Our position is that, whatever proposals the US may put in the FTA negotiations, our government is not going to negotiate away our ability to provide good public policy for the Australian people—and that includes in the area of health. The PBS is recognised internationally as a model system for formulary management. It provides subsidised access for individuals to a wide range of high-quality, cost-effective medicines at a cost that both individuals and the community can afford.

Given that Undersecretary Aldonas is in Australia for the Australia-America leadership dialogue, I will take the opportunity of having further discussions with him in Melbourne on Saturday. Those discussions will include issues surrounding the FTA negotiations and the WTO negotiations. Again, I will reiterate our position on this particular issue, as I have outlined it to both Ralph Ives and Bob Zoellick.

I think it is important that the House note that, if there is any threat to the PBS system that operates in Australia today, and the sustainability of the PBS system in Australia today, it does not come from the United States or our proposed free trade agreement but from the Australian Labor Party, which will not pass in the Senate the government's legislation that will ensure the sustainability of the PBS system. That responsibility lies with the Labor Party. If they pass our legislation we can ensure the sustainability of the PBS system. The threat does not come from our negotiations on the FTA.

**Fuel: Ethanol**

**Mr CREAN** (3.22 p.m.)—My question is to the Prime Minister. I ask the Prime Minister if he can confirm advice sent to him on 29 August 2002 which was signed off by PM&C, DFAT and the Department of Industry, Tourism and Resources as well, but not the Treasury. The title says, 'Address: Prime Minister (for information as requested)'. It then says:

**Background**

You requested further advice on the possible replacement of the current excise exemption for ethanol with a subsidy for domestic ethanol producers.

It goes on to say:

DFAT advises that the Brazil Post has confirmed that a company trading in Rio de Janeiro as Trafigura has a shipment of 12,000 cubic metres of ethanol to go to Trafigura Limited in Sydney. The shipment has yet to leave Brazil.

The advice goes on to talk about the scheme and how it was a scheme that could be rorted. Prime Minister, I ask if you can confirm that advice. I also ask why this advice was not contained in the freedom of information list sought by the opposition from your department in relation to these matters. Will you release all the information now on what has become a disgraceful cover-up by your government to protect a domestic producer?

**The SPEAKER**—The Leader of the Opposition will withdraw the latter reflection. The question stood in its own right without that reflection. The reflection did nothing for the integrity of the question.

**Mr CREAN**—I withdraw the reflection.

**Mr HOWARD**—I will check the record. I could have got advice to that effect, but I will check the record before I confirm it. Let me repeat: I am not disguising the fact that we sought information about this shipment. I am not disguising that fact at all. I am not disguising the fact that I like to protect local

industry. I like jobs for Australians—I am not disguising that fact. There are a few on your front bench who would secretly agree with me on that.

**PRIME MINISTER****Censure Motion**

**Mr CREAN** (Hotham—Leader of the Opposition) (3.24 p.m.)—by leave—I move:

That this House censure the Prime Minister for his ongoing pattern of deceit in:

- (1) falsely denying on 17, 18 and 19 September 2002, that he had met with Mr Dick Honan of the Manildra Group prior to the Government's decisions on ethanol that overwhelmingly benefited the Manildra Group;
- (2) falsely claiming that his misleading statements to the Parliament about the Meeting with Mr Honan were not relevant to the questions asked of him on 17, 18 and 19 September 2002;
- (3) not releasing full details of the record of meeting or other documents relevant to the origin of the Government's ethanol policy;
- (4) failing to fully disclose the documents and circumstances surrounding the Honan meeting and the policy that flowed from it;
- (5) misusing the resources of the Australian Government to commercially damage the competitors of Manildra so as to protect the monopoly position of the Manildra Group;
- (6) applying a double standard in its treatment of two Australian businesses by protecting and subsidising the Manildra Group at the expense of the smaller wholly Australian-owned company, Neumann Petroleum which lost \$400,000; and
- (7) misleading the House again today with his assertion that his discussion with Mr Honan did not involve the discussion of the import of ethanol from Brazil.

**The SPEAKER**—Before the Leader of the Opposition continues, I remind all members of the general warning that applies and of the obligation people have to put their remarks through the chair.

**Mr CREAN**—What started as a misleading of the parliament by the Prime Minister has now become a scandal and a cover-up by this government. This is ‘Ethanolgate’. This Prime Minister has involved himself in a process to protect a mate and he has done it at the expense of that mate’s competitors. This is the charge that the opposition is making: the Prime Minister and the government entered into an arrangement with Mr Honan which was not only deliberately designed to protect Manildra from competition but also done in such a way as to cause financial loss to its competitors—in particular, to Neumann, an Australian owned company, and Trafigura.

These competitors, Neumann and Trafigura, wanted to deal with Manildra. They wanted to source their supply of ethanol from Manildra, as it was virtually the monopoly supplier of ethanol in this country, but Manildra would not deal with them. When these two companies realised that they could not get their source of supply from Manildra, they were left with no choice: they had to seek to get the product from overseas in order to keep their businesses in operation.

This has been a rort. It was an exercise designed to protect the business of Manildra and damage its competitors so that Manildra could maintain a dominant position as ethanol supplier in this country. You can ask, ‘What’s wrong with that?’ You may think that, in the normal cut and thrust of the business world, private enterprise is about trying to secure the biggest cut of the cake it can get and making sure that competitors are, if you like, put out of business.

What is wrong with it is the extent to which the government of this country was complicit in this arrangement. The government allowed itself to be used in a way which made it not open, not transparent and

not fair. It went out of its way to hide its decision from Manildra’s competitors, but it bent over backwards to accommodate and inform Manildra. In other words, it was prepared to protect the Prime Minister’s mate and allow open access to, including secret meetings with, the Prime Minister on the issue. But, as for the competitors, it duded them and kept them in the dark. It did this in relation to competitors, including a wholly owned Australian company.

There are allegations in the newspaper today that government resources—its embassy in Brazil—were used to spy on the competitors to understand what it was the competitors were up to in terms of sourcing shipments from Brazil. This is a case, again, of a government that has lied, spied and denied. That is what we have in evidence before this parliament around this whole sordid issue: a government that has lied, spied and denied. It tries to come into the parliament and say that it is protecting Australian jobs. If it was protecting Australian jobs, why didn’t it do the right thing by Neumann? Neumann is a wholly Australian owned company seeking to source its product from Manildra. Unable to get that product from Manildra, it was forced to bring it in from overseas, for the first time drawing it from Brazil. The Prime Minister said he had been advised it was the first time ever it had been brought into this country from that source.

This is what happens when you get a virtual monopolist so in control that they can dictate to whom they supply and to whom they do not supply. Why weren’t the Prime Minister and his industry minister out there ensuring that a company trading in ethanol that was prepared to base itself and operate in Australia was able to access a supply from what had become the virtual monopoly producer in this country? The government did

not lift a finger for the competitors. It forced them overseas then introduced an excise on their product without telling them, and the announcement was made after the vessel left the shores.

Once the contract was signed by Neumann and the ethanol was on the water, if they had landed the product in Australia they would have incurred the excise. This was sovereign risk in its worst form. The government took a decision and knew it was taking a decision. The Prime Minister specifically commissioned a policy response, which he was advised about on 29 August. But he did not tell the Australian public or the world at large until—when was it, Prime Minister?—17 September. But you had made the decision. Do not hide behind the cabinet fiction. You were running this agenda. You had the secret meeting, Prime Minister, with Mr Honan.

It was the Prime Minister who commissioned the work from his then departmental head, Max Moore-Wilton. Do you remember him? He was the troubleshooter and fixer who shared board membership with Mr Honan on the Australian Wheat Board. That is nice and cosy. You talk about conspiracies! I let the public make their own decisions about it. These were cosy little arrangements in which the Prime Minister requested advice as to how this agreement—this scheme—that benefited Manildra, and predominantly Manildra, could be put into place. Let us understand the dimension of this. The Prime Minister mentioned CSR earlier as another provider of ethanol. Manildra is the company that benefits to the tune of 96 per cent of the government's largesse—96 per cent!

The government, and I see the member for Dawson down on the front bench, brought this up and introduced this in the context of—to use the Prime Minister's now famous term, 'the context of things'—supporting the sugar industry. The fact of the matter is

Manildra produces its ethanol from wheat, not from sugar. You did say it, Prime Minister. Around this country you have consistently justified the fact that you are supporting the ethanol industry by saying the government wants to support the sugar industry. But by far the greatest beneficiary of this largesse—this rort—has been the Prime Minister's mate. That is what we have faced up to here. This is Stan Howard mark 2. The only agreement in the country that guaranteed 100 per cent of workers entitlements applied to the company that the Prime Minister's brother happened to chair. And now there is a scheme designed to protect and support the Australian ethanol industry, 96 per cent of which goes to Manildra.

Let us understand the time line in this, because it is terribly important for the record. We have a situation, and I referred to this in question time today, where on 24 July Manildra met with Trafigura, the company that the Prime Minister claims he knew nothing about until the end of August. Trafigura were seeking, like Neumann, to source their ethanol supply from Manildra. Trafigura wanted to buy their product from Manildra. Manildra advised that they did not have the ethanol available due to the high cost of wheat and that they would not be able to supply, but they would review the position within a couple of weeks. The only option that Trafigura and Neumann had in those circumstances—if Manildra could not supply—was to go overseas. They did not necessarily have to go to Brazil, because there are other producers, but given the time line and their business they had to go and source it wherever they could get it in the spot market.

What then happened was that on 7 August there was still no ethanol available from Manildra. That was when Trafigura went back to Manildra and said, 'We still want to be in the market with you.' On 9 August



Trafigura spoke to Neumann. Neumann, by the way, had a contract with Manildra to be supplied with ethanol, but Neumann had been told that Manildra could not meet that contract because they had no product—that is what they told Neumann. Neumann spoke to Trafigura, then both companies looked for alternative sources of supply outside.

On 20 August they bought ethanol in Brazil and they looked for a vessel. Bob Gordon happens to be the head of the Australian Bio-fuels Association, which represents ethanol producers. Effectively it is the lobbyist for Manildra, because Manildra is the beneficiary of 96 per cent of the subsidy. But what else is Bob Gordon? Bob Gordon is the former chief of staff of the Prime Minister. Yes, another conspiracy. Bob Gordon happens to be the former chief of staff of the Prime Minister. It is a nice, cosy little arrangement. Max Moore-Wilton sits on the Wheat Board with Dick Honan, and the Prime Minister's former chief of staff represents the company and lobbies on its behalf.

Let us understand how this time line is working. On 20 August, both Neumann and Trafigura bought the ethanol from Brazil. They have sourced it, they have looked on the spot market and they have bought it. They still had to get a ship, so at this stage there was still no guarantee as to when it would sail. But on 21 August Bob Gordon emailed the government advisers on 'the possibility of fuel ethanol imports into Australia'. He said:

We have reliable advice from Brazil that a significant shipment of fuel ethanol from Brazil is scheduled to be delivered to Australia in September.

That is when the government knew, Prime Minister—and from your former chief of staff. It was not just the spies in the embassy who were working on this; it was your for-

mer chief of staff. The Prime Minister nods. He acknowledges it, yet he was bagging the *Sydney Morning Herald* today for having the temerity to suggest that embassy officials and staff were being used to check on this shipment. The circumstances were that on 22 August Trafigura got a phone call from Dick Honan asking if the cargo had been brought from Brazil. On 26 August, cabinet met on the so-called sugar package and agreed that officials should urgently examine the arguments for and against a mandated level of ethanol in petrol, to provide assistance to the Australian industry. The embassy was instructed to find out information concerning the ethanol shipments. The source of that was Minister Vaile, in the *Sydney Morning Herald* article today. So we can see the sequence of events.

Then came a very interesting piece of advice, which the Prime Minister says he is going to check. I want him to come back into the House today, before he leaves this country yet again. I want him to come back into the House and confirm the existence of this advice, sent to him on 29 August. I will read the words again. It is addressed: 'Prime Minister, for information as requested,' and it reads:

You requested further advice on the possible replacement of the current excise exemption for ethanol with a subsidy for domestic ethanol producers.

Then DFAT advised that the Brazil post has confirmed that a company trading as Trafigura in Rio de Janeiro had a shipment of 12,000 cubic metres of ethanol to go to Trafigura in Sydney. The shipment was yet to leave Brazil. Prime Minister, if Trafigura was not so important in the scheme of things, why was not the reference here—

**Mr Abbott**—Mr Speaker, I rise on a point of order. I ask that the Leader of the Opposi-

tion table the document from which he is quoting.

**The SPEAKER**—The Leader of the House will resume his seat. The Leader of the Opposition has the call. Any calls for tabling can come at the conclusion of his speech.

**Mr CREAN**—The irony is that we asked the government to table this document and they refused. We on this side of the House sought, under freedom of information, access to all the documentation associated with this. Interestingly, this note of advice to the Prime Minister was not included in the list. It was withheld. And the Leader of the House has the temerity to ask me to table it now. I am calling on you to table every relevant piece of information associated with this sordid affair. Next time you lead with your chin, minister, think about the consequences.

This is a government that has conspired with Mr Honan on a fix that fundamentally benefits Mr Honan. This is a scheme which not only advantages Mr Honan but also disadvantages the competitors—and this from a government that talks about competition and wanting to encourage an ethanol industry in this country. An Australian based company and another company that wanted to base their ethanol production, and source it, in Australia are driven offshore because of the monopoly position of Mr Honan and his so-called inability to supply those companies or to give them any guarantees. Then, when he finds out that those companies are forced to source their product outside so that they can keep their livelihood, their existence and their people in work, the government gets the Department of Foreign Affairs to spy on them. It uses the Prime Minister's former chief of staff, who is in constant contact with the government, to advise when the contracts have been signed in Brazil. Then, in the dead of night, in secrecy, it hatches up a little

scheme that will impose an excise on all ethanol products but will only rebate those companies that produce in Australia. That is a handy little arrangement, isn't it? The benefit of such a scheme is that 96 per cent of the government subsidy goes to the Prime Minister's mate's company, Manildra. That is what it means. That is the so-called level playing field.

I asked the Prime Minister before when Mr Honan knew. I asserted that Mr Honan would have known the outcome of this around 28 August. I know that the Prime Minister was advised on 29 August, but we know on the public record that Mr Honan wrote a letter to the Prime Minister on 28 August thanking him profusely for the support he has given the ethanol industry in Australia—that is, 'Dick Honan Inc'. This is not an attack on Mr Honan; he happens to be the person that duped the Prime Minister. This is an attack on the duplicity of the Prime Minister—a Prime Minister who has lied, spied and denied, all to protect a mate and to sink another Australian company in the process.

**The SPEAKER**—The Leader of the Opposition will withdraw the statement that the Prime Minister lied. It is unparliamentary in any language.

**Mr CREAN**—The Prime Minister did not tell the truth.

**The SPEAKER**—The Leader of the Opposition has withdrawn the statement. He understands the rules, and I remind all members of the general warning. The question is that the motion of censure of the Prime Minister be agreed to. Is the motion seconded?

**Mr Latham**—The motion is seconded, and I reserve my right to speak.

**Mr HOWARD** (Bennelong—Prime Minister) (3.46 p.m.)—Those of us who have been in this place a while know that an opposition leader who moves two censure mo-

tions in a week and commences his censure motion using the suffix 'gate' has a pretty weak argument. When I heard the Leader of the Opposition stand up and say this was 'Ethanolgate', I knew that there was going to be nothing new in the speech that the Leader of the Opposition made. Over the past few days, I have listened to the Leader of the Opposition give me a few free character references. In the process, he verbalised me in relation to a large number of things, traduced the reputation of the government and alleged that we have behaved in a way that is deliberately designed to commercially advantage somebody who is described as a close friend of mine.

I am delighted to have the opportunity in this censure motion to reply to the claims that have been made by the Leader of the Opposition. In relation to the question that he asked me at the end of question time about the FOI request, I remind the Leader of the Opposition that when you ask for freedom of information documents from a department, the decision maker in relation to that request is a departmental official. It is not the minister; it is a departmental official. As far as the requests of the Leader of the Opposition are concerned for the tabling of documents, I will give consideration to those requests in the appropriate time and, as has been my custom in the past, I will not respond to time limits imposed by the Leader of the Opposition.

The central charge against me by the Leader of the Opposition is that I misled the House in answering questions in September of last year in relation to the shipment of ethanol by Trafigura from Brazil. I repeat now, as I have previously, that I do not believe I misled the House, because what triggered that series of questions was in fact an announcement that I made on 12 September

2002 concerning the withdrawal of the excise exemption and the introduction of a production subsidy for domestic producers of ethanol. It is true that Manildra is the dominant domestic producer of ethanol. We have always known that. It is also true that CSR is a domestic producer of ethanol. It is also the case that, if the policy that we announced at the time of the last election was allowed to be implemented, over a period of time through the payment of capital subsidies other domestic producers would come into the market. The Leader of the Opposition pokes fun at my use of the expression 'context of', but I am delighted to repeat it because the context of the decision making that went on last year was in fact the policy that was outlined at the last election. That is:

The coalition will set an objective that fuel ethanol and biodiesel produced in Australia from renewable sources will contribute at least 350 million litres to the total fuel supply by 2010.

Note those words 'produced in Australia'. That is why, when we heard about the shipment from Brazil, we naturally looked at that against the prospects of implementing the policy.

Of course Dick Honan was lobbying. Dick Honan is a very active lobbyist, but he is not the first person who has been an active lobbyist around this building, no matter who has been in power. I have to say that the Leader of the Opposition really plumbed the depths when he sneered at the fact that Bob Gordon was for a brief period of time some years ago my chief of staff. What is wrong with that? There are many people who hold industry positions now. Do we sneer at the fact that a man called Dick Wells once ran the Mining Industry Council, and I believe he also worked on the staff of ministers? Does that mean that we traduce his reputation? Does that mean that he does not have the capacity for putting a decent argument on behalf of an

industry association? Do we say that when Graham Evans, who works for BHP, comes into this building and makes representations on behalf of that company, that we do not talk to him, that he is disreputable and dishonest because he was once Bob Hawke's chief of staff? I might also remind the Leader of the Opposition that Bob Gordon was a person of repute, respect and integrity when he worked for the Department of Foreign Affairs and he was at one stage a highly respected official in our embassy in Washington. That kind of character assassination is unworthy even from the Leader of the Opposition, and it is the sort of thing that should be rejected. Of course, Bob Gordon is known to me. So are most of the people who run industry associations. It is my job, it is my business, and I make no secret about it. I will judge these things on the facts in the circumstances.

But what 'new' have we had today? We have had absolutely nothing. Once again, the tactics committee is driven by the front pages of the newspaper. Unfortunately, on this occasion they have chosen a newspaper that was demonstrated to have been deliberately deceptive on this issue by one of its own columnists. Paul Sheehan revealed just how dishonest one of the journalists at the *Sydney Morning Herald* had really been on this issue when he, quite correctly, pointed out that allegations attributed to mechanics at a certain service station in Sydney were in fact completely wrong and completely distorted. But the most extraordinary argument that has been advanced by the Leader of the Opposition today is that there is something wrong with the government instructing its embassy to verify the facts that had been alleged to it by somebody seeking a change in government policy. If I remember the chain of the Leader of the Opposition's argument correctly, what he said was this. He said that the government was informed by Bob Gordon—

and then made the sneering reference to him having been my former chief of staff. He said we were informed by the Biofuels Association, led by Mr Gordon, of this pending shipment from Trafigura. What the Leader of the Opposition asked the House to accept was that we should then not have checked anything that we were told by Mr Gordon. That is what he was arguing. He was in fact criticising us for checking what was put to us by an industry association that he claims is dominated by Dick Honan. I can just imagine what would have happened if we had taken as gospel what we were told by the Biofuels Association. If we had based a policy decision on that, we would have rightly been criticised by the opposition of doing the bidding of the Biofuels Association. Of course we used the embassy in Brazil, and so we should and so we will in the future if it is necessary to assemble the facts before the government takes decisions. There is absolutely nothing strange, there is nothing exceptional and there is nothing extraordinary about that.

The Leader of the Opposition stands up and, on the basis of the letter written to me by Mr Honan on 28 August, he asserts that Mr Honan already knew that the government had taken a decision to bring in the production subsidy and remove the fuel excise exemption. The truth is we did not take that decision until the Cabinet met, I think, on 10 September, and the announcement was made by me two days later. It is certainly true that Mr Honan, when he wrote to me on 28 August, asked that we take that decision. It is certainly true that many other people were lobbying for that decision and it is certainly true that we were seeking advice from the department. We were seeking advice from the Department of Foreign Affairs and Trade about whether any decision of this kind would be WTO compliant. We were getting advice from other departments. We were as-

sembling all the material as any government normally does to take a decision. To suggest without any evidence, without any support, without any documentary proof, that Mr Honan knew on 28 August that this decision was going to be taken is palpably absurd. The reality is that the government followed correct procedures. We decided to make a change of policy. We decided to change that policy in order to fulfil the commitment we had given to ourselves and the Australian public when we went to the election in 2001.

The policy that we committed ourselves to is based upon supporting the production of renewable energy and biofuels by Australian companies. Self-evidently, imports of ethanol from Brazil would not be consistent with that policy. That is why we took the decision. Now people can criticise that decision on competition grounds if they want to and they can criticise it on all sorts of other grounds, but don't criticise it on the basis that in some way it has been done to provide an improper fix to somebody who is meant to be particularly close to me! I do know Mr Honan and so do many people in this parliament, including the Leader of the Opposition. I respect his business acumen. I respect the fact that he has invested an enormous amount of money and been very successful. I happen to admire people who are prepared to put their own money on the line in order to generate employment. I happen to believe that that is a very valuable thing and, just as some other former prime ministers of this country have never denied their association with businessmen, I do not deny that I know him. But to suggest that he is one of my closest friends, to suggest that I play golf with him, to suggest that we are talking to each other every day and he is one of the closest mates I have in corporate Australia is absolutely absurd. The reality is that Mr Honan has been a very generous supporter of both sides of

politics over the years—and doesn't the Leader of the Opposition know it! I think I have said to this House before that the very first time I met Mr Honan he told me how much he admired my predecessor, Mr Keating, and he told me how very clever Mr Keating was and how very hard it would be for me to defeat Mr Keating. I remember that conversation very well: you have a tendency to remember those sorts of conversations. But to suggest that we are on the phone every day to each other is just a little bit too rich and a little bit too extraordinary.

The other point I want to make is in relation to this alleged favouritism and the whole basis of the Leader of the Opposition's speech this afternoon. He has gone off the question time in September of last year and he is now saying that we have in some way provided an improper fix for Mr Honan. I have got to say that if you asked Mr Honan about that he would scratch his head and he would say, 'Gee, I wish in my dreams that you had provided me with such a fix'. Of the two things that Mr Honan 'wanted' most out of this government, there was a mandated level of ethanol use in petrol—that was the first thing he wanted—and he has not got that, and it has been made very clear to him that the government is unlikely to ever agree to such a policy change. The second thing that he desperately did not want from this government was the introduction of a 10 per cent cap on ethanol use. It is true that people were arguing at the end of last year that we should then introduce a 10 per cent cap on ethanol. The reason that we did not introduce it at the end of last year was we were not satisfied that the scientific evidence was compelling enough. Once we had received enough scientific evidence, we were willing to introduce it. In fact, and I checked the circumstances earlier today, as soon as we got that information we introduced that 10 per

cent limit. It is also true that, in the lead-up to the introduction of that limit, there was an unrelenting campaign waged by the Labor Party and by—I stress—‘some’ sections of the media to denigrate the ethanol industry, to destroy confidence in the use of ethanol and, as a consequence, to have a deleterious effect on the operation of ethanol producers in Australia.

That is the history of the matter. If I was such a close friend of Mr Honan’s and somebody who was always doing Mr Honan’s bidding, I can tell you two things: one, as I speak to you today, we would have had a mandated minimum use of ethanol at two or three per cent; and, two, we would not have a 10 per cent cap, because Mr Honan’s company, in certain parts of Australia, was blending petrol up to somewhere between 10 and 20 per cent. The last thing he wanted from this government was the introduction of a 10 per cent cap. He was desperate about the introduction of a 10 per cent cap, because he knew it would have a harmful effect on his industry. So the suggestion that in some way we have acted to favour Mr Honan is a charge that I reject. The Leader of the Opposition has produced no evidence today. He has added nothing to what he said earlier. I repeat what I said at the end of censure motion earlier this week: this would be dismissed with costs before the Waverley police court.

**The SPEAKER**—Before I recognise the member for Werriwa, I once again remind members that a general warning has been issued that applies to everyone.

**Mr LATHAM** (Werriwa) (4.01 p.m.)—How low can a Prime Minister go? On Monday he wanted the House to believe that his answer on 19 September was actually in response to a question asked two days earlier, on 17 September. He wanted us to believe not that the answer on 19 September was in

response to a question asked on 19 September but that he was answering something that had been asked two days earlier. He said that we needed to understand the context. What he was trying to do was turn this House into a time tunnel where the only way in which you can understand the answers of the Prime Minister is to go back two days to try to find out the question that might have been asked then to get the context to the answer that is given to the House now. It is absolutely absurd. It is ridiculous to think the Prime Minister can turn the House of Representatives into a time tunnel.

On 19 September, without reference to a boat from Brazil, without any mention of an ethanol shipment from Brazil in the question that was asked, this is what the Prime Minister had to say:

The member asked me what communication my office had with Manildra relating to the decision to change excise arrangements for the ethanol industry. As I stated earlier, I had not spoken to Dick Honan on this issue.

Down at the Waverley Police Station that is an open-and-shut case. That is an open-and-shut case of misleading the House of Representatives. But today it becomes even more fantastic and unbelievable. Today the Prime Minister wants the parliament to believe that his discussion with Dick Honan on 1 August on the subject of cheaper Brazilian product did not constitute a discussion about ethanol imported from Brazil.

This is a man who was Treasurer of the Commonwealth for six years, who has been Prime Minister of the Commonwealth for seven years—and he is trying to pretend in the people’s forum that product from Brazil is not an import. You only have to state it to understand the stupidity of the comment—the absurdity of a Prime Minister trying to maintain that product that comes from Brazil is not product that is going to be imported into Australia. Where does it come from?

Does it drop from space? How does it get into this country? It is just unbelievable for a Prime Minister to try and pretend that product from Brazil is not an import to the Australian economy.

So there he is, in the first instance, wanting to turn the House into a time tunnel, and now he is wanting to rewrite the economics textbook. Adam Smith must be turning in his grave at the notion of an Australian Prime Minister who thinks that product from Brazil is not in fact an import from Brazil. Every year 11 economics class in the country must be shaking their heads in absolute disbelief. They just would not believe a Prime Minister—who puffed himself up in one of his earlier answers by saying, ‘Please believe me. At long last, please believe me’—trying to pretend that product from Brazil is in fact not an import.

This is Howardomics—Howard economics—where Brazilian product is no longer an import from Brazil. How low can the Prime Minister go? The Prime Minister is debasing the key resource of this parliament. The key resource of any parliamentary democracy is the truth. Without the truth, the Australian people cannot trust anything out of this parliament. Without the truth from their Prime Minister, what can they believe about the future? If they cannot believe in a Prime Minister giving an answer on 19 September in response to the question that was asked, if they cannot believe in a Prime Minister who does not acknowledge that product from Brazil is in fact an import from Brazil, what can they believe in? If you cannot believe in a Prime Minister who says that product from Brazil is not an imported item, what can you believe in when it comes to the future of bulk-billing and Medicare?

All that rhetoric of his about bulk-billing and Medicare—can you believe a single

ounce of it? All that rhetoric of his about the higher education system—what could you believe in the words and statements of this Prime Minister? All that rhetoric of his and his desire to want to fight the next election campaign on national security—if he cannot own up to product from Brazil being an import, how can the Australian people trust him on national security? How can the Australian people trust him on the big issues of national concern? How can the parents of this nation trust him about the future of their children, bulk-billing, Medicare, the higher education system? How can any Australian citizen trust the Prime Minister on the security and safety of our nation if he has not got the honesty and integrity to come into the House of Representatives and tell the truth?

You do not just have to take my word about the importance of the truth in public life. Go back to the Prime Minister’s own words in opposition on 25 August 1995. He said that he wanted to assert the very simple principle:

Truth is absolute, truth is supreme, truth is never disposable in national political life.

I agree with those things, and, if this House agrees with those things, it will conclude today that, because truth is absolute, truth is supreme and truth is never disposable in national political life, this censure motion against the Prime Minister must be carried. Anyone who votes against this is voting against the principle of truth in public life—that truth is supreme, truth is absolute and truth is never disposable in any of our work as elected representatives. This is a Prime Minister in a state of delusion, a Prime Minister defying reality, a Prime Minister avoiding the truth, denying the truth and failing to recognise the truth.

I have to say that, on this side of the House, it has been quite a weird experience.

It is almost surreal. For me it was a bit of *deja vu* because I have been through this once before. I was on *Lateline* on Monday night, debating the Leader of the House, Andre Escobar—the own-goal merchant Tony Abbott—who has disappeared from the chamber. I sat up there in the ABC studio with Minister Abbott, who was trying to pretend that the Prime Minister had answered the question on 19 September in a straightforward way—that he had given an honest answer—and trying to convince ABC viewers and me that this was an honest Prime Minister, when every single indication was and every single fact showed that on 19 September the Prime Minister misled the parliament. There is a record in his own department that shows that when he had that meeting with Dick Honan they discussed the excise policy. He told this House that that issue had not been discussed. It is just unbelievable. You get this surreal feeling about the government.

Minister Abbott's excuse on Monday night was that you needed to look at this in the 'totality of the context'. It was the ultimate in *pollie waffle*, the ultimate in *gobble-dygook*—that this could only be understood in the 'totality of the context'. Of course, he is going to be the last Mohican here today. The chief acolyte is going to be the last one left. He is going to stand up next and try to defend the Prime Minister. The mad monk has become the last Mohican, the last one to stand up and defend the Prime Minister. Two days ago, it was the so-called loyal deputy, the Treasurer, who was up here with a minimalist defence of the Prime Minister—there was one positive thing in a 15-minute speech. The Treasurer has now fled to the doghouse. He was talking about a split personality earlier in question time. It was the Treasurer who was defending the Prime Minister on Monday, but he has disappeared now it is Wednesday. Where is the Treasurer?

Where is Peter Costello? In the two-day gap, he has probably disappeared into the Prime Minister's time tunnel. He talked about a split personality: he defended the Prime Minister on Monday but he has disappeared on Wednesday. This is the Labor Baptist who became a Liberal Anglican. No wonder he is an expert on split personalities.

The Treasurer, Mr Costello, knows that the Prime Minister is a serial offender. After all, the Treasurer was strung out for two years, month after month, day after day, believing that the Prime Minister would live up to his promise to retire on his 64th birthday last month. The Treasurer knows the Prime Minister's pattern of deceit, the Prime Minister's pattern of misleading even his own deputy—so much so that the Treasurer had to go on national TV, on the *Sunday* program, to own up to the fact that he had advised the Prime Minister to resign from office and retire. That is what the Treasurer thought about the Prime Minister's honesty and truthfulness in public life; he said the Prime Minister should resign from office and retire. That is how badly the Treasurer felt about it. No wonder he is not here today. No wonder, having been so badly misled himself, he will not come into the House and say anything positive about the Prime Minister who has deceived him so badly.

Of course, it is not only the Treasurer who has disappeared; as the Leader of the Opposition pointed out earlier in question time, the Treasury itself has disappeared. In the note to the Prime Minister on 29 August, all the departments are there. There is the Minister for Trade's department, there is the Prime Minister's department and there is the industry department. But on the advice to the Prime Minister on 29 August, two departments have disappeared: Treasury and Finance. Why? Because they know this is *crony capitalism*. They know this is an appalling piece of public policy that cannot be



defended by anyone who has an ounce of integrity or economic nous in their body. They know this is crony capitalism. I will quote from what the department of finance said about this decision. No wonder Finance is not on the document that gave advice to the Prime Minister. This is what Finance said about these particular policy decisions:

Finance considers that the measures raised for ministers' consideration will do nothing for the sugar industry, duplicate the objectives of the Energy Grants Credits Scheme, offer no quantifiable environmental benefits, appear poorly targeted, impose significant costs on other Australian industries, especially rural and regional industries, and will potentially result in significant costs to the budget.

That is what the finance department think about this proposal. Whack, whack, whack, whack! They are not going to have a bar of this crony capitalism, this insider's deal, this disgusting piece of public policy that has been whipped up between the Prime Minister and his little mate Dick Honan. Finance are not going to have a bar of it, and Treasury said the same thing when they refused to go on the document of advice to the Prime Minister on 29 August.

The Leader of the Opposition outlined the nature of the crony capitalism: the involvement of Bob Gordon, the former chief of staff to Mr Howard, and Max Moore-Wilton's links with Dick Honan—they were on the Australian Wheat Board together. You only have to look at the chronology. Let us go down the Prime Minister's time tunnel and see what happened in this example of crony capitalism. On 24 July Trafigura, represented by Barrie Jacobson, met with Manildra, frustrated by their inability to get product for themselves—to get Manildra to supply them with ethanol. They were also there on behalf of Neumann Petroleum, a little Aussie battler firm—a small business,

wholly Australian owned and run, with 59 Australian employees—hoping that this government might give them an ounce of fair go. They were frustrated, along with Barrie Jacobson, on 24 July. They could not get the product out of Manildra.

At this point, Manildra knew something very important. You did not need to be Einstein to work this one out. Manildra knew that if Trafigura and Neumann could not get the product from Manildra, there was only one place it could come from: overseas. And that is called an import. Of course, what happened just a week later, on 1 August? Dick Honan was off to see the Prime Minister. What do you reckon he had to say, loaded up with this knowledge? If his two main competitors could not get the product from him and he could stop the imports coming in from overseas, what sort of advantage would he have? So Honan went off to see the Prime Minister. The Prime Minister told us today that what Honan had to say had nothing to do with ethanol from Brazil, nothing to do with imports, nothing to do with shipments from overseas—all of those things that just disappeared off the meeting agenda. They were not discussed for a single moment.

So what was Dick Honan doing there on 1 August, knowing that he was not going to supply ethanol to his main domestic competitors, knowing that if he stopped the goods coming from overseas he would maintain his monopoly position? And the Prime Minister is trying to tell us that these matters of importing ethanol from Brazil were not raised at the meeting? Next he will be trying to sell me the Sydney Harbour Bridge! He is the only one who is buying this nonsense. It is crony capitalism at its worst. Then there is the in-principle cabinet decision on 26 August, activating the thing that Honan wanted

—to make it unfinancial to bring imported ethanol in from Brazil. Manildra was in the loop throughout this process. The Minister for Trade was over here; he sent the word through to the embassy in Brazil, ‘Get your informants out; get your people on the phone. Do the best you can to work out when this shipment of ethanol is going to leave. Do everything you can to find out what’s happening with the shipment of ethanol out of Brazil.’

Manildra were in the loop but do you think they would let Trafigura and Neumann know that they had bought a pup? Do you think for a moment that this minister over here, who lectures us about small business, would let Neumann, a small business firm, know that they had bought a pup? No: he let them load up with \$400,000 worth of ethanol losses and sail across the Pacific Ocean—this was another Pacific solution—to get to Australia knowing full well that they had bought a pup. But they did not realise it for a moment. Only when they got here, only when it was too late did Neumann know that they had lost \$400,000, and the jobs of their 59 Australian staff were put in jeopardy. That is an absolute disgrace, Minister. The next time you try and lecture this House about small business we are going to ram that right down your throat and out the other side, Minister. This is an absolute disgrace.

**The SPEAKER**—Order! The member for Werriwa will address his remarks through the chair.

**Mr LATHAM**—Don’t just take my word for it. Look at the words of Paul Morton from Neumann, who said:

This lack of direction and leadership demonstrated by the federal government has deprived Australia of what could have been a real scale-and-scope industry. I find it odd that the Prime Minister could have resources chasing around shippers in Brazil and not contact us. The shipment represented a very small amount of ethanol

that was coming into Australia. The government should get on with some real work.

I say this House should censure the Prime Minister.

**The SPEAKER**—Before I recognise the Minister for Trade I once again remind all members, including the member for Capricornia, that a general warning has been issued. I presume the Leader of the Opposition would like to stay for the vote?

**Mr VAILE** (Lyne—Minister for Trade) (4.16 p.m.)—This is the second censure motion this week by the Leader of the Opposition on the Prime Minister. Of course, the first one earlier in the week was roundly defeated in this House, as it should have been and as will be this censure motion on the Prime Minister. The Leader of the Opposition has come into the House and used the sort of gutter language and made the unsubstantiated allegations we have become used to. That is the way that the Leader of the Opposition operates. In an opportunistic and very low political way he has alleged that there has been a misleading of the House. He has alleged that the government has spied. He has alleged that the government has denied the allegations put forward.

There is absolutely no truth in the allegations that have been put forward by the Leader of the Opposition and the member for Werriwa. The member for Werriwa spent more time in this debate attacking his opposite number, Mr Costello, than getting to the substance of the issue. I will go to the point he finished on. He spoke about Australian jobs so let us talk about Australian jobs. We can talk about the Australian jobs that are generated by the Manildra Group. They are not just in the ethanol industry. This debate is about ethanol but that, I understand, is a small component of the Manildra Group’s overall operation. The Manildra Group has about \$550 million invested in New South

Wales in flour, starch and sugar operations. Ethanol just happens to be a by-product of one of those operations at Nowra.

The Manildra Group purchases a million tonnes of wheat a year from Australian grain growers, which in anybody's language is a substantial amount of the normal 20-million-tonne crop in Australia. The Manildra Group supports 700 sugarcane growers with its interests in the sugarcane industry. It employs 900 Australians. This is what we were getting lectured by the member for Werriwa about—employment. This company has put its capital resources and its future on the line to employ Australians. Last year it exported \$143 million worth of products from Australia. We are not going to come in here and get lectured by the Labor Party about who generates jobs and the importance of jobs in the Australian economy.

**Mr Fitzgibbon**—You and Howard are protectionists!

**Mr VAILE**—I am not a protectionist. By the way, it just so happens that our government in the last 7½ years has generated over a million jobs in the Australian economy. I will take the House back to the 2001 election. The coalition government's support for the ethanol industry was very clear in our policy statement to the 2001 election. I will read it again:

The Coalition will set an objective that fuel ethanol and biodiesel produced in Australia from renewable sources will contribute at least 350 million litres to the total fuel supply by 2010. Progress towards the objective will be reviewed in 2006.

It went on to say:

To implement the 350 million litre objective, the Coalition will provide, through a grant process from 2002/03, a capital subsidy for new or expanded domestic production infrastructure of \$0.16 per litre of biofuel, until total new domestic

production capacity reaches 310 million litres or by end of 2006/07, whichever is sooner;

It said further:

The Coalition expects that at least five new ethanol distilleries will be established under this program. This will result in around 2,300 construction jobs and 1,100 permanent additional jobs, mostly in rural areas.

In anybody's language that would have to be an admirable objective. That is what we put forward as part of our policy in the 2001 election. Incidentally, Mr Deputy Speaker, as you well know, we were re-elected with that as part of our policy platform.

So we are pursuing those 1,100 permanent additional jobs. Where are we at the moment in terms of our objective status of the possibility of five new ethanol distilleries? My understanding is that there are about 14 new ethanol distilleries proposed, all in rural and regional Australia, where there is much-needed employment to be had. They want certainty that this industry is going to survive in Australia.

The existing producers of ethanol—namely, Manildra and CSR; it is CSR who are providing the ethanol for the trial of the E10 blends in northern Queensland at the moment—need to survive to give comfort to the 14 proposed ethanol distilleries that we want to see established throughout rural and regional Australia and that will hopefully generate 1,100 permanent jobs when they are established. That was part of our policy platform at the 2001 election. As a coalition, we did not make any secret during the election campaign of our objectives as far as the ethanol industry is concerned.

What impediments have been put in the way of achieving those objectives? The first one came last year from the Australian Labor Party when they tried to completely undermine and demonise the ethanol industry in

Australia in terms of what it can do in the supply of fuel in Australia. None of the allegations made have been retracted. The member for Fraser, in particular, stood in this chamber at the dispatch box and made allegations time and time again about the damage being done to motor vehicles in Australia from the use of ethanol. Every single allegation has proved to be false, yet the member for Fraser has not retracted anything he said or apologised for anything he said. He has not apologised to the people in Australia who have lost their jobs because of the actions of the Australian Labor Party or to the people who may not get a job in the future in the ethanol industry in Australia because of the allegations the Labor Party made.

The Labor Party use the same fear and smear campaign in this place and out in the public arena against this industry that they have historically used in this place against their political opponents. And they are at it again now. The Leader of the Opposition, until he was made to retract, said that the Prime Minister has lied, spied and denied—outrageous allegations that have not been substantiated by the Leader of the Opposition or the Australian Labor Party. Nor were the allegations that the member for Fraser made about the damage being done to motor vehicles in New South Wales because of the use of ethanol substantiated. In a doorstep interview he gave on this issue on 18 December 2002, the member for Fraser said:

We have spoken to a number of mechanics and mechanical workshops around New South Wales. More than half a dozen tell the same story ... they speak of cars coming in with damage to engines and reduced performance as a result of purchasing petrol with an excess of ethanol.

The member for Fraser came into this chamber and put such allegations on the public record in the *Hansard*. He has not retracted them. Every one of the allegations he made has been disproved. He had no substantiation

to make those allegations. In fact, when checked—and this was printed in the *Sydney Morning Herald*—the allegation was about kerosene, not ethanol.

When in government, the Labor Party gave 18c a litre as a grant to the ethanol industry in Australia. It was not a production subsidy to balance out an excise that was being applied; it was a straight-out grant. The ethanol industry was given far more support by the current Leader of the Opposition when he was the minister for agriculture and then Prime Minister Keating in about 1992. Who removed that in 1996? The coalition government.

**Mr Latham**—Talk about irrelevant!

**Mr VAILE**—It is relevant. If we were to pursue the documents that were available then, I guarantee that the then Department of Finance and the Department of the Treasury opposed that measure. But obviously the Labor Party of the day saw benefit in supporting an industry that was going to generate jobs in rural and regional Australia. The Labor Party have come to this debate without any credibility at all. They have not substantiated the allegation that the Prime Minister has misled the House. They have not substantiated the allegation that the government has spied. The information that came out in the *Sydney Morning Herald* this morning—an allegation about spying on companies operating overseas—is ludicrous. That information, in my understanding, was put on the public record in Senate estimates last year. So it is not new information.

When the government became aware of the allegation that there was the possibility of a shipment of ethanol coming to Australia which, apart from anything else, would have undermined revenue by about \$5½ million, PM&C asked DFAT to seek information through the embassy in Brasilia. What is wrong with that? That is what embassies are

for. They made a phone call, got a response and brought the information back to Australia. This is not a new revelation. This is not spying. It is not a clandestine act at all. A government department sought information to add value to the debate that was taking place at the time about the development of an industry in Australia. It was not spying. The allegation of spying is absolutely outrageous. The information that initially came to government was about an alleged or proposed shipment of ethanol. Nobody knew who was doing it or what companies were involved, so rather than accept at face value the information that was being provided the government departments decided to find out through their channels and the structures that exist. I am sure that if the Labor Party were in office at the time they would have done the same thing. You used the network of missions around the world to gather information. That is exactly what they are there for: to provide information so governments can make decisions in the national interest.

This is the second censure motion against the Prime Minister this week, and it is the second censure motion that will be defeated. When a censure motion was put forward earlier in the week, the total number of Labor members in this parliament could not even be bothered coming in here to support their leader in moving that censure motion. They did not believe the Leader of the Opposition's allegations against the Prime Minister. Only 58 of them turned up. It will be interesting to see what happens when we have a vote on this censure motion against the Prime Minister of Australia—a Prime Minister who has proved time and time again during his 7½-year term in office that at every turn he and his government take decisions in the national interest, not someone else's interests; not in the interests of the heavily subsidised ethanol industry in Brazil. It

seems that that is where the Labor Party are coming from. The Labor Party are more interested in the ethanol industry which is heavily subsidised by the taxpayers of Brazil, where there is a mandated level of consumption in the fuel of 26 per cent. The Labor Party are more interested in the benefits that will accrue to Brazilian producers than the benefits that could accrue to Australian producers. They want to export jobs out of Australia.

We took measures that would provide adjustment assistance, to see an embryonic industry in Australia developed. It is not about one company or two companies; it is about 14, 15 or 16 companies that have proposals on the drawing board to establish ethanol processing plants that could generate 1,100 jobs across Australia. The Labor Party should be ashamed of themselves for devaluing in the eyes of Australian consumers the benefits that accrue to them and the environment and the community from the use of Australian produced ethanol in fuel consumed in Australia. They devalue that in a very destructive and deceitful way that has not been proved in this House by the government but has been proved in the arena of public debate and in the press of Australia—yet the member for Fraser has still not come into this place and withdrawn the outrageous allegations he made. They were unsubstantiated at the time and remain unsubstantiated.

The Labor Party have come in here and accused the Prime Minister of misleading the House. All through this week we have produced the evidence that substantiates that there has been no misleading of the House. The Labor Party have come in here and claimed that we, through our DFAT officers and the mission in Brasilia, have spied on Australian companies. We have not spied on Australian companies; we have used our

network of missions around the world, as we always do in gathering much needed information, to enable the government to be fully across an issue in order to make decisions about policy. They have alleged that we have denied any wrongdoing; of course there is no wrongdoing. If there had been wrongdoing, surely Manildra would have been benefiting from any decisions we had made. Manildra did not want a 10 per cent cap on ethanol. *(Time expired)*

**Mr KATTER** (Kennedy) (4.31 p.m.)—In rising to speak in the debate on this motion, I must say in all fairness, having been a member of parliament for a very long time, that I think the Prime Minister is one of the most honest members of parliament that I have ever encountered in my 30 years in parliament. I have to say that and put that on the public record, because that is what I believe.

Having said that, the great sadness about this debate is that the ALP, the champions of ethanol in this country—and I flatter them very highly and praise them very greatly for it—have gone on a sidetrack here. They are quite entitled to. I think they genuinely believe what they are saying here today. But what has happened here—and it is happening here again today—is that enormous damage has been done to the cause of ethanol. Anyone here can get the Parliamentary Library's rundown on ethanol. I did yesterday, and I was quite horrified by the document, because, according to the flow of information coming from government departments here in Canberra, ethanol is damaging to the environment. We have a choice of believing the people in Canberra or believing the government of the United States, all of whose reports say that there is a benefit to the environment of around 34 per cent from going down the ethanol pathway—and, of course, the American senators voted, in a near unanimous decision, to have a 10 per cent ethanol blend instituted by 2010.

I did not have the European draft directive to the European Union until two weeks ago. It recommends a mandated six per cent ethanol content by 2010, for environmental reasons. If the ALP were trying to introduce ethanol—

**Mrs Crosio**—This is a censure motion.

**Mr KATTER**—I know what you are saying. If the Prime Minister is being censured today for his efforts to try to develop the ethanol industry in Australia then we must consider what we are doing here today. We must consider that we have a choice. We can say that the American government, which is a government with responsibility for 300 million people, is wrong and that the European government, which is a government with responsibility for 600 million people, is wrong, while all the public servants here in Canberra from the various departments are right. We are a little country of 20 million people, and nobody is going to believe those public servants. I told the Parliamentary Library yesterday that I very much regretted what they had put out. I think the information provided to them by government departments is disgraceful. Those documents from Europe and America are on the public record. The USDA report is one that I remember—it is by Wang and Shapouri—and the draft directive of the EU is available for anyone to pick up off the Internet. But before I close—

**The SPEAKER**—I remind the member for Kennedy that he has an obligation to come back to the question.

**Mr KATTER**—I know what you are saying, Mr Speaker. But, if the Prime Minister has stumbled here—and people on my right are claiming that he did it knowingly and people on my left would claim that there has been no stumble at all, and maybe if there has been it might have been just that, a stumble—he did it in an effort to introduce a

new industry which is worth \$2,000 million to the Australian economy. I most certainly believe and hope that he did it for that reason. That is the justification for an effort made by the Prime Minister to move in a direction that this country should be moving in. There is a \$2,000 million per year benefit to the Australian economy. It is money that will no longer go overseas to buy petrol from overseas; it is money that will come here.

In this whole thing about Manildra one of the most important issues is that it was said to be a production rebate that was given here. It should have been an environmental rebate, because there are very serious problems with the WTO. So again a number of errors have been made in an effort to advance the cause, and it is a very important cause—the cause of ethanol. I do not come from Sydney and I do not represent Melbourne or Sydney, but before I sit down I think it is very important to point out the report in the February 2002 issue of *New Scientist*, which referred to a study on cancer and pollution that was published in the *Journal of the American Medical Association*. The study found that one person in five is dying of lung cancer in major cities because of exhaust fumes coming out of motor vehicles. Of course, ethanol is one of the major ways of overcoming the problem. If there is a way—

**The SPEAKER**—The member for Kennedy must tie these remarks to the censure motion.

**Mr KATTER**—I am saying that possibly there has been a mistake made here. That mistake was made bending over backwards in an effort to do something that desperately needs to be done in this country. The people on my right were champions of that cause. I am very sorry that they have lost their way a little bit, but I hope that they will come back on track. You cannot read the reports by Professor Ray Kearney or any of the other

professor Ray Kearney or any of the other four professors without—

**Mr Latham**—Mr Speaker, I rise on a point of order. I have been listening for five minutes and there has barely been a mention of the subject matter that is before the House. The opposition for one has other important business to transact—

**The SPEAKER**—The member for Werriwa will resume his seat. The member for Werriwa will be aware that I have monitored what the member for Kennedy has said and I have asked him to bring his remarks back to the censure motion, as from time to time he has.

*Mr Ross Cameron interjecting—*

**The SPEAKER**—The member for Paramatta, I have dealt with that point of order. Do you have a further point of order?

**Mr Ross Cameron**—Only that the member for Werriwa in his remarks referred to national security, health, education—

**The SPEAKER**—The member for Paramatta will resume his seat. Had there been a point of order to be raised on the member for Werriwa, I should have heard it then. I listened closely to the member for Werriwa; his remarks were relevant to the censure motion. I am putting precisely the same obligation on the member for Kennedy.

**Mr KATTER**—Let me state this clearly for the House and for the member for Werriwa, who may be a little bit slow and may find it a bit hard to pick up these things. Let me explain it for him, because he is representing Sydney. He should be tuned in very closely to what I am saying because he is going to have a great amount of egg on his face very shortly when a large number of distinguished people in Australia make some very strong statements about the health issue.

**The SPEAKER**—The member for Kennedy must come back to the censure motion.

**Mr KATTER**—If a mistake has been made—and I am not saying that a mistake has been made by the Prime Minister—there is some justification for it because, if we all in this place had full knowledge of the issue we would be inclined to stretch ourselves to a very great length to introduce ethanol into this country, as many politicians have done in the United States and Europe. I am saying that there is a justification for an excess of enthusiasm, possibly, and I am trying to bring to the attention of the House the justification for that excess of enthusiasm.

*Opposition members interjecting—*

**Mr KATTER**—You can keep howling from my right-hand side but if you are listening to what I am saying you would say that this is very important information that should be provided to the parliament of Australia.

**The SPEAKER**—The member for Kennedy will address his remarks through the chair.

*Opposition members interjecting—*

**Mr KATTER**—I cannot take any more interjections. This is most relevant to the reasons this incident occurred. This incident occurred because there are people in this parliament who believe profoundly that we desperately need it this in this country for the health of the people in the cities, for the survival of some of our industries in rural Australia, for our economy and for our environment. The other countries are doing it for the environment. That is possibly the reason for the excess of enthusiasm which has led to this particular occurrence. Surely, instead of what is a fairly petty debate, the time of this House should be spent on whether there is one in five people dying of lung cancer in Sydney or whether there should not be one in five people dying of lung cancer in Sydney.

That is not my point; it is the point made by the *New Scientist*.

Question put:

That the motion (**Mr Crean's**) be agreed to.

The House divided. [4.45 p.m.]

(The Speaker—Mr Neil Andrew)

Ayes.....	64
Noes.....	78
Majority.....	14

#### AYES

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

#### NOES

Abbott, A.J.	Anderson, J.D.
Andrews, K.J.	Anthony, L.J.
Bailey, F.E.	Baird, B.G.
Baldwin, R.C.	Barresi, P.A.



Bartlett, K.J.	Billson, B.F.
Bishop, B.K.	Bishop, J.I.
Brough, M.T.	Cadman, A.G.
Cameron, R.A.	Causley, I.R.
Charles, R.E.	Ciobo, S.M.
Cobb, J.K.	Costello, P.H.
Downer, A.J.G.	Draper, P.
Dutton, P.C.	Elson, K.S.
Entsch, W.G.	Farmer, P.F.
Gallus, C.A.	Gambaro, T.
Georgiou, P.	Haase, B.W.
Hardgrave, G.D.	Hartsuyker, L.
Hawker, D.P.M.	Hockey, J.B.
Howard, J.W.	Hull, K.E.
Hunt, G.A.	Johnson, M.A.
Jull, D.F.	Katter, R.C.
Kelly, D.M.	Kelly, J.M.
Kemp, D.A.	King, P.E.
Ley, S.P.	Lindsay, P.J.
Lloyd, J.E.	May, M.A.
McArthur, S. *	McGauran, P.J.
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.	Tuckey, C.W.
Vaile, M.A.J.	Vale, D.S.
Wakelin, B.H.	Washer, M.J.
Williams, D.R.	Worth, P.M.

\* denotes teller

Question negatived.

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

#### MINISTERIAL STATEMENTS

##### Aboriginal and Torres Strait Islander Commission Act 1989

**Mr RUDDOCK** (Berowra—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (4.54 p.m.)—I wish to advise the House that I have

today issued a notice to Mr Geoff Clark, suspending him from office as a commissioner of the Aboriginal and Torres Strait Islander Commission and consequently as Chairman of ATSIC for misbehaviour pursuant to section 40(1) of the Aboriginal and Torres Strait Islander Commission Act 1989. The suspension is effective from today. Pursuant to the requirement under section 40(3) of that act, I am now tabling before the House a statement identifying Mr Clark and setting out the ground of his suspension.

**Mr McMullan**—I wonder if I could ask the minister—I did raise this with him earlier—to move that the House take note of the paper in case we want a subsequent debate on the matter.

**Mr RUDDOCK**—I move:

That the House take note of the paper.

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

#### PERSONAL EXPLANATIONS

**Mr CREAN** (Hotham—Leader of the Opposition) (4.56 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

**Mr CREAN**—Yes, I do.

**The SPEAKER**—The Leader of the Opposition may proceed.

**Mr CREAN**—Today in question time I claim to have been misrepresented by the Prime Minister. The Prime Minister claimed that I had misrepresented him by saying that he had said, and I quote from the question:

... if it is true that you were advised that imports of ethanol from Brazil to this country had never occurred, and if, as you have just said in relation to the answer—

The Prime Minister then interrupted to say:

I didn't say that.

In other words, he did not say that he had been advised that imports of ethanol from Brazil to this country had never occurred. In fact, if you go to *Hansard* in relation an earlier question that I had asked the Prime Minister, he said:

... the first occasion that imports of ethanol had ever come into the calculations—

**The SPEAKER**—Order! The Leader of the Opposition will resume his seat.

**Mr Abbott**—Mr Speaker, I rise on a point of order. A personal explanation is to show where a member has been misrepresented, not to raise arguments that have been raised in question time and not to put constructions on the words of other people.

**The SPEAKER**—I was listening very closely to the Leader of the Opposition who understands, as I do, that a personal explanation must indicate where the Leader of the Opposition has been misrepresented. I am following closely to discover where the Leader of the Opposition, in an unusually constructed personal explanation, has himself been misrepresented. The sooner he can come to the point of his misrepresentation the easier it will be for me to allow him to continue.

**Mr CREAN**—I was asserting what the Prime Minister had said. The Prime Minister said that my assertion of what he had said was wrong. What I am going to is what the Prime Minister actually said in the parliament to prove my point. I quote:

... it was, in the knowledge of the officials to whom I have spoken, the first occasion that imports of ethanol had ever come into the calculations so far as Australia was concerned.

*Honourable members interjecting—*

**The SPEAKER**—Order! I would remind all members in the House, in the chamber, at this moment, that general warnings do not suddenly expire at the end of question time.

The Leader of the Opposition must understand that he is putting the chair in an invidious position as I trace my way through this map. I ask him to clarify the personal explanation.

**Mr CREAN**—I am just making the point that the Prime Minister cannot even tell the truth in relation to something that he had said five minutes—

**The SPEAKER**—Order! The Leader of the Opposition will resume his seat and withdraw that allegation. The Leader of the Opposition is aware that this is a matter of a personal explanation. I tolerated more leniency in the personal explanation than would normally be exercised. It would be quite outside a personal explanation for the Leader of the Opposition to then say that the Prime Minister cannot tell the truth. I ask him to withdraw that statement.

**Mr Latham**—Mr Speaker, I raise a point of order. I draw your attention to the many precedents where saying that someone cannot tell the truth is not outside the standing orders. The Leader of the Opposition has been misrepresented by the Prime Minister. Under the standing orders, he is making a personal explanation. On a day like this it is not surprising that he has made the common-sense, straightforward observation that the Prime Minister cannot tell the truth.

**The SPEAKER**—Let me first indicate to the member for Werriwa that that was scarcely a point of order. Furthermore, what I had given the Leader of the Opposition the call for was a personal explanation, an indication of where the Leader of the Opposition had been misrepresented. I allowed him a good deal of leniency and do not regret it. Standing order 76 makes it very clear that

All imputations of improper motives and all personal reflections on Members shall be considered highly disorderly.

Given that the comment was made in a personal explanation and bore no relevance to the Leader of the Opposition being personally misrepresented, I require him to withdraw it.

*Opposition members interjecting—*

**The SPEAKER**—Order! I would also remind a number of members of an earlier warning. I have made a request of the Leader of the Opposition because a personal explanation was what was extended.

**Mr CREAN**—To facilitate the House, I withdraw it.

**Mr McMULLAN** (Fraser) (5.00 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

**Mr McMULLAN**—Yes, I do.

**The SPEAKER**—Please proceed.

**Mr McMULLAN**—I was misrepresented today by the Leader of the House and Minister for Employment and Workplace Relations, who alleged first generally, and then specifically with respect to me, that people in this House had lied in relation to the question of ethanol and damage to vehicles. This is one of a series of allegations previously made by the Deputy Prime Minister, which I rejected and repudiated at that time, based on a totally tendentious article in the *Sydney Morning Herald*. I absolutely reject and repudiate the allegation. Every allegation which I raised came to me bona fides from constituents concerned, and I totally reject the scurrilous, repeated, unwarranted misrepresentation by the minister.

#### PRIVILEGE

**Mr LATHAM** (Werriwa) (5.01 p.m.)—Mr Speaker, I raise with you a question of privilege. It relates to a doorstep interview

that the member for Hume, Mr Schultz, gave this morning where he indicated as a member of the House of Representatives that there had been attempts by government ministers to silence him and to intimidate him. He said at the doorstep:

I am isolated at the moment. That is not surprising ... It is churlish behaviour. I am disappointed because I am part of a political party set up by Bob Menzies ...

He then went on to point out how ministers have tried to silence him and intimidate him. I understand, as he has set it out, that he issued a survey in his electorate about the full privatisation of Telstra and 96 per cent of his constituents oppose that particular policy proposal. It is an important matter of privilege when any member tells the press and tells the public there have been attempts by other members to silence and intimidate, particular as the member for Hume concluded his interview by saying that the full privatisation of Telstra could cause the deaths of some of his constituency. He said:

It is being done at the expense of proper use of money—

**Dr Southcott**—Mr Speaker, I rise on a point of order.

**The SPEAKER**—I remind the member for Boothby that I have a matter of privilege before me, which is hardly a matter to be dealt with flippantly. I hope he has a serious point of order.

**Dr Southcott**—Yes, Mr Speaker. I refer you to page 724 of *House of Representatives Practice*, where it has been held that a member may not raise a matter on behalf of another member. That is from House of Representatives Debates, 25 May 1955.

**The SPEAKER**—The member for Werriwa will conclude his remarks.

**Mr LATHAM**—I wish to conclude that quote following the interruption by the mem-

member for Boothby. The member for Hume was pointing out that this policy issue, the privatisation of Telstra, could lead to the deaths of some of his constituency. He said:

It is being done at the expense of proper use of money which sometimes is being used to pork barrel some of my parliamentary colleagues and I am not going to tolerate that ...

It is a serious issue when a member has complained, as he did this morning, about attempts to silence and intimidate him. I also note that he has not been listed for debate on the Telstra (Transition to Full Private Ownership) Bill 2003 on the list that has been distributed. It confirms my suspicion that the government is in fact silencing the member for Hume. There is an issue of privilege involved and I refer it you, Mr Speaker.

**The SPEAKER**—This is the second occasion this week on which an alleged matter of privilege has been brought to my attention. Few things are as important to the conduct of this House as the appropriate discharge of privilege. I will not have the matter dealt with flippantly. If the member for Hume believes that he has been in some way obstructed in his duties as a parliamentarian, he will be the one to raise a question of privilege with me. Insofar as the matter of a whips list is concerned, it has absolutely no bearing on this chair at all. I do not intend to refer the matter.

**Mr LATHAM**—Mr Speaker, I rise on a point of order. I would like to clarify that I was not raising the matter in a flippant way. I raised it because the member has claimed to have been silenced in the House.

**The SPEAKER**—I can conceive of no circumstance in which the member for Hume would be unable to approach the Speaker on a matter such as this.

**Mr LATHAM**—I seek leave to table the transcript of the member for Hume's door-stop interview this morning.

Leave granted.

**Mr Murphy**—Mr Speaker, I raise a point of order. I would like to ascertain when the general warning expires.

**The SPEAKER**—The member for Lowe will resume his seat or he may discover very quickly that in fact it survives until the House rises.

#### AUDITOR-GENERAL'S REPORTS

##### Report No. 2 of 2003-04

**The SPEAKER**—I present the Auditor-General's audit report No. 2 of 2003-04 entitled *Summary of outcomes: Audit activity report: January to June 2003*.

Ordered that the report be printed.

#### PAPERS

**Mr ABBOTT** (Warringah—Leader of the House) (5.06 p.m.)—Papers are tabled as listed in the schedule circulated to honourable members. Details of the papers will be recorded in the *Votes and Proceedings*.

#### MATTERS OF PUBLIC IMPORTANCE

##### Health

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

The Government's attacks on access to affordable health care for all Australians, its plan to destroy Medicare and its ongoing war with the States on health funding.

I call upon those members who approve of the proposed discussion to rise in their places.

*More than the number of members required by the standing orders having risen in their places—*

**Ms GILLARD** (Lalor) (5.07 p.m.)—The theme of this week has been honesty, money and mates.

**Mr ABBOTT** (Warringah—Leader of the House) (5.07 p.m.)—I move:

That the business of the day be called on.

Question put.

The House divided. [5.12 p.m.]

(The Speaker—Mr Neil Andrew)

Ayes.....	73
Noes.....	<u>66</u>
Majority.....	7

**AYES**

Abbott, A.J.	Andrews, K.J.
Anthony, L.J.	Bailey, F.E.
Baird, B.G.	Baldwin, R.C.
Barresi, P.A.	Bartlett, K.J.
Billson, B.F.	Bishop, B.K.
Bishop, J.I.	Brough, M.T.
Cadman, A.G.	Cameron, R.A.
Causley, I.R.	Charles, R.E.
Ciobo, S.M.	Cobb, J.K.
Downer, A.J.G.	Draper, P.
Dutton, P.C.	Elson, K.S.
Entsch, W.G.	Farmer, P.F.
Gallus, C.A.	Gambaro, T.
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, J.M.	Kemp, D.A.
King, P.E.	Ley, S.P.
Lindsay, P.J.	Lloyd, J.E.
May, M.A.	McArthur, S. *
McGauran, P.J.	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.
Tuckey, C.W.	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.	Bevis, A.R.
Brereton, L.J.	Burke, A.E.
Byrne, A.M.	Corcoran, A.K.
Cox, D.A.	Crean, S.F.
Crosio, J.A.	Danby, M. *
Edwards, G.J.	Ellis, A.L.
Emerson, C.A.	Evans, M.J.
Ferguson, L.D.T.	Ferguson, M.J.
Fitzgibbon, J.A.	George, J.
Gibbons, S.W.	Gillard, J.E.
Griffin, A.P.	Hall, J.G.
Hatton, M.J.	Hoare, K.J.
Irwin, J.	Jackson, S.M.
Jenkins, H.A.	Katter, R.C.
Kerr, D.J.C.	King, C.F.
Latham, M.W.	Lawrence, C.M.
Livermore, K.F.	Macklin, J.L.
McClelland, R.B.	McFarlane, J.S.
McLeay, L.B.	McMullan, R.F.
Melham, D.	Mossfield, F.W.
Murphy, J. P.	O'Byrne, M.A.
O'Connor, B.P.	O'Connor, G.M.
Organ, M.	Plibersek, T.
Price, L.R.S.	Quick, H.V. *
Ripoll, B.F.	Roxon, N.L.
Rudd, K.M.	Sawford, R.W.
Sciacca, C.A.	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.

**FAMILY LAW AMENDMENT BILL 2003**

**Report from Main Committee**

Bill returned from Main Committee with amendments; certified copy of the bill presented.

Ordered that this bill be considered forthwith.

*Main Committee's amendments—*

(1) Clause 2, page 3 (table item 15, column 1), omit “item”, substitute “items 1A and”.

(2) Schedule 2, item 7, page 12 (lines 31 to 33), omit “giving testimony is in or outside Australia, but does not allow testimony to be given by a person who”, substitute “appearing is in or outside Australia, but does not apply if the person appearing”.

(3) Schedule 2, item 7, page 13 (lines 11 to 13), omit “giving testimony is in or outside Australia, but does not allow testimony to be given by a person who”, substitute “making the submission is in or outside Australia, but does not apply if the person making the submission”.

(4) Schedule 4, item 1, page 27 (line 10), omit “parenting order”, substitute “proceedings”.

(5) Schedule 5, page 34 (after line 4), before item 1, insert:

**1A After subsection 90C(2)**

Insert:

(2A) For the avoidance of doubt, a financial agreement under this section may be made before or after the marriage has broken down.

(6) Schedule 5, item 4, page 35 (line 3), after “order”, insert “or financial agreement”.

**The SPEAKER**—The question is that the amendments be agreed to.

Question agreed to.

Bill, as amended, agreed to.

**Third Reading**

**Mr ABBOTT** (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (5.19 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**WORKPLACE RELATIONS  
AMENDMENT (FAIR TERMINATION)  
BILL 2002**

**Consideration of Senate Message**

Bill returned from the Senate with amendments.

Ordered that the amendments be considered forthwith.

*Senate’s amendments—*

(1) Schedule 1, page 3 (before line 6), before item 1, insert:

**1A At the end of subsection 89A(2)**

Add:

; (u) issues arising in respect of a period for the purposes of paragraph 170CBA(3)(a).

(2) Schedule 1, item 1, page 3 (line 9), omit “Subdivisions B, C, D, E and F”, substitute “Subdivisions B, D, E and F and sections 170CL and 170CM”.

(3) Schedule 1, item 1, page 3 (line 11), omit “Subdivisions B, C, D, E and F”, substitute “Subdivisions B, D, E and F and sections 170CL and 170CM”.

(4) Schedule 1, item 1, page 4 (lines 21 and 22), omit “Subdivision B, C, D or E”, substitute “Subdivision B, D or E or section 170CL or 170CM”.

(5) Schedule 1, item 1, page 4 (lines 25 to 27), omit paragraph (a), substitute:

(a) the employee is engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment during a period of at least 6 months, unless a shorter period is specified in an award or certified agreement; and

**Mr ABBOTT** (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (5.20 p.m.)—I move:

That the amendments be disagreed to.

I do not propose to detain the House for long on this matter. The Workplace Relations

Amendment (Fair Termination) Bill 2002 was introduced into the parliament in the wake of the Hamzy case. In the Hamzy case the Federal Court determined that the previous arrangements, which were put in place by regulation, were invalid. All the government sought to do with this bill was ensure that the status quo would be preserved. We tried to ensure that the status quo would be preserved by doing in legislation what had previously been done by regulation.

The unfair dismissal provisions did not apply to short-term casual employees from 1996 until late 2001—that is, casual employees were excluded from accessing unfair dismissal remedies unless they had been working for their employer on a regular and systematic basis for at least 12 months and had a reasonable expectation of continuing employment with the same employer. That was the situation pre Hamzy. All the government is seeking to do with this bill is ensure that the pre-Hamzy situation continues—that the status quo that was good enough for the parliament from 1996 to 2001 continues. For that reason, I believe the amendments moved in the Senate are unnecessary, and I would urge the House to disagree to them.

**Dr EMERSON** (Rankin) (5.22 p.m.)—We support the amendments to the Workplace Relations Amendment (Fair Termination) Bill 2002 proposed by the Senate because we support the right of working Australians to some redress when they are dismissed unfairly. It is quite obvious that the government does not, and this is also obvious in the double dissolution trigger which would allow businesses with 20 or fewer employees to dismiss any of their workers unfairly with no remedy whatsoever. Another bill that has been rejected by the Senate would have allowed this minister, in his

zealotry, to take over completely the state jurisdictions for unfair dismissal where the employers are corporations.

We find this particular piece of legislation unacceptable and we have successfully moved amendments in the Senate that would provide casual employees with a probation period of six months. But, instead of saying that this is progress and is a reasonable balance between the interests of employers and employees, this minister, in his hard-hearted manner, always goes to one side of the equation, which is the employer's side of the equation. In fact, he does nothing to offer protection against unfair dismissal for Australian workers. Every piece of legislation related to the dismissal of workers that has been introduced by this minister has sought to make it easier for employers to dismiss workers with no remedy whatsoever on the employees' part.

There is a very interesting question now regarding the subject matter of the censure motion today—namely, Manildra. It has become clear that two reasons have been given to those workers who, the minister asserts, are facing the loss of their jobs. It has become evident in the parliament today that two completely different reasons have been given. If the minister had his way, through his raft of laws with their Orwellian terminology of 'fair dismissal' and 'fair termination', they would have no redress. They should have some redress. Those Manildra workers whose jobs are now in jeopardy as a result of this government's mismanagement of the entire ethanol issue should have remedies. But, under this minister's legislation, they would have no such remedies.

Workers who are employed in the wool combing industry in a factory in Geelong could also be in jeopardy. I point out that 93 employees have been locked out for 14

weeks, receiving no pay whatsoever. The employer locked them out when the employees did not accept the employer's proposal to do three fundamental things: reduce their pay by 25 per cent, change from seven-day to five-day shifts and allow unlimited use of casuals on the site. The minister is encouraging unlimited use of casuals, because, of course, the casuals could be dismissed summarily. That is what the minister wants. That is his vision for the workplace and for the Geelong wool combing factory.

The employees in question have taken no industrial action whatsoever, but the employer's lockout is legally protected under the minister's Workplace Relations Act. The employer has not changed its position one bit since the lockout started. It is a 'take it or leave it' situation. The workers are stuck outside the gate and they are being starved into submission. Unless they agree to the employer's terms, they will remain locked out. We have a private member's bill before this parliament which requires the parties to bargain in good faith. What could be more Australian and more reasonable than that? But the employer in this case will not bargain in good faith.

Winter is a very slow time in the wool industry. The employer is taking advantage of his enhanced bargaining position, enhanced all the while by the legislation before this parliament introduced by this flint-hearted minister. As to effects on the workers, most of whom have worked in the company since it opened around 10 years ago, three of them have had to sell their houses and four other employees' houses are on the market. The point is that these workers should be back at work while genuine negotiations take place. Of course, under this minister's legislation, the employer does not have to negotiate. Those workers would be even more exposed if the minister's raft of legislation on unfair dismissals, framed in Orwellian terms like

'fair dismissal' and 'fair termination', were to pass. (*Extension of time granted*) I call on the employer to bargain in good faith. It is time this lockout finished. The employees have indicated a willingness to negotiate. They have already put propositions to the employer, but the employer has said no.

What has the minister's involvement been in this particular dispute? His track record shows that, whenever he is involved in a dispute, he seeks to inflame it and intervene on behalf of the employer. He told other employees who were locked out in the Morris McMahon dispute that they have a right to bargain collectively and be represented by their union. In fact, under this minister's legislation, they have no such right if the employer refuses to negotiate with the union. Let us have a bit of good faith at Geelong on the part of this employer. Let us have the employer brought to the negotiating table to negotiate in good faith.

If the minister likes to intervene in disputes—and we have seen that entirely evident with his performance in relation to the automotive industry, where he tried to bully major automotive companies into having industrial disputes with union members—then, perhaps, in this case, for once in his life the minister could intervene on behalf of good faith bargaining by getting the parties together and saying to the employer, 'I now expect you to bargain in good faith.' But, of course, the employer could rejoin by saying, 'Under your legislation, I do not need to, Minister.' That is obviously why he is not intervening in this case. The decent intervention would be one which involved the minister actually doing something to protect the interests of the workers who are being locked out of the Geelong factory.

**Mr Abbott**—Mr Deputy Speaker, I rise on a point of order. I do not want to unduly interfere with the member for Rankin's abil-



ity to make a point, but this is not really related to the matter before the House. I suggest that it would assist the House if he stuck more closely to the matter before the House and perhaps drew his remarks to an appropriate conclusion.

**The DEPUTY SPEAKER (Mr Jenkins)**—The question is that the amendments be disagreed to. I ask the honourable member for Rankin to address his remarks to the amendments.

**Dr EMERSON**—Of course, Mr Deputy Speaker. As I have indicated in what I have already said about this particularly unfortunate and tragic industrial lockout, one of the requirements of the employer is that the employees agree to allow unlimited use of casuals on the site. This particular piece of legislation that has been brought back from the Senate would allow for the easy dismissal of casuals—this is the whole point. That is what the employer wants: to be able to have casuals on the site on low pay and to be able to dismiss them summarily. And, of course, the employer would be aided and abetted by the minister and the sort of legislation that we have in front of us at this very moment.

He is a flint-hearted minister, and he is an ideologue of the far Right. It is about time he turned over a new leaf, but we will not be holding our breath. He says that he comes from a religious background. He invokes saints and the word of the Lord on the basis of social justice, but he practises no social justice at all. He always intervenes on one side of the argument. Do it for the first time, Minister: for the first time involve yourself constructively in a dispute, not destructively. Call on the employer in this case to bargain in good faith. Stop trying to undermine the conditions of working Australians won over 100 years. In this case, these conditions have been won through negotiations over many

years. Stop trying to undermine those conditions through the sort of legislation that you have brought into this parliament. It has been three bills now: this bill, the termination of employment bill from the night before last and a bill that would allow a business with less than 20 employees to summarily sack their workers. If you are going to get involved, for once in your life get involved on the side of the workers.

**The DEPUTY SPEAKER**—The question is that the Senate’s amendments be disagreed to.

The House divided. [5.36 p.m.]

(The Deputy Speaker—Mr Jenkins)

Ayes.....	75
Noes.....	<u>61</u>
Majority.....	14

AYES

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

Prosser, G.D.  
 Randall, D.J.  
 Schultz, A.  
 Secker, P.D.  
 Smith, A.D.H.  
 Southcott, A.J.  
 Thompson, C.P.  
 Tollner, D.W.  
 Vaile, M.A.J.  
 Wakelin, B.H.  
 Williams, D.R.  
 Worth, P.M.

## NOES

Adams, D.G.H.  
 Bevis, A.R.  
 Burke, A.E.  
 Corcoran, A.K.  
 Crean, S.F.  
 Danby, M. \*  
 Ellis, A.L.  
 Evans, M.J.  
 Ferguson, M.J.  
 George, J.  
 Gillard, J.E.  
 Hall, J.G.  
 Hoare, K.J.  
 Jackson, S.M.  
 King, C.F.  
 Lawrence, C.M.  
 Macklin, J.L.  
 McFarlane, J.S.  
 McMullan, R.F.  
 Mossfield, F.W.  
 O'Byrne, M.A.  
 O'Connor, G.M.  
 Plibersek, T.  
 Quick, H.V. \*  
 Roxon, N.L.  
 Sawford, R.W.  
 Sercombe, R.C.G.  
 Smith, S.F.  
 Swan, W.M.  
 Vamvakinou, M.  
 Zahra, C.J.

\* denotes teller

Question agreed to.

**Mr ABBOTT** (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (5.43 p.m.)—I present the

Pyne, C.  
 Ruddock, P.M.  
 Scott, B.C.  
 Slipper, P.N.  
 Somlyay, A.M.  
 Stone, S.N.  
 Ticehurst, K.V.  
 Truss, W.E.  
 Vale, D.S.  
 Washer, M.J.  
 Windsor, A.H.C.

reasons for the House of Representatives disagreeing to the amendments of the Senate and I move:

That the reasons be adopted.

Question agreed to.

**WORKPLACE RELATIONS  
 AMENDMENT (COMPLIANCE WITH  
 COURT AND TRIBUNAL ORDERS)  
 BILL 2003**

**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 member for Rankin 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 BARRESI** (Deakin) (5.45 p.m.)—It gives me great pleasure to rise and speak to the Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003, especially so soon after the division on the Workplace Relations Amendment (Fair Termination) Bill 2002, which had been rejected in the Senate. This bill further reinforces the fine record of the minister in his attempt to reform workplace relations in this country. The bill before the House is about respect: respect for the institutions that are framed to uphold the rule of law and make orders pursuant to the law. As expected though, regardless of how good policy is or how constructive proposed legislation is, the opposition will oppose it because they simply oppose all legislation regarding workplace relations. It would be seen as betrayal for those who sit on their preselection conventions and fund their campaigns—the unions—if they were to do anything other than

oppose this legislation regarding compliance with court and tribunal orders.

The coalition took the election platform 'Choice and reward in a changing workplace' to the electorate. This agenda is mandated. We have a Prime Minister leading the construction of a better Australia; we have Simon Crean trying to keep a grip on his leadership with the ALP's obstruction of the government's agenda and playing his piper's tune—that of the union movement. This bill is fundamental to upholding the rule of law. Any civilised society is grounded in its belief and respect for the rule of law. Such respect is necessary for the advancement of our development and the setting of social parameters to bring equity and justice to all. I know from the Prime Minister's report to this House on the Australian led Regional Assistance Mission to the Solomon Islands that lawlessness and disrespect for the legal system in the region can have disastrous effects on the fabric of a society. That same principle of reinforcing lawful behaviour is applied in this bill. In Australia, the rule of law applies to all without fear or favour and without recognition of one's station in life. That is the ideal, but all too often it is tested and occasionally fails.

There are a number of mechanics contained in this bill, which I will address with reference to their support of the government's mandated policy in this area. In addition to legislating to increase respect for the judicial process, the bill adds to the integrity of the workplace relations system in Australia through a number of important mechanisms. In our legal system, defiance and disrespect for a court of law and for the supremacy of justice would most likely find the offender in contempt of court. The system of workplace relations should not be any different. It is predicated on the operation and the

observance of the law. The bill clearly calls for a cultural change to occur for the respect and rule of law to prevail in our industrial relations legal system. The examples of misconduct and defiance of the courts are now too widespread and harmful for the Australian parliament to ignore.

The Corporations Act 2001 sets out very clearly the duties that holding a position as an officer of a company attracts. There are also extremely severe penalties for failing to comply with the relevant sections of the act. That principle was extended and reflected in this bill through the duties it seeks to impose on officers and employees of registered organisations. They too are required to comply with the orders and the directions of the Australian Industrial Relations Commission and the Federal Court of Australia. We all know that in a society such as ours, we all have rights. Most of us at least acknowledge that with those rights come considerable responsibilities. The order to comply with the wishes of the commission and the Federal Court of Australia could not be construed as unreasonable. In fact, I would find it baffling if that was a belief held by any member sitting opposite.

As citizens of a developed, democratic nation we all subscribe to a social doctrine encompassing rights and responsibilities. It is the same for me, as a member of parliament, as it is for the next person. Likewise, registered organisations are accorded considerable rights by the Workplace Relations Act. Therefore, it is only right that those privileges and rights bear some responsibility. As a consequence of non-compliance with court and commission orders, officers and employees of those registered organisations would face civil penalty and would, in most circumstances, be disqualified from holding office in registered organisations. In essence,

the bill says to rogue officers and employees, as well as employers, 'If you want to demonstrate blatant disrespect for the very institutions that uphold the law and abuse your responsibilities, then you will lose your ability to enjoy those rights.'

The member for Throsby earlier on today in her contribution to this debate claimed that the bill is unnecessary because the Workplace Relations Act 1996 already contains prescriptive measures and penalties for the contravention of orders. While this is the case to some extent, the reality is that these penalties are rarely if ever applied. The Australian Industrial Relations Commission has consistently failed to refer such contraventions to the Federal Court. Disqualification of officers is nothing new to officers or employees of registered organisations. It can occur, if they have been convicted of a prescribed offence. The bill is merely seeking an extension to that disqualification process to any person who is penalised by the Federal Court for failing to comply with a court or commission ruling. This bill allows the minister or a prescribed person to seek orders that financial penalties be imposed with the further disincentive of disqualification to hold office.

One of the more interesting quotes has emanated from Justice Merkel of the Federal Court. He noted:

Maintenance of the rule of law in our society does not only require that parties are able to resort to courts to determine their disputes, it also requires that parties comply with the orders made by the courts in determining those disputes.

That was what Justice Merkel said on 12 May 2000 in relation to a dispute that came before him. Yet this process of disqualification or penalty is not an iron-fisted approach, as others may have the Australian people believe. Like any legal circumstance, leave may be sought from the court to enable the individual to continue to hold office or re-

main employed by the registered organisation. This will follow due process, as one would expect. This also means that the court has flexibility, should leave be granted, to hear an appeal. In that instance the court may order that the period set down for disqualification be reduced if it is proven to be warranted or indeed, as mentioned, the disqualification may be set aside. The member for Throsby went on to say that there are no widespread breaches of industrial law taking place, therefore there is no imperative to introduce this bill, while citing that only 1.4 per cent of all cases result in a contravention of commission rulings and court orders. But this does not give the full picture of the effect of those contraventions and of the intimidation that takes place and is often exerted on employers—and as a result on their employees—of contravening the commission's rulings.

This bill is not, as others may have us believe, anti-union. It is anti-ignorance but, more importantly, pro legal institution. The focus is on those organisations and the individuals within them who perpetuate the need to defy legally binding rulings and orders. I say to the honourable members opposite that the law should apply equally to all who breach our industrial laws. The member for Throsby also went on to refer to occupational health and safety breaches going unpunished. I have full sympathy for that argument, as long as they are real safety breaches that are taking place and not the frivolous ones that are often brought before an employer by union officials when they enter premises. One day they will turn a blind eye to particular safety breaches but the next day, depending on where the state of negotiations are or what else is on their agenda, they will crack down on those very same breaches.

The other question to ask is: if this bill is not passed, if the rule of law is not upheld, if contraventions of commission rulings and of

Federal Court rulings and orders are to continue, then what is the alternative? Do we allow the rule of the jungle, as sometimes practiced by recalcitrant union officials, to take place? What is the alternative to this bill? Quite obviously, we could let the status quo keep going and see those contraventions mount up and pressure being exerted on employer organisations. We really have not heard from the other side as to how they would improve the rogue nature of members of registered organisations. They know who those rogue members are. Even some of the state premiers have had cause to write to union officials asking for the rogue members to be reined in. The classic one of course was the letter by the Premier of Victoria, Steve Bracks, to Doug Cameron, the union national secretary, to ask that Craig Johnston be reined in as a recalcitrant union official.

The opposition are happy for militant unionists to continue boasting about the stack of commission and court orders which they have ignored. They boast about having a drawer full of court orders which they have simply thumbed their nose at and walked away as if it is a very laughable matter, turning their back on the commission and defying its orders. A drawer full of orders which have been ignored—in what other jurisdiction would we allow such contempt to go unheeded? It is incumbent on this parliament to finally take action on behalf of employers and employees who want to do the legal thing by this nation. It is absurd to suggest the status quo. It is absurd because failing to address the clear ignorance showed to the Australian Industrial Relations Commission and the Federal Court would send the wrong message. It would send the message that society is happy for the rule of law to be disrespected and would see the wrong message sent to those thinking about ignoring court orders.

It is common in this place for the opposition to allege that everything that we introduce in the area of workplace relations is driven by industrial relations ideology and that we are 'ideologues' to it. Sometimes that label could be warranted on both sides. I know that there are members on the other side of the House who would like to see industrial relations reform take place, and we can be accused from time to time of perhaps being a little bit ideological. With this bill, as a society founded on upholding the rule of law, it is unconscionable to expect the national legislature to overlook those who show absolutely no regard for one of the fundamental pillars of our society, the rule of law.

Actions by individuals from within a registered organisation are similarly addressed in the bill. It allows for the recovery of damages by a registered organisation against a person, being an official or employee, who contravenes the prescribed duties. This may be heard in a court and the court may order such damages be paid if it is satisfied that the organisation took reasonable steps to prevent the contravention.

The examples of disregard are too lengthy to list in detail. However, one in recent times that comes to mind is PBR Australia Pty Ltd and its dispute with the AMWU and CEPU. It is a standout example. In this case the commission clearly stated, through the handing down of a section 127 order, that there was to be no industrial action for three days and it directed the unions to advise their members that they were bound by the order and should cease industrial action. Section 127 of the Workplace Relations Act 1996 provides an unambiguous clause within the order. Section 127(5) expressly states:

A person or organisation to whom an order under subsection (1) is expressed to apply, must comply with the order.

In this instance, in the proceedings in the commission on 29 July 2003, only a matter of a couple of weeks ago, it was alleged that the unions disregarded the specific terms of the order and that large numbers of employees failed to report for work on 16 July. Such disregard cannot go unanswered, which is why this bill provides for these occurrences to be addressed by ministerial or a prescribed person's intervention.

Another case that came to light was the Craig Johnston case, which we saw reported in the *Age* of 22 July. The heading of the article by Paul Robinson was 'Judge warns "run-through" unionists'. The article said:

County Court judge Joe Galluci said he wanted to hear why people who terrorised workers, damaged property and traumatised a pregnant woman should avoid jail ... The charges arise from an alleged 'run-through' by members of the Australian Manufacturing Workers Union and the Electrical Trades Union in June 2001.

It has taken a full two years for that case to finally get to the courts. That run-through took place in 2001 at Johnson Tiles in Bayswater and Skilled Engineering in Box Hill. Both of those employers are on the fringes of my electorate of Deakin, and what took place on that day was a disgrace. It was an action that was condemned by the union movement, it was condemned by Premier Bracks and it was condemned by all law-abiding individuals in this country. Yet we have seen two years go by and we have seen attempts to remove Mr Johnston from his position being thwarted. We now find that Judge Galluci has said that the matters were criminal, not political. The judge said:

It's a pretty nasty thing in my view, an incursion into a workplace ... these people behaved in an extraordinarily violent manner.

It is these sorts of actions that need to be clamped down on. It is because of these sorts of actions that we need to give greater teeth to the Federal Court of Australia and to the

Australian Industrial Relations Commission, so that they can make sure that those militant union officials do not get away with such things.

I should add that if an employer organisation defies a Federal Court ruling or an Industrial Relations Commission ruling they too should be held to account. But of course what we have seen—and I have seen it personally through my experience in the industrial relations field on a number of occasions—is that when we have the Industrial Relations Commission bringing down an order which is against an employer's behaviour we have the union jumping up and down if the employer does not comply, screaming that the commission's orders must be complied with, and justifiably so. But when that order goes against union officials we see the mob being taken out into the street and perhaps assembled at the foot of Nauru House or wherever the commission may be holding its hearings, in a demonstration or a show of support for the union's position of defiance regarding the court order. This has been the case as far back as I can remember—that orders that are defied by the union movement are argued in the streets, and public sympathy is supposed to be gained for the union's refusal to abide by the court order, whereas if an employer defied a court order the union would come out, decry the employer's actions—justifiably, as I say—and put pressure on that employer to reverse its position. How many union contraventions of court orders have ever been reversed as a result of a court order or as a result perhaps of the mob coming out and arguing that the union is wrong? I doubt that there have been any at all.

We have seen a number of other examples come to light, particularly with the Cole royal commission's findings. We had 12 volumes from that commission relating to the construction industry alone. Through that inquiry, we had 31 individuals referred for

possible criminal prosecution and we had 392 instances of unlawful conduct by individuals, unions and employers. These are the sorts of contraventions that need to be stopped. We need to make sure that the rule of law reigns in this country and that we do not revert to some form of barbaric society—that we do not have an archaic anarchy of sorts emerging. At the moment, we are trying to help those societies, communities and nations around the world where that takes place; let's not let it happen here.

I ask the Australian Labor Party to support this bill. Let us not be beholden to the union movement. We know that the Australian Labor Party does have an obligation to them. The three major recalcitrants have been the CPU, the CFMEU and the AWMU. When you look at the list of ALP donors, those three unions alone make a contribution of \$10.1 million. I have to tell you, if I had a tap that I could turn on at election time—a tap I could just turn on before I went into my election campaign—I too probably would be beholden. The ALP is beholden to them to the tune of \$10.1 million. The ALP receives \$1.5 million from the ASU alone, \$3.9 million from the AMWU and \$2.4 million from the CPU. Of course, members would be well aware of the union funds and the reason they give them. *(Time expired)*

**Mr BRENDAN O'CONNOR** (Burke) (6.05 p.m.)—I think the member for Deakin explained why the Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003 should not be introduced. By outlining the fact that there are indeed union members currently charged and before the courts he clearly indicated to anyone listening that there is no need for further laws to outlaw criminal conduct. The fact is that this bill is not designed to regulate the rules of the workplace relations commis-

sion. It is not designed to focus on breaches by employers, union members and employees; this bill is designed to focus solely upon employees, members of unions and unions—employee organisations—registered under the Workplace Relations Act. This bill is partisan—it is biased—and it does not apply to employers alone. It applies to employer associations, but in the cut and thrust of industrial disputation employer associations in every practical sense are rarely involved in any potential breach of the Workplace Relations Act. So this bill is not about regulating properly the industrial laws of this country. This is designed purely to target one side of the workplace—the employees, the working families of Australia. That is the intention by this minister in introducing this bill this week into the House.

The member for Deakin indicated that there was also a need for this bill to be introduced into this House and enacted into law because of the industrial strife that is occurring throughout the land. He used words such as 'chaos' and 'anarchy'. That belies the comments we hear every time the minister gets to his feet and says, 'We have record low industrial disputation in this country—we have fewer disputes in this country than ever before.' He says that that is a result of the laws of the Commonwealth. But the fact remains that this bill is not about trying to reduce any further disputations; it is about preventing the rights of working people to genuinely bargain at their workplace. It will tie the hands of workers when they are negotiating with their employers, and it should be rejected comprehensively by this House.

Let us be very clear about what we are referring to. It is not a bill that applies to employers; it is a bill that applies to employees, union members and unions. Therefore, it is clearly another example of Minister Abbott's

bias and his ideological obsession with undermining the rights of employees and the rights of their organisations to represent workers.

I will refer specifically to some of the items in the bill that I am most concerned about. Firstly, for anyone who is fined under these provisions there is an automatic disqualification from holding union office for up to five years. Even if the breach were trivial—even if the breach were of a negligible nature—it would allow a court to deprive a union official of their income and the right to earn a living for up to five years. That to me is a clear attempt to prevent workers from having a right to proper representatives who can put their case either at the workplace level or elsewhere. In my view, that is a completely pernicious provision of the bill.

Secondly, there is a potential fine for union members of up to \$2,200 for even the slightest transgression in respect of a procedural direction or order of the commission. It allows the minister to continue to use divisive legal proceedings long after disputes are finished and when the parties are trying to reconcile any differences. Anybody with any understanding of industrial relations knows that very rarely does judicial intervention actually expedite the reconciliation of differences within the workplace. In fact, judicial intervention—civil court intervention—in industrial matters almost invariably compounds the problems that occur. This is not about a breach of law; this is about people who have to work together every day reconciling differences. They have to reconcile them so that they can move on from those differences and work harmoniously beyond that point. To use the courts to fix or reconcile differences has historically never been a successful strategy, but it does not bother the minister, because the minister is not interested in reconciling differences at the work-

place. As we saw today, the minister is about inflaming disputation.

**Mr Albanese**—Even in the chamber.

**Mr BRENDAN O'CONNOR**—Exactly; even in the chamber, as the member for Grayndler says. This minister fails to oversee the Workplace Relations Act in order to ensure that the parties to a dispute are given an even hand and are dealt with fairly. This minister is not only ideologically in pursuit of unions but also blinded by his hatred for unions. Indeed, this bill reflects his inability to oversee in a fair manner the laws of this country.

There is a further provision in this bill. There are already a whole host of penalty provisions, as I have said, in the Workplace Relations Act. Therefore, they are not required to be enacted here. We have to look at why this government is introducing this bill. Why are workers of this country not being provided with laws that are as fairly applicable to them as they would be to employers? Why would workers have such concern? Clearly, if this bill were to be enacted—a bill that is specifically targeting union members, union officials, delegates and employees—it would reduce the likelihood of workers at the workplace negotiating genuinely and collectively in order to achieve outcomes.

The minister has to come back into this House and explain to the Australian public why he has an obsession with stymieing workplace negotiations and why he has an obsession with inflaming, rather than reconciling, differences. They are the things he is charged with the responsibility to undertake, and he is failing at every step of the way. In every piece of legislation that comes into this place in relation to workplace matters, we see the minister's hand. It is about confrontation and it is about attacking those people who produce the wealth in this country—the Australian workers. They are the people who



are providing the impetus for our economy. They are the people whom we can be proud of when we talk about the Australian economy working well. But it is that component of our society that the minister is targeting in relation to this bill. He should be ashamed of himself because it is an outrageous attack upon ordinary Australian working families.

As I have said, this bill is clearly a biased bill. It forces us to come to grips with another thing: if this minister were a serious, genuine, wise Minister for Employment and Workplace Relations he would be looking at other matters. He would be looking at how we are going to rectify some of the problems that have arisen because of casualisation of the work force. He would be looking at ways to prevent people from being able to find only part-time or temporary work.

I think the obligation of an Australian government is to focus on the critical things that concern ordinary Australian families—that is, can they get a permanent full-time job these days? We know the Treasurer comes into this place and boasts about how many jobs he has managed to help create in the last number of years, but he never talks about how few of those jobs now are permanent full-time jobs. That is a critical issue. It has to be confronted and tackled by this government. But the minister for employment, who is too busy pursuing his hatred of unions, their members and employees in general, is not interested in talking about how we can move people from precarious employment into permanent employment. People have permanent families; they do not want casual jobs or temporary jobs. The minister for employment should be focusing on issues like that.

The minister for employment should also be considering the effects of trying to balance life with work. Increasingly, families in

this country are having difficulty reconciling or getting the right balance between life and work. These are issues we hear the government mention from time to time. They throw out the words ‘paid maternity leave’ and then they just forget about it. We heard the Prime Minister talk about paid maternity leave about six months ago, but we have not heard a thing since. These sorts of structural issues that are occurring as a result of major changes to the economy and the workplace mean that, effectively, the minister for employment, along with other senior front-benchers of the government, should be looking at ways to mitigate the effects of the increasing difficulties that Australian workers have in finding time to be with their families. These are the sorts of issues that the Australian public expect governments to consider and to act upon. But we have a minister who is consumed with attacking unionists and unions, instead of looking at the structural problems that arise following changes in the economy and, as a result, changes to workplaces.

It is about time the minister considered these things. The saying is ‘we work to live, not live to work’. A lot of Australian families would like to find that maxim to be true. They would like to find that it applies to them but, increasingly, that is not the case. The minister and this government should be looking at those matters. That is the sort of thing that the Australian public would expect from a wise, conscientious and productive minister for employment. We see none of that from this minister because he has no interest in the Australian work force. He has no concern for Australian workers. He shows no consideration at all for their concerns; he shows only this ideologically driven hatred of unions and their members.

We know that from the behaviour of the minister today in question time. The minister spoils for a fight. In fact, I have not seen him so agitated for some time, but he seemed to spoil for a fight today. He was on about conflict, about abusing the Leader of the Opposition and about raising the temperature in this place. He was not talking about the issues that matter in this country; he was on about raising the hostility and enmity towards members on this side. That is in his nature. He is a hostile minister who is not interested in finding solutions and reconciling differences. They are the sorts of things that we have come to expect of this minister, and he is failing.

I want to put this bill into the context of some of the other bills that I have referred to. Firstly, we have just had the vote on the fair termination bill—again rejected by the Senate and quite rightly so. It is not good enough for this country to apply a law to a workplace of fewer than 20 employees and say, 'Because you don't happen to work with 21 employees, you have no rights or entitlements to challenge a termination of employment.' The fact that it is called a fair termination bill smacks of contempt as well. A fair termination bill? Clearly, this bill, if enacted, would allow employers to dismiss their work force without any recourse for those workers. How that can be called a fair termination bill is beyond me.

It is no different from the government's genuine bargaining bill. It is a bill that tries to prevent genuine bargaining. It is a bill that has attempted to have the powers of the Australian Industrial Relations Commission limited so that there is no proper bargaining in the workplace. That is what is called a genuine bargaining bill. It is another Orwellian effort by this minister: say one thing, but mean another in effect; describe it as one thing, but mean the reverse in effect.

It was not long ago that the transmission of business bill was introduced into this place. The transmission of business bill allowed for powers to be given to the commission—that would be a first—to amend an order so that the rights of workers who were in a workplace that was bought by another company would not apply to that new employer. The only time in which this government intervenes to provide a power to the commission is to provide a power that would remove the entitlements of workers. Indeed, the transmission of business bill is about trying to ensure that the rights and entitlements of workers in a given workplace can be taken away as a result of an order by the commission. Again, the only time that this minister has introduced a bill that actually allows for the commission's powers to be enhanced is when it is about taking away the rights of employees.

The same was seen in the Workplace Relations Amendment (Protecting the Low Paid) Bill 2003—another nice piece of Orwellian speak. That bill allowed the commission to not pass on the national wage increase to the lowest paid in this country. Under the title 'protecting the low paid', the bill empowered the commission not to pass on the national wage increase to the lowest paid workers in this country. That is what we are beginning to expect from this government. When they provide extra laws to the commission, they are only about taking things away from Australian workers; otherwise, they will denude the commission's powers to prevent them from resolving disputes. Not only is the bill before us one-sided and anti-worker, not only does it attempt to prevent the rights of unions and their members and employees generally to collectively bargain, but it does not apply in any real sense to employers and, therefore, it should be condemned for its bias.

We know that the minister has a fondness for boxing. We know that he was a boxer in his days at university—he uses that as a bit of a PR thing to show how strong he is. Clearly, having looked at almost all of the bills that have been introduced into the House by this minister, we see that he is no supporter of Queensberry rules. Queensberry rules, whether we like them or not, apply equally to the parties in the bout. But clearly, with respect to workplace relations, this minister is not about ensuring that rules apply equally to the parties in a workplace or the parties to a potential dispute. In fact, if the workplace were a boxing ring, we would have the worker in there with his hands tied and we would have the employer in there free to actually have a go, but many employers do not want to punch their work force. The boss might say, ‘I’m not happy to have a go at my workers. I am trying to work out differences.’ It would be like some sort of scene out of World Wrestling: the minister would jump in the ring on his own, saying, ‘If you’re not going to give them a whack, I’ll give them a whack.’ That is effectively what he does.

Even when employers do not want to impose penalties upon their own work forces, this government and this minister will do it. We see that. The fact is that the third party that looms largest now in workplace matters is this government. If the employers and the workers are trying to find ways to reconcile their differences, that annoys this minister because this minister wants to see conflict, the end of unions and the end of entitlements for employees, and he wants to see the capacity to collectively and genuinely bargain at the workplace removed from this country—a principle of workplace relations that has been with us almost since Federation, since the Conciliation and Arbitration Act 1904. This minister wants to see those prin-

ciples, the tenants of those workplace relations laws, removed entirely from this country so that workers are left unprotected and employers, in effect, will be allowed to do what they like. We have to reject this bill. It is one-sided, it is antiworker and it is against Australian workers. Therefore I ask the House to reject it, as it should be rejected.

**Mr GAVAN O’CONNOR** (Corio) (6.25 p.m.)—The Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003 is the latest bill in a conga line of pernicious and punitive industrial relations bills brought into this House by the failed Minister for Employment and Workplace Relations. This bill has its genesis in the hoary old industrial relations agenda of the Prime Minister, which was put before the Australian people during the Fightback era. The particular provisions in the bill that has been introduced by this minister were first included in the Workplace Relations Amendment (Registration and Accountability of Organisations) Bill 2002 but were removed to secure passage of that legislation through the parliament.

The Howard government’s industrial relations platform is like a mutating cancer on the body politic of Australia. Too often the minister comes up with a bill that contains no new proposals, but simply a rerun of legislation previously rejected and defeated in the parliament. He is like one of those rubber dummies that gets knocked over and bobs up again—that is his pattern of performance in this House. You would have to be as thick as two bricks to keep coming into the parliament with this type of legislation, which is roundly rejected time and time again by this House.

I do not know of any other minister with a failure rate like the current Minister for Employment and Workplace Relations. He has

had more knock-backs than old Uncle Festus at the country dance on a Saturday night. It is unbelievable but true. He comes into this parliament with these pernicious pieces of legislation, he gets them knocked out by the parliament, and then he has the temerity to reintroduce them under another guise and expect an unsuspecting public and a very smart parliament to go along with his agenda.

This piece of legislation will end the same way as other rotten pieces of industrial relations legislation that have been sponsored by the minister. He is fast becoming an embarrassment to the government. We witnessed the performance of the minister today in question time—an appalling performance—in relation to the ethanol issue. He is fast becoming an embarrassment. My suggestion to the Prime Minister would be to remove him from this portfolio because he is simply doing damage, not only to his own government but to the industrial relations fabric of this country.

This bill amends the Workplace Relations Act to create statutory duties for officers, employees and members of registered organisations—that is, trade unions and employer organisations—in order to comply with the orders of the Federal Court and the Australian Industrial Relations Commission. It empowers the Federal Court, in the case of a contravention of this legislation, to impose monetary penalties on those who transgress and it orders a person to pay compensation to a registered organisation that has suffered damage as a result of the contravention. It supports any order the court considers appropriate, including the granting of interim and final injunctions. More perniciously—and this is where the minister's true colours are there for everybody to see—it automatically disqualifies a person who has been ordered to pay a pecuniary penalty from holding office in a registered organisation for up

to five years, unless the Federal Court orders otherwise in a separate application by the disqualified person.

The only people who may apply for such orders—and this is where the third-party intervention of this government is there for all to see—are the Minister for Employment and Workplace Relations and the Industrial Registrar, or persons authorised in writing by them. Although the bill theoretically applies to all types of orders of the court and commission, it is plainly directed at orders that industrial action stop or does not occur. That is the genesis of this particular legislation.

We can once again see the true colours of the minister, because this particular legislation would almost exclusively affect unionists. It would not, for example, touch an illegal lockout by an individual employer unless an employer association were directly involved in the illegality. That particular provision relates to a circumstance that we have in my electorate of Corio at the moment with the Geelong Wool Combing dispute. We had a lockout by an employer that was illegal. Under this particular piece of legislation, that initial illegal lockout would not have come under the ambit of this legislation, yet union officials who may contravene a determination by the Industrial Relations Commission would be so liable. I cannot think of a more unbalanced and unfair piece of legislation that affects workers and companies in my electorate.

I think at the outset we need to ask ourselves several things in considering this piece of legislation. The first proposition that we must consider is this: is this law necessary? We have already heard in this debate thus far from many members on this side of the House that there are existing powers of the Federal Court to deal with these matters. The Federal Court has power to order injunctions. It has the power to institute penalties.

Yet here we have a piece of legislation which is specifically aimed at unionists and not individual employers and which seeks to intervene in a third-party sense in industrial disputes where the parties may be attempting to achieve a resolution.

So it fails the first test. This legislation fails the test of necessity. When it fails that test, it exposes the minister and his agenda. If this law is unnecessary, if the powers that are granted under this law and the situations that can be addressed under this legislation can be effectively addressed under existing legislation, then I think the parliament and the Australian people are entitled to ask the question: why is this piece of legislation being put to the Australian parliament at this time? We on this side of the House know why. We know that the minister is a confrontationist minister and we know the Prime Minister is simply wanting to load the double dissolution gun for an election before the politics of this nation really turn sour on him.

The second issue that we have to consider as the backdrop to this piece of legislation is the bona fides of the minister and the government that are introducing the legislation. I do not really have to answer this particular question, because the Australian people—and particularly workers—know the answer exactly. They know the answer to that question on the bona fides of this minister. His bona fides is demonstrated quite clearly by his actions in this portfolio area. He has not sought at any stage in the legislative program that he has put before the parliament in his portfolio to improve the industrial relations climate in this country. What he has sought to do is to set workers against companies and set companies against their communities. That is the worst legacy of this minister. He is a failed minister. He is a failed minister simply because of the legislation that he has

brought into this parliament that has already been rejected by the parliament. There is no greater test of the minister's failure than the one I have just outlined.

This bill does not enhance the industrial relations agenda of this country in any reasonable way. It is pandering to the blind prejudices of a minister who should not be in control of this portfolio. I listened with great interest to the contribution of the member for Corangamite to this debate earlier on in this place. The honourable member for Corangamite has been a speaker on many pieces of industrial relations legislation that have been brought by this minister to this House. On every one he has supported the worst minister for employment and workplace relations that this country has seen. He has supported every measure of this minister that is designed to drive the boot into the workers of Geelong.

I want the member for Corangamite to recall, if he can, the words that he said in this House some time earlier in this debate because I think it is instructive to see just how government members delude themselves about this sort of legislation when they bring it into the House. The honourable member for Corangamite made great play of speaking about the rule of law in industrial relations. He talked about unlawful activity and about intimidation by elements in the union movement in industrial dispute. He has never talked about the intimidation by companies. He has never talked about companies that use the legal system to intimidate their workers. Nor does he stick up in this place for the workers of Geelong Wool Combing who are locked out of their particular workplace.

When the honourable member for Corangamite gets up and talks about the rule of law, intimidation and unlawful activities, I remind him of the dispute on the Victorian

waterfront when his own government trained mercenaries in a foreign place to break the law here in Australia—and who knows if they were trained to engage in violence on the waterfront. That is the legacy of this government. But it did not stop with the training of mercenaries. We had balaclava-ed hoodlums with dogs that were set upon workers in Victoria.

*Mr Tuckey interjecting—*

**Mr GAVAN O'CONNOR**—The honourable minister at the dispatch box may laugh at that and the honourable member for Corangamite may have a smile on his face, but every worker in Geelong knows the position of the member for Corangamite on these matters, because it is on the public record. They know about his support for the Minister for Employment and Workplace Relations, who regularly brings legislation into this House to deny workers their rights, to limit their capacity to bargain effectively in the workplace for a better deal for their families. They know that the member for Corangamite stands squarely with the Minister for Employment and Workplace Relations, Tony Abbott, in this matter.

It is interesting that the honourable member for Corangamite talks about intimidation. He might cast his mind back to the bushfire committee hearing in Manjimup, because, after that hearing, a certain state Liberal member wanted to settle an issue with me outside the council hall.

*Mr Tuckey interjecting—*

**Mr GAVAN O'CONNOR**—The minister asks whether I took the opportunity to do that. I have to remind the minister that I am Irish, I am a country boy and I can look after myself. I do not take any intimidation from a small-town Liberal member from Manjimup. I was raised in the sixties. When Elton John penned the song *Saturday Night's Alright For Fighting*, he was really reflecting on Colac in

the early sixties! The honourable member for Corangamite would appreciate that. The Alvie boys can look after themselves! But I didn't come into this House whingeing about intimidation like the honourable member for Corangamite did. I did not come into this House claiming privilege and whingeing about the intimidation in a piece of legislation.

The honourable member for Corangamite also made a point about inappropriate payments in the building industry. That is a very unfortunate example to make in the context of the ethanol debate that we are having here in parliament this week and the payment of hundreds of thousands of dollars in donations by the Manildra Group to get a particular outcome from this government on the ethanol issue. I thought the honourable member for a Corangamite was a little smarter than that.

The honourable member for Corangamite has spoken on this piece of legislation and he has accused the union movement of many things—of intimidation, unlawful activities and violating the rule of law. The *Hansard* shows that, on 23 June 2003, the honourable member for Corangamite asked a dorothea question in relation to the auto industry. In response to that question, Mr Hockey at the time absolutely misrepresented the position of auto workers in Geelong. The honourable member for Corangamite needs to be very careful. There are some 5,000 workers in the automotive industry and the TCF industry in Geelong and now, with this piece of pernicious legislation brought in by the Minister for Employment and Workplace Relations, Geelong people know exactly where the member for Corangamite and other members of the government stand on industrial relations issues.

This legislation that we are debating here today is aimed specifically only at those who

work for unions. It does not attempt to target employers who illegally lock out working Australians from their workplaces. I mentioned the current Geelong Wool Combing dispute. The genesis of this dispute is simply this: workers who had never taken industrial action in their lives, who had been loyal employees for Geelong Wool Combing, turned up for work and were locked out for refusing to accept the company's proposal to cut their wages by 25 per cent, to introduce the unlimited use of casuals and to ruin any sort of guarantee of their permanent employment in the future.

The work force at Geelong Wool Combing wants to bargain in good faith, but the company will not do so. And we know on whose side the member for Corangamite and other members opposite stand on this particular issue, because it is here in the legislation we are debating today. Under this legislation, a defiance of an industrial relations court or the law or the Industrial Relations Commission will result in dire penalties against unionists. But the company that, in this instance, acted illegally in the first place would escape any sort of scrutiny and any sort of penalty at all.

The Leader of the Opposition visited the picket line last week and it was an enormous morale boost to the workers at Geelong Wool Combing, and I thank him for that. The workers have received strong support from the union movement in Geelong and I congratulate John Kranz, the Secretary of the Geelong and Region Trades and Labour Council, and all those unions—I will not name them individually—who have stood side by side with ordinary working people.

Let me explain to the House the impact of this government's legislation on those workers. Some of them are losing their houses. Some of them are saying that they can only

put mince on the table every few days. One man said to me that he had already lost \$15,000 and he was about to lose his house. I pay tribute to Glen Musgrove and the workers at Geelong Wool Combing who continue to resist the sort of industrial relations system that this minister wants to implement. It is a punitive piece of legislation. It is an unfair piece of legislation. It is another bill in a saga of legislation that has been brought into this House by this minister aimed at working people in my electorate. Let there be no mistake about it: this minister wants to crush unions in the Geelong region and to penalise workers in the workplace, and the member for Corangamite, who has many workers living in his electorate, is an accomplice to this fact. (*Time expired*)

**Mr ANDREN** (Calare) (6.45 p.m.)—I want to make a short contribution to the second reading debate on the Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003. I have supported some of the government's reforms in the Workplace Relations Act, especially in relation to small business and unfair dismissal proposals. However, before I go on, I want to make the point that in the last division on the Workplace Relations Amendment (Fair Termination) Bill 2002, I ascertained from the Minister for Employment and Workplace Relations, in the short time available while the bells were ringing, that a series of amendments I moved to correct the exclusion of casuals from unlawful dismissal processes had in fact not been accepted in the Senate or indeed in this House because, as I understand it, their passage was dependent on accepting other amendments. In those circumstances, I had no option but to abstain and hope that the government corrects this next time round. Indeed, the minister says in his reasons that, while these amendments may have some merit, the House of Repre-

sentatives believes further consideration is necessary. They do have merit—based around basic human rights—and should have been in the legislation passed by the House.

Under the provisions of this bill, there is specification of the general duties of officers and employees of registered organisations, for both employers and employees, in relation to orders and directions of the Federal Court or the Australian Industrial Relations Commission. The bill provides for the automatic disqualification from office or employment within registered organisations of those who have prescribed pecuniary orders—that is, fines—imposed on them for contempt of orders of the Federal Court or of the AIRC. The bill provides for a registered organisation to seek compensation directly from its officers or employees whose actions have brought the fine where the organisation took reasonable steps to prevent those actions.

The enforcement of court or commission orders is not something I take issue with when they are brought through the normal processes of our legal system. As it stands, applications to enforce court or commission orders must be brought by the aggrieved party in an industrial dispute—that is inevitably the employer or business enterprise. If industrial action—a strike, for instance—is taking place or is about to take place, the AIRC has the power to order that the strike cease or not go ahead. Such an order can be initiated by the AIRC itself or sought by a party to the action or by a party or organisation likely to be affected. Basically, anyone directly or indirectly involved in the strike situation can seek enforcement of the initial orders.

The Federal Court then has the power to order punitive action if its return to work order or orders to cease industrial action are not complied with. Similarly, this can also

happen on the application by a party directly involved in the dispute or action or someone indirectly or adversely affected by it. These powers are provided for under section 127 of the Workplace Relations Act. While the minister deemed in his second reading speech that it is a matter of boast among union officials to have multiple orders under this section piled up in a desk drawer, he also said, in relation to another workplace relations bill, that section 127 has generally been proved an effective mechanism. He then pointed to delays in the making and enforcing of these orders as risking the exposure of workers to implications associated with unprotected action.

Administrative delays do not warrant the need for a government minister to become involved in the business of the courts by seeking to enforce court orders. The process currently in place for enforcement is more than adequate, and there is no good reason or need for the government of the day to involve itself, especially if none of the parties to a matter, nor the commission, wish to pursue a matter any further.

This bill is a blatant and totally unnecessary blurring of the separation of powers. It is an undesirable approach to law-making and enforcement in this country. It harks back to the original workplace relations bills introduced into parliament—I think it was back in 1997. I believe that at their initial stage there was a deliberate attempt to downgrade or exclude the AIRC from the processes. With the installation of the employer advocate, the pendulum was tilted very heavily in favour of the employer. So continued a process of converting the employees of this country—casualised and part-time as they have become in many situations—to simple units of cost in an economic enterprise rather than valued partners in private enterprise. So I drew a line at the time these bills were introduced—it may not have



been a line that impressed anyone else or indeed of which they took much notice—until such time as the Senate and the Democrats at that time worked assiduously on that legislation and delivered a reasonable package of reforms.

I also object to this bill because it interferes with rules of natural justice. It reverses one of the most basic tenets of our legal system: the presumption of innocence until proven guilty. If the minister seeks to penalise an officer or employee of a registered organisation for noncompliance with orders of the AIRC or Federal Court, as well as being fined the person is automatically disqualified from their position in the organisation. This happens automatically—not after the court or the AIRC have found that noncompliance with orders has occurred but when the minister seeks action for noncompliance. The punishment is meted out—in part, at least—before it is established that an offence has occurred. In no area of law is punishment delivered before a court has decided on the case before it—at least, not in this country.

It is not the place of government to enforce the rules of this country; its job, along with the parliament, is to make them. I do not see ministers attempting to make laws giving them the power to enforce court orders in child support matters, for example. I dare say the government would view such cases as well and truly matters for the parties concerned and the courts. The separation of powers is a foundation of our democratic system of government. It should not be blighted by any government's ideological leanings. This should especially be the case with the making of industrial relations law, which is the last bastion that protects the interests of employees, as I said, in an economic climate that is gradually eroding

worker rights and turning workers into units of cost rather than partners in the enterprise. This is not microeconomic reform; it is macroideology gone mad. Regardless of one's ideological bent, there is no place for the direct involvement of government. I cannot support the passage of this bill.

**Mr BEVIS** (Brisbane) (6.53 p.m.)—I rise to oppose the Workplace Relations Amendment (Compliance with Court and Tribunal Orders) Bill 2003. I congratulate the member for Calare on the brief but valuable contribution he made. I also congratulate my colleague the member for Corio, who always gives an impassioned address in matters of this kind, and the member for Throsby, who spoke earlier today. Their contributions are in stark contrast to those of the few government members—and there are only a few—who have entered this debate. In introducing this bill and in his comments surrounding it, the Minister for Employment and Workplace Relations has maintained his approach to industrial relations, which is now something of a trademark. Minister Abbott's continuing ignorance of industrial relations has never held back his obsessive pursuit of laws that are designed to punish unions; restrict the power and independence of the Industrial Relations Commission, our umpire; and further tilt the industrial relations field in favour of those employers who share this government's views about industrial relations.

Minister Abbott used to refer to himself as an 'L-plate' minister for workplace relations. That is his description of himself, I might add. His many misdemeanours in the job since then have guaranteed that, in the eyes of all who are involved in industrial relations, he has still not even graduated to P-plates. This fellow would have lost his learner's permit—it would have been revoked on any fair and reasonable assessment

of his performance as minister for workplace relations. It is clear that, after a couple of years in the job, that L-plate status that he conferred upon himself publicly is still very appropriate. But he has never let that ignorance and lack of understanding of industrial relations and of the way in which workplaces operate—or, indeed, of the wider industrial relations system—stand in the way of his blind pursuit of biased and divisive laws. This is one of those laws. The minister has been driven—and it can be seen in this bill—to find new and bigger sticks with which to attack workers and their unions. This bill proposes to do that even after a dispute is resolved. That is one of the amazing things about this bill. It would take a resolved and settled dispute and open the wounds anew. Any government that thinks that is a wise course of action has clearly failed to talk with or listen to any of the key participants in industrial relations.

It comes as no surprise that Minister Abbott would seek to do this. We have only to look at his record. I will mention quickly a couple of past incidents. We recall the Tristar dispute in the automotive industry, where the minister rushed out and accused the workers of treason and publicly urged the company not to negotiate. That is a rather peculiar position for a minister of the Crown to adopt if they want to be seen as conducting themselves in good faith in seeking to resolve the dispute. The position adopted by the minister at the time was well encapsulated in a cartoon of the day. It showed Minister Abbott decked out in a fireman's uniform, ready to douse the flames of the fire of the industrial dispute. But it was not water that he was putting on the fire—he was at a petrol pump and he was pouring petrol on it. That cartoon pretty well said it all. Here you had a minister in the midst of a dispute whose only contribution was to inflame the problem. That

was the way it was depicted in the mass media.

This divisive, aggressive and biased campaign by the Howard government and Minister Abbott is now well documented and widely understood. I want to refer to the comments of a respected industrial relations lawyer on the matter of the government's approach to industrial relations, of which this bill is yet another brick. I refer to the comments of Joe Catanzariti, who is widely known and respected. At the time he made these comments—October of last year—he was the national chairman and partner in employment and workplace relations matters for Clayton Utz, a company the Prime Minister will be familiar with as he used to be on their payroll as well. These are not the left-wing radicals of the law society that we are dealing with. This is what Joe Catanzariti had to say only last year:

It's time to ask the parties what they want and move away from [the] ideology of the political parties ...

When he refers to the parties, he means the industrial parties. He continues:

The time has come to rethink where we are. We have to ... take stock and start again.

This article in the workplace review publication was headed by the comment that Joe Catanzariti has urged the federal government to abandon its ideological position on industrial relations and amend the Workplace Relations Act so that it fits the practical needs of the industrial parties.

He went on to contrast the AIRC unfavourably with state tribunals—the same state tribunals which operate under state Labor laws and which are the subject of regular tirades from this minister whenever he has the opportunity. Catanzariti went on to say:

In recent years ... there had been memorable cases 'that for want of jurisdiction ultimately required Federal Court intervention'.

He then cited Davids Distribution, G&K O'Connor and Yallourn Energy. He also commented that the Workplace Relations Act has become as complex as the tax act and lamented that, under the legalistic regime of this government, many lawyers spend an inordinate amount of time trying to find flaws in technical legal matters rather than resolving disputes. This bill adds to that complexity. It goes precisely in the opposite direction to that advanced by people like Joe Catanzariti. Joe Catanzariti is identified as a leading lawyer in industrial relations, working for a firm which is certainly not regarded as close to the labour movement. Yet this bill flies in the face of all of that.

There are already substantial penalties in the act for breaches of orders and contempt. One has to wonder why it is that the government wants to pursue this. It certainly cannot be because there has been some wild spate of industrial action in the last couple of years that has driven the economy to its knees or that there has been some wild outburst of uncontrolled activity by unionists that has called police into the streets on a regular basis to quell the crowds. Of course that is nonsense. If you look at the most recent ABS figures on industrial disputes you will find the number of working days lost in the year 2000 was 469,000. In 2001 that had fallen to 393,000, and in 2002 that had fallen to 259,000. There is a continuing decline, and that decline has been evident in the statistics since about the mid-1980s.

In spite of the fact that industrial disputes are at very low levels and are continuing to decline, the government now brings in a piece of legislation intended to do one thing: take a massive legislative stick and try and punish and intimidate only one side in this industrial relations environment—the unions and the workers. Companies and lawyers are,

frankly, already using loopholes in the act to place unions in a position where they may well find themselves in breaches of order and to deny unions natural justice. That is a view held not just by those in the labour movement; it is a view made clear by one of the commission's most senior members. An article from July of last year said:

A senior member of the IRC criticised employers for deliberately lodging applications for s166A certificates and other similar urgent applications late on Friday afternoons to deny unions natural justice.

Justice Paul Munro made the comment when he 'reluctantly' issued a s166A certificate ... against the AMWU ...

In the decision, he criticised the company's actions in filing the application on the Friday afternoon so that the majority of the 72-hour notice period was taken up over the weekend. The article continued:

He said it had become regular practice for employers to 'lodge relatively late on a Friday matters in respect of which there is a need for expedition enjoined by the Act'.

That means that as a commissioner he did not have any discretion with regard to this. The act that the government put in place ties the commission's hands. They must deal with it, they must deal with it within a tight time frame, and the orders that they give then have a tight time frame of 72 hours for the unions to comply. He said about this problem:

This provided 'no real opportunity to accord what might be described as natural justice'.

We already have a situation under the current act whereby employers and their advocates are using loopholes in the legislation and the processes to deny unions natural justice and put them into a position where they are likely to be in breach of orders. There are already provisions in the act to deal with breach of orders, and I will come to those in a moment.

One of the things that clearly demonstrates the government's intent and the minister's intent is that the bill provides the minister with the power to intervene and seek penalties. He can do that without consultation with the parties and whether or not the parties agree with his intervention. That means that into a dispute that has been settled—a dispute in which the employer, the workers, the employer's representative and the workers' representative all agree that the matter has been settled satisfactorily and is ended—can trot the dark knight on his dark horse with a dark plan; into that can trot Minister Abbott to cause havoc for political gain.

Cast aside the interests of the company, cast aside the interests of the workers, cast aside the interests of good public policy and certainly cast aside any notion that the government and the minister are acting in good faith or as honest brokers. The minister can trot in there under this bill and effectively force a further dispute between the parties that reopens the entire wound. That is the process that this government says is a sensible way forward. This is the same government that has told us repeatedly since it came to office in 1996 that there should not be any third parties involved in industrial relations.

We have argued for years that what the government really meant was that there should be no unions involved. 'We don't want unions,' say the Liberal Party and the National Party. 'We don't want unions to have a role,' say the government, 'and we certainly don't want the umpire to be making decisions we don't like or interfering with the prerogative of management.' Under a facade of rhetoric about no third-party involvement the government championed its major legislative reforms. Yet here we have a bill that puts front and centre a third party, not just to participate in the process but to override the key participants. With or with-

out the wishes of any of the parties involved in an industrial dispute, the minister can trot in on his dark horse with dark plans and create havoc. And if that produces for the minister some political gain then that is what he will do, as he did in the Tristar dispute that I referred to earlier in which he poured petrol on the fire.

We have now stripped bare the government's claim of not wanting to see third parties involved. It is now nakedly apparent that this government relishes third-party involvement. What the government does not like is involvement of parties that do not agree with its industrial relations prescription. That is exactly what the government has been about in other bills and that is what this bill proposes, except that it goes further than other bills by giving the minister the direct power to intervene.

In his second reading speech on this bill the minister claimed that section 127 orders do not work. The heading of section 127 is 'Orders to stop or prevent industrial action'. The minister claimed that these orders were not working and therefore he needed this bill that provides these extraordinary powers to him to continue to get a bigger and bigger stick with which to hit those involved in industrial relations. The minister cannot have it both ways. The same minister, introducing another bill this year, said:

Whilst section 127 has generally proved to be an effective mechanism, delays in making or enforcing section 127 orders have sometimes extended the period during which enterprises and their workers are exposed to unprotected industrial action.

Which is it, Minister? Either section 127 'has generally proved to be an effective mechanism'—your words, spoken in this House this year—in which case there is no basis whatsoever for this bill, or it is an abysmal failure that requires a whole new mechanism with a bigger stick and the right of the minis-

ter to personally intervene. You would think that by now, even with his L-plates, the minister would have figured out that if he is introducing two bills into this parliament in the same year he should at least use rhetoric for one that is compatible with that of the other. In his own words, in the second reading speeches that he has given on two bills, he has contradicted the very core argument he has advanced for this bill. There is no argument to be advanced for this bill.

The bill theoretically applies to employers as well as employees. I say 'theoretically' because we know from past practice, and particularly with this government, that it is unlikely ever to be used against an employer. That is not because employers do everything correctly; indeed, they do not. Employers make their share of mistakes, as do unions and the rest of us—even, dare I say, a few politicians. But there is not a person in Australia who believes that Minister Abbott is about to initiate a prosecution against an employer for doing the wrong thing as a result of an order from the Industrial Relations Commission. There is not a person in Australia who believes that will happen. I will cite a couple of key examples. On many occasions there have been strikes in the automotive industry, the manufacturing industry and the construction industry that have gone on for two, three, four or five days. We have heard tirades of abuse from Minister Abbott, in this chamber and outside it, criticising those workers for taking industrial action. Contrast that with the attitude that this government, this minister and his predecessor have taken when employers take industrial action. I will cite three or four examples.

G&K O'Connor meatworks in Pakenham are often mentioned in this place. They are guilty of the longest lockout since the Great Depression. Indeed, I can find no precedent

of a longer lockout. They locked their work force out for nine months because the work force was not prepared to take a pay cut. For nine months those workers were denied the opportunity to work. What did this government say about that? Has the minister at the table to this day criticised it? No. The minister at the time was Peter Reith. Far from criticising it, Peter Reith actually applauded it. Peter Reith is on the record in the local *Pakenham Gazette* as saying that he had no objection to G&K O'Connor locking out their 334 workers. He said he supported O'Connor's actions and the moves taken by the company to de-unionise their work force. That was the official position of the minister of the Crown, the immediate predecessor of the fellow at the table now. The minister at the table has had many opportunities in question time and in debates on bills before this parliament to clearly denounce the activities of G&K O'Connor and the nine-month lockout. If it had been a nine-day strike by workers, you can bet your bottom dollar that this minister would have been on the attack. But during a nine-month lockout by the company there was not one word of criticism from this minister.

That is not the only example. ACI in Victoria locked their work force out. In a very Scrooge like way, they closed the place down on Christmas Eve. The workers were locked out for five months. Again, there was not one word of criticism from Minister Abbott, his predecessor or any other minister in this government. Joy Manufacturing in New South Wales locked its work force out for three months. The situation was the same: not a word of complaint from this minister. He has had the opportunity in this debate to place on the record his concerns about those lockouts. As I have on many occasions in the past, I invite him to do so. I invite him to denounce the reprehensible actions of those

employers in locking workers out—not for hours, Minister, not for days or weeks but for months. If there is any pretence at even-handedness by this government they will denounce the actions of those employers; but they do not.

Do the ordinary working men and women of Australia have any faith that now, all of a sudden, the government will act with an even hand in the administration of this bill if it is passed? Of course they will not. They never have. Their record is clear on this. The Prime Minister, former Minister Peter Reith and the current minister, Tony Abbott, are not honest brokers in industrial relations. They are actively biased participants. Do not forget what Peter Reith said in a speech he gave to a business lunch in Western Australia:

Never forget the history of politics and never forget which side we're on. We're on the side of making profits. We're on the side of people owning private capital.

So spoke a minister of the Crown, representing this government. It is a view held by the minister at the table. Until the government get fair dinkum about being even-handed and being people of good faith in this debate then no-one in Australia will trust them with the sorts of powers this bill seeks to give them. *(Time expired)*

**Mr ABBOTT** (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (7.13 p.m.)—in reply—I am pleased to have the opportunity to sum up this debate, which I will do quite briefly. I should say I listened in a state of some consternation to the normally sensible member for Brisbane denouncing Peter Reith for saying that he was in favour of people making a profit. I thought members opposite were actually in favour of people making a profit as well.

This government wants to see more effective Australian businesses that provide better returns to shareholders and higher wages to their workers, because we are working better, smarter and more cooperatively. There was an old song that said something along the long lines of: 'You don't know what you've got till it's gone.' I used to really enjoy the contributions in this area from the former shadow minister for workplace relations, the member for Barton. Even though I did not always agree with him, I always knew that he would provide an extremely thoughtful, considered and well-informed contribution in this place. Having listened to the new shadow minister, the member for Rankin, I would say that he may have a doctorate but I am afraid that on today's performance he was all bile and no brain. There were attacks on me—

**Dr Emerson**—Mr Deputy Speaker Causley, I rise on a point of order. The minister says he is familiar with an old song. There is another one that goes:

You may be right

I may be crazy

But it just may be a lunatic you're looking for.

**The DEPUTY SPEAKER (Hon. I.R. Causley)**—The member for Rankin will resume his seat. That is a trivial point of order and he will be dealt with if he tries it again.

**Mr ABBOTT**—I suppose that the shadow minister is entitled to take his Latham pills and hysterically attack his opposite number, but I thought it was a bit much when he launched a savage attack on the Registrar of the Australian Industrial Relations Commission, a perfectly good public servant, just because that gentleman had previously been an official of an employer organisation. Even the member for Brisbane seems to have been somewhat afflicted by whatever it is which is troubling the member for Rankin. Perhaps it is the 'I am in trouble with the Queensland

AWU' disease, because I know both of them have had their difficulties in recent times with the Queensland AWU. Let me simply say to the member for Brisbane that this government has prosecuted employers for breach of the industrial rules; in fact, the most recent prosecution launched by the building industry task force is, as I understand it, against an employer. I do not like strikes. I do not much like lockouts either but, above all else, I do not like illegality: I do not like people breaking the industrial law. This bill is all about trying to ensure that the rule of law applies just as much in our workplaces as it does, or should do, in every other area of our national life.

The shadow minister said that this bill targeted unions and not employers. In fact, that is not the case. It applies to the officers of registered organisations, to union officials and to officials of company organisations. It does so for the very understandable reason that, if you have special privileges under the Workplace Relations Act, you also have special responsibilities. We want people who hold office in registered organisations to take their responsibilities seriously. The member for Throsby, in her contribution, said that there really was not a problem because, in her words, 'Only some two per cent of applications for return to work orders actually resulted in orders being breached.' I put it to the member for Throsby: what level of non-compliance is acceptable? When does she think it is right to defy orders of the commission? I would suggest to her that surely it is never right to defy orders of the Industrial Relations Commission or of the Federal Court. I accept that the vast majority of officials of registered organisations, both unions and employer organisations, do take their responsibilities seriously and do try to respect the orders of the commission and court, but it does not always happen. It should al-

ways happen, and when it does not happen there are often very serious consequences.

For instance, some members of this House would be aware of a dispute late last year at the Patricia Baleen gas project in Gippsland in Victoria. An industrial dispute there lasted for more than two months. It went on for that length of time despite three orders of the Federal Court and two section 127 orders by the Industrial Relations Commission. It cost workers and companies millions of dollars and in the end, as a result of that unlawful industrial dispute, workers are now operating under an agreement which was subsequently found by the ACCC to be a coerced agreement. It is right that we should do more to ensure that the industrial umpire, the Australian Industrial Relations Commission, is taken seriously.

Members opposite like to talk about the importance of the Industrial Relations Commission; they like to talk about the umpire. This bill is about ensuring that the umpire is taken seriously. This bill is about ensuring that when the umpire blows his whistle, the players stop the game and adhere to the rules as stated by the umpire. The sad thing is that there are some officials, admittedly a small minority of union officials, who boast of flouting Industrial Relations Commission orders. They should be made to take the Industrial Relations Commission more seriously. They should understand that there are significant consequences to flouting orders of the commission. Members of this parliament claim to take the rule of law seriously. If members opposite were serious about the rule of law in workplace relations, they would be supporting this bill.

Question put:

That the words proposed to be omitted (**Dr Emerson's** amendment) stand part of the question.

The House divided. [7.24 p.m.]  
(The Speaker—Mr Neil Andrew)

Ayes.....	74
Noes.....	<u>61</u>
Majority.....	13

AYES

Abbott, A.J.	Andrews, K.J.
Anthony, L.J.	Bailey, F.E.
Baird, B.G.	Baldwin, R.C.
Barresi, P.A.	Bartlett, K.J.
Billson, B.F.	Bishop, B.K.
Bishop, J.I.	Brough, M.T.
Cadman, A.G.	Cameron, R.A.
Causley, I.R.	Charles, R.E.
Ciobo, S.M.	Cobb, J.K.
Draper, P.	Dutton, P.C.
Elson, K.S.	Entsch, W.G.
Farmer, P.F.	Gambaro, T.
Gash, J.	Georgiou, P.
Haase, B.W.	Hardgrave, G.D.
Hartsuyker, L.	Hawker, D.P.M.
Hockey, J.B.	Hull, K.E.
Hunt, G.A.	Johnson, M.A.
Jull, D.F.	Katter, R.C.
Kelly, D.M.	Kelly, J.M.
King, P.E.	Ley, S.P.
Lindsay, P.J.	Lloyd, J.E.
May, M.A.	McArthur, S. *
McGauran, P.J.	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.
Tuckey, C.W.	Vaile, M.A.J.
Vale, D.S.	Wakelin, B.H.
Washer, M.J.	Williams, D.R.
Windsor, A.H.C.	Worth, P.M.

NOES

Adams, D.G.H.	Albanese, A.N.
Andren, P.J.	Beazley, K.C.
Bevis, A.R.	Brereton, L.J.
Burke, A.E.	Byrne, A.M.

Corcoran, A.K.	Cox, D.A.
Crosio, J.A.	Danby, M. *
Edwards, G.J.	Ellis, A.L.
Emerson, C.A.	Evans, M.J.
Ferguson, L.D.T.	Ferguson, M.J.
Fitzgibbon, J.A.	George, J.
Gibbons, S.W.	Gillard, J.E.
Griffin, A.P.	Hall, J.G.
Hatton, M.J.	Hoare, K.J.
Irwin, J.	Jackson, S.M.
Jenkins, H.A.	Kerr, D.J.C.
King, C.F.	Latham, M.W.
Lawrence, C.M.	Livermore, K.F.
Macklin, J.L.	McClelland, R.B.
McLeay, L.B.	McMullan, R.F.
Melham, D.	Mossfield, F.W.
Murphy, J. P.	O'Byrne, M.A.
O'Connor, B.P.	O'Connor, G.M.
Organ, M.	Plibersek, T.
Price, L.R.S.	Ripoll, B.F.
Roxon, N.L.	Rudd, K.M.
Sawford, R.W. *	Sciacca, C.A.
Sidebottom, P.S.	Smith, S.F.
Snowdon, W.E.	Swan, W.M.
Tanner, L.	Thomson, K.J.
Vamvakinou, M.	Wilkie, K.

\* denotes teller

Question agreed to.

Debate interrupted and progress reported;  
adjournment proposed and negated.

Question put:

That this bill be now read a second time.

The House divided. [7.32 p.m.]  
(The Speaker—Mr Neil Andrew)

Ayes.....	75
Noes.....	<u>61</u>
Majority.....	14

AYES

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



Ciobo, S.M.  
 Draper, P.  
 Elson, K.S.  
 Farmer, P.F.  
 Gambaro, T.  
 Georgiou, P.  
 Hardgrave, G.D.  
 Hawker, D.P.M.  
 Hull, K.E.  
 Johnson, M.A.  
 Katter, R.C.  
 Kelly, J.M.  
 Ley, S.P.  
 Lloyd, J.E.  
 McArthur, S. \*  
 Nairn, G. R.  
 Neville, P.C. \*  
 Pearce, C.J.  
 Pyne, C.  
 Ruddock, P.M.  
 Scott, B.C.  
 Slipper, P.N.  
 Somlyay, A.M.  
 Stone, S.N.  
 Ticehurst, K.V.  
 Truss, W.E.  
 Vaile, M.A.J.  
 Wakelin, B.H.  
 Williams, D.R.  
 Worth, P.M.

Cobb, J.K.  
 Dutton, P.C.  
 Entsch, W.G.  
 Gallus, C.A.  
 Gash, J.  
 Haase, B.W.  
 Hartsuyker, L.  
 Hockey, J.B.  
 Hunt, G.A.  
 Jull, D.F.  
 Kelly, D.M.  
 King, P.E.  
 Lindsay, P.J.  
 May, M.A.  
 McGauran, P.J.  
 Nelson, B.J.  
 Panopoulos, S.  
 Prosser, G.D.  
 Randall, D.J.  
 Schultz, A.  
 Secker, P.D.  
 Smith, A.D.H.  
 Southcott, A.J.  
 Thompson, C.P.  
 Tollner, D.W.  
 Tuckey, C.W.  
 Vale, D.S.  
 Washer, M.J.  
 Windsor, A.H.C.

Melham, D.  
 Murphy, J. P.  
 O'Connor, B.P.  
 Organ, M.  
 Price, L.R.S.  
 Roxon, N.L.  
 Sawford, R.W. \*  
 Sidebottom, P.S.  
 Snowdon, W.E.  
 Tanner, L.  
 Vamvakinou, M.  
 Zahra, C.J.

Mossfield, F.W.  
 O'Byrne, M.A.  
 O'Connor, G.M.  
 Plibersek, T.  
 Ripoll, B.F.  
 Rudd, K.M.  
 Sciacca, C.A.  
 Smith, S.F.  
 Swan, W.M.  
 Thomson, K.J.  
 Wilkie, K.

\* denotes teller

Question agreed to.

Bill read a second time.

**Third Reading**

**Mr ABBOTT** (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (7.34 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**COMMITTEES**

**Selection Committee**

**Amended Report**

**Mr CAUSLEY** (Page) (7.35 p.m.)—I present the amended report of the Selection Committee relating to the consideration of committee and delegation reports and private members' business on Monday, 18 August 2003. Copies of the report have been circulated to honourable members in the chamber.

Report—by leave—adopted.

*The report read as follows—*

**Amended report relating to the consideration of committee and delegation reports and private Members' business on Monday, 18 August 2003**

Pursuant to standing order 331, the Selection Committee has determined the order of precedence and times to be allotted for consideration of

**NOES**

Adams, D.G.H.  
 Andren, P.J.  
 Bevis, A.R.  
 Burke, A.E.  
 Corcoran, A.K.  
 Crosio, J.A.  
 Edwards, G.J.  
 Emerson, C.A.  
 Ferguson, L.D.T.  
 Fitzgibbon, J.A.  
 Gibbons, S.W.  
 Griffin, A.P.  
 Hatton, M.J.  
 Irwin, J.  
 Jenkins, H.A.  
 King, C.F.  
 Lawrence, C.M.  
 Macklin, J.L.  
 McLeay, L.B.

Albanese, A.N.  
 Beazley, K.C.  
 Brereton, L.J.  
 Byrne, A.M.  
 Cox, D.A.  
 Danby, M. \*  
 Ellis, A.L.  
 Evans, M.J.  
 Ferguson, M.J.  
 George, J.  
 Gillard, J.E.  
 Hall, J.G.  
 Hoare, K.J.  
 Jackson, S.M.  
 Kerr, D.J.C.  
 Latham, M.W.  
 Livermore, K.F.  
 McClelland, R.B.  
 McMullan, R.F.

committee and delegation reports and private Members' business on Monday, 18 August 2003. The order of precedence and the allotments of time determined by the Committee are as follows:

## COMMITTEE AND DELEGATION REPORTS

### Presentation and statements

#### 1 PROCEDURE — STANDING COMMITTEE: Review of the conduct of divisions.

*The Committee determined that statements on the report may be made — all statements to conclude by 12.40 p.m.*

*Speech time limits —*

*Each Member — 5 minutes.*

*[Proposed Members speaking = 2 x 5 mins]*

## PRIVATE MEMBERS' BUSINESS

### Order of precedence

#### Notices

**1 Ms Draper** to present a bill for an act to amend the Flags Act 1953. (Protection of Australian Flags (Desecration of the Flag) Bill 2003 — Notice given 25 June 2003.)

*Presenter may speak for a period not exceeding 5 minutes — pursuant to standing order 104A.*

**2 Mr Organ** to present a bill for an act to provide for comprehensive reduction of travel entitlements for former Members of the Parliament, and for related purposes. (Abolition of the Gold Travel Pass for Former Politicians (Reflecting Community Standards) Bill 2003 — Notice given 11 August 2003.)

*Presenter may speak for a period not exceeding 5 minutes — pursuant to standing order 104A.*

**3 Ms Plibersek** to present a bill for an act to amend the Australian Citizenship Act 1948. (Australian Citizenship for Eligible De Facto Spouses Bill 2003 — Notice given 11 August 2003.)

*Presenter may speak for a period not exceeding 5 minutes — pursuant to standing order 104A.*

**4 Mr Crean** to present a bill for an act to amend the Corporations Act 2001 and the Workplace Relations Act 1996, and for related purposes. (Corporate Responsibility and Employment Security Bill 2003 — Notice given 11 August 2003.)

*Presenter may speak for a period not exceeding 5 minutes — pursuant to standing order 104A.*

**5 Mr Crean** to present a bill for an act to amend the Workplace Relations Act 1996 and for related purposes. (Workplace Relations Amendment (Unfair Dismissal—Lower Costs, Simpler Procedures) Bill 2003 — Notice given 11 August 2003.)

*Presenter may speak for a period not exceeding 5 minutes — pursuant to standing order 104A.*

**6 Mr Griffin** to present a bill for an act to amend the Trade Practices Act 1974 to give the Australian Competition and Consumer Commission power to deal with any price exploitation arising from changes to the law in relation to public liability, and for related purposes. (Trade Practices Amendment (Public Liability Insurance) Bill 2003 — Notice given 11 August 2003.)

*Presenter may speak for a period not exceeding 5 minutes — pursuant to standing order 104A.*

**7 Mr Latham** to present a bill for an act to provide small businesses with a simpler method of calculating Goods and Services Tax payments. (Taxation Laws Amendment (A Simpler Business Activity Statement) Bill 2003 — Notice given 11 August 2003.)

*Presenter may speak for a period not exceeding 5 minutes — pursuant to standing order 104A.*

**8 Mr Cadman** to move

That this House:

(1) commends the Israeli Cabinet for its decision to take positive steps for the resolution of conflict in the Middle East, including the adoption of the Road Map which is:

Phase 1 (to May 2003): End of terrorism, normalisation of Palestinian life and Palestinian political reform; Israeli withdrawal and end of settlement activity; Palestinian elections;

Phase 2 (June-Dec 2003): Creation of an independent Palestinian state; international conference and international monitoring of compliance with roadmap;

Phase 3 (2004-2005): Second international conference; permanent status agreement and end of conflict; agreement on final borders, Jerusalem, refugees and settlements; Arab states to agree to peace deals with Israel; and

(2) calls on all parties involved in the conflict to emulate this example and move forward to a

rapid settlement. (Notice given 26 May 2003.)

*Time allotted — remaining private Members' business time prior to 1.45 p.m.*

*Speech time limits —*

*Mover of motion — 5 minutes.*

*First Opposition Member speaking — 5 minutes.*

*Other Members — 5 minutes each.*

*[Proposed Members speaking = 6 x 5 mins]*

*The Committee determined that consideration of this matter should continue on a future day.*

**9 Mr C. P. Thompson** to move:

That this House notes:

- (1) the number of children in Australia who have insulin dependent diabetes;
- (2) the devastating long-term health consequences and medical complications for children with insulin dependent diabetes, including:
  - (a) hypoglycemia;
  - (b) heart disease;
  - (c) microvascular disease;
  - (d) limb amputation;
  - (e) kidney failure; and
  - (f) retinopathy or diabetic eye disease;
- (3) the outstanding work by Australian researchers to find a cure through pancreatic islet cell transplantation;
- (4) that research is the key to finding a transplant procedure that is safe and available to children; and
- (5) the need for support from the Federal Government to establish:
  - (a) a national clinical islet cell transplant centre to advance islet cell transplantation; and
  - (b) a research grant to attract the world's best scientists and ensure Australia's position at the forefront of global research. (Notice given 11 August 2003.)

*Time allotted — 30 minutes.*

*Speech time limits —*

*Mover of motion — 5 minutes.*

*First Opposition Member speaking — 5 minutes.*

*Other Members — 5 minutes each.*

*[Proposed Members speaking = 6 x 5 mins]*

*The Committee determined that consideration of this matter should continue on a future day.*

**10 Mr Murphy** to move:

That this House:

- (1) declares that Badgerys Creek is no longer a viable site for the location of a second airport for the people of Sydney; and
- (2) recommends that a Joint Select Committee be established to identify a site suitable for the location of Sydney's second airport, having regard to (a) aircraft noise; (b) air pollution and (c) other risks associated with aircraft movements. (Notice given 11 August 2003.)

*Time allotted — remaining private Members' business time.*

*Speech time limits —*

*Mover of motion — 5 minutes.*

*First Government Member speaking — 5 minutes.*

*Other Members — 5 minutes each.*

*[Proposed Members speaking = 6 x 5 mins]*

*The Committee determined that consideration of this matter should continue on a future day.*

### ADJOURNMENT

**Mr TUCKEY** (O'Connor—Minister for Regional Services, Territories and Local Government) (7.35 p.m.)—I move:

That the House do now adjourn.

### Social Welfare: Pensions and Benefits

**Mr MELHAM** (Banks) (7.35 p.m.)—I rise today on behalf of one of my constituents to highlight an anomaly in the determination of assets for social security which faces people in my electorate. Mrs Jeffrey, my constituent, is a 95-year-old woman who has lived in Banks for the past 50 years. Mrs Jeffrey and her late husband settled in Padstow to build a home together while Mr Jeffrey worked on the railway. The family

were battlers, Mr Jeffrey having once walked from Sydney to Bathurst just to get a job. They worked hard to raise their family and to pay off their home.

We have heard the Treasurer previously remark on the price of property in Sydney. Here we have a clear example of how, simply because of where they live, an elderly person can be disadvantaged. Mrs Jeffrey entered a nursing home in January 2001. At that time her only assets were less than \$25,000 in the bank and her home. Mrs Jeffrey had a dependant disabled son who remained in the family home after she moved. Her son later had to go to a nursing home and has since passed away. At the time she entered the nursing home, Mrs Jeffrey was considered too disadvantaged to pay the accommodation charge. Centrelink has now advised Mrs Jeffrey that the family home will become an assessable asset in January, two years after her son left the home. If Mrs Jeffrey had been in a position to pay the accommodation charge, she would be able to keep her home, to which she is very attached, for a further three years. I note that the accommodation charge could have been as little as \$400 per year. Mrs Jeffrey's family believe that selling the home will only distress her. The family take her there on regular visits and she believes that she will eventually return there.

It is a clear inequity that, had Mrs Jeffrey more money in the bank, she would have originally qualified for the five-year extension. Because Mrs Jeffrey only has one asset—the home she built—she will be forced to sell this and live off the proceeds. She will lose her pension as the assets test currently is \$398,500 for a single pensioner. Mrs Jeffrey has been caught in an anomaly faced by many people in the electorate of Banks. Their only asset, the family home, has acquired value far in excess of that which Mr and Mrs Jeffrey could originally envisage.

Mrs Jeffrey is now a victim of property prices. Like many other working people, her Sydney home is now worth on paper much more than the assets test allows. Therefore, the pension, and associated benefits, such as a concession card, are lost.

Despite this government's rhetoric, the concept of a fair go is rapidly fading. The government's National Strategy for an Ageing Australia claims to promote the principles of access and equity; affordability and sustainability; equality, choice and responsiveness. I cannot see the equity in a circumstance which requires an elderly woman who has battled all her life to sell the one asset she has, simply because of where she lives.

#### **Manildra Group of Companies**

**Mr CAUSLEY** (Page) (7.39 p.m.)—I want to make a few comments about the debate that has been taking place this week, particularly with regard to Manildra. While I understand politics and have been around politics for a long time, the unfortunate part about this debate is that an Australian company that has very deep roots in rural New South Wales is being attacked unmercifully by the Labor Party. As many speakers have said today, Manildra is not just involved in ethanol. Manildra is a company that, as its name implies, started from the small township of Manildra in central New South Wales. It has involvement not just in ethanol but also in starch, flour and the sugar refinery on the North Coast of New South Wales. The thing that disturbs me most about this political attack that has been taking place, obviously to try to denigrate the Prime Minister, is that it is having widespread repercussions in country New South Wales. I am afraid that the Labor Party will be well remembered in country New South Wales for some of their efforts in this particular area.

As I have said, the sugar industry of northern New South Wales depends upon

this company—it owns 50 per cent of the refinery up there. With regard to the flour industry, I think it was said today that Manildra buys one million tonnes of wheat a year. This is a substantial Australian company that has a very big influence on the affairs and also the economy of rural New South Wales. I would hope that the Labor Party take some note of this because, obviously in their simple politics that they are playing at the present time, they have forgotten that there are many areas of Australia that will suffer in this effort.

I note that the *Australian* and the *Sydney Morning Herald* have bought into this debate, and I have read with interest some of the comments of the reporters from those newspapers. It seems to me that, as usual on some of these issues, these newspapers and the Labor Party are taking the side of big business in this debate, where it is said, ‘Yes, we should be able to import some of these products at cheap prices,’ but they have no idea of the effects that this might have on industries across Australia. It seems to me quite a contradiction in terms that the Labor Party, who are supposed to support the workers of Australia, are in fact advocating that we should export jobs to Brazil. I have been to Brazil; I have seen some of the governance of that country. When I was there three years ago, the wages in Brazil were \$A600 a month and two per cent of the population in Brazil controlled 85 per cent of the GDP.

Are the Labor Party really putting forward that that is what they want to do? Do they want to support a country, which is also subsidising ethanol in their country, to come into Australia, to attack the jobs of Australians and to attack the rural areas of Australia which rely on the support of these industries? It is a very serious situation and I really think

that the Labor Party should look very closely at what they are doing at the present time. It seems to me that the *Australian* and the *Sydney Morning Herald* are quite happy to have peons in rural Australia and to go out there with this ideological bent, which is to support big business and their theory that they should be able to import cheap products, regardless of the fact that they are exploiting workers in other countries and are, of course, getting the subsidy from that country as well.

I really do believe that the Labor Party have gone down a track in this particular instance for which they will be well remembered for many years in rural New South Wales in particular. The workers of Australia should remember this attack as well, because obviously they are supporting the fact that people in Brazil, who are exploited for cheap wages, get the consideration of the Australian Labor Party, and not the workers here in Australia.

#### **Health: Complementary Medicines**

**Mr SCIACCA** (Bowman) (7.44 p.m.)—When news of the Pan Pharmaceuticals recall first broke, and as the list of complementary medicines recommended for return grew and grew over the next few days, there was widespread concern amongst the many hundreds of people in my electorate of Bowman who use vitamin supplements, herbal remedies and other forms of natural medicine on a daily basis. It was a feeling that I am sure was shared by the many thousands of people across Australia who subscribe to natural medicines and therapies. Regretfully, this uncertainty has not been abated by the Howard government’s decision to put together an expert committee to examine complementary medicines in the health care system. On the contrary, many complementary health care professionals and their patients are wary about the possible implications of the report,

which is due to be handed down on Friday, for the affordability and availability of natural medicines and the future of the alternative health care industry.

The Centre for Integrated Medicine, a practice that focuses on providing quality alternative health care to residents in the Redland shire and surrounding areas, is located next door to my electorate office in Capalaba. A few weeks ago, I received a visit from Christine Houghton, a nutritional biochemist and chiropractor from the centre, who has been practising in our community for nearly 30 years. Christine wanted to make me aware of the reservations she had about the expert committee and its terms of reference. My constituent is just one of many hundreds of complementary health care professionals who believe it is unreasonable to turn a quality assurance issue relating to one manufacturer, albeit a large one, into a full-scale review of the industry.

The Therapeutic Goods Administration has comprehensive powers to regulate the quality and safety of complementary medicines available in this country. Indeed, in Australia nutritional and herbal products are regulated as drugs, whereas comparable countries such as the United States and Britain only require such supplements to be made according to food standards. Allegations that emerged in the wake of the Pan Pharmaceuticals crisis have raised serious questions about the effectiveness of the TGA in carrying out its regulatory role—so much so that the Australian National Audit Office last week announced it would be undertaking an audit of the TGA administration of non-prescription medicines. While the government-appointed expert committee has been given a fairly wide scope to inquire into the complementary medicines industry, there is one glaring omission from the terms of reference—namely, there is no mention of Pan.

The industry is also concerned about the make-up of the expert committee. In particular, it has raised concerns that the majority of members are drawn from an academic or mainstream medical practice background, with little contribution from practitioners with experience in the field of complementary health care. Although the committee does include one naturopath and one manufacturer of natural products, there is no representative from the peak industry body. This lack of balance is particularly concerning to the industry, given that some committee members have been publicly quoted denouncing complementary medicine. In the meantime, my colleague the shadow minister for consumer protection and consumer health has raised concerns about the value of the report, given the limited time frame the committee has been afforded to conduct its inquiries and the absence of provisions to ensure proper consultation with the industry or the general public.

Complementary medicine practitioners are concerned that, if the committee recommends even greater regulation when it hands down its report later this week, it will have a significant impact on the community's confidence in natural medicines and therapies and the affordability of natural therapies and will create instability for the hundreds of workers employed in the \$1.2 billion a year industry. Complementary medicines such as herbal remedies, nutritional supplements and complementary therapies, including acupuncture, naturopathy and chiropractic services, have steadily been gaining popularity in the Australian community in recent years. It is estimated that more than 60 per cent of Australians use complementary health care as an alternative to conventional treatments or act to prevent the onset of disease by changing their diet and lifestyle with the guidance of qualified complementary medical practitioners.

I am a great believer in complementary medicine and therapies. When I broke my arm earlier this year, as you know, Mr Speaker, I sought a wide range of treatments to reduce the pain I was experiencing—it is still pretty bad—and to rebuild the strength in the muscle, including several acupuncture sessions and taking Chinese herbs. As veterans affairs minister, I added chiropractic services to the health care services covered by the Commonwealth for former service men and women. The AMA has noted the growing interest in natural health care remedies to complement conventional treatments amongst GPs, medical specialists and hospital departments.

Complementary health care and local practices like the Centre for Integrated Medicine have a lot to offer people in our community by giving them access to a range of alternative options to maintain good health and to treat ailments, which has long-term potential to reduce the stress on the health budget. What this important industry needs, more than an overarching review, is the support of the government to ensure that the gaps that seem to have emerged in the regulatory system are fixed and that public confidence in complementary medicines is restored.

#### **Family Services: Child Custody Inquiry**

**Mr TICEHURST** (Dobell) (7.49 p.m.)—I rise tonight to congratulate the Prime Minister, John Howard, on announcing the inquiry into joint custody and the fairness of our child support system following family separation. The issue has gained momentum in the last few weeks. I have received hundreds of letters, phone calls and submissions from constituents in my electorate of Dobell and beyond expressing their support for the inquiry and highlighting the need for changes to the system.

I held a public forum last Thursday evening to allow residents and a range of field experts to work together to define, based on the terms of reference for the inquiry, the key areas in which family law reform is required and the common difficulties people are experiencing with the current system. The forum brought together around 150 residents wanting to reshape family law and a panel of specialists constituting representatives from the Family Court, the Child Support Agency and the local council, a family law specialist and representatives from community service organisations, including Dads in Distress and the Child Abuse Prevention Service. I accepted many individual submissions on the night from people wanting to make a difference to this inquiry. I also compiled a comprehensive submission to the inquiry based on feedback from the forum.

Emotions flared during the forum but acceptable conduct was defined and enforced by local radio host and moderator for the night, Mr Steve Allan, from radio station 2GO, and no outbursts were directed at the panel of eight. The forum was a great way to measure the extent to which family law in Australia is not working. Amid the frustration and tears, several common themes emerged, including a lack of family law enforcement, a need for more support to encourage self-representing litigants, a need for life education in primary and high schools, bias in the Family Court and a lack of emphasis on mediation. However, the most important issue raised was that the inquiry should focus on the rights of children to see their parents, not the other way around.

When you consider that around 2,000 married Central Coast couples called it quits last year, it is vital that current laws enforce a child's right to know and be cared for by both their parents, regardless of their marital

status, for their mental and emotional wellbeing. Many affected grandparents were also present. A great-grandmother approached me after the forum to discuss the difficulties she was experiencing in gaining access to her great-grandchild. Grandparents are often the forgotten ones in child access arrangements. Children have a right to regular contact with their grandparents, who can provide much needed stability during a family break-up.

While there are always exceptions, a lot of parents want better access arrangements. They want to meet their responsibilities and do the right thing by their kids. Let us facilitate that. Where parents do not want to do the right thing and be fully involved, we need to encourage them to do the right thing, not just by the kids but also for the future of our society. After all, Australia's greatest resource lies in the families of our nation.

In the United States a maternal preference in child custody has given way to the best interests of the child. This standard has resulted in a system that favours joint custody. In some parts of the United States the system also provides opportunities and incentives for parents to reach agreements between themselves and assists in minimising the damage of separation and conflict to children. This approach has helped to greatly reduce the incidence of divorce in these areas, which may contribute to a fall in the incidence of child abuse and a decrease in the financial costs of divorce to the community. There are no simple solutions or quick fixes. Each family is different, each child is different, and the issue must be approached on an individual basis.

In an article in the *Age* last month, opposition leader Simon Crean said he doubted that the issue would go anywhere, dubbing it one of the government's 'schemes that remain dreams'. I say to Mr Crean, I have received over 60 submissions from local residents in

the past week. The Howard government and I are listening and responding to the concerns of people affected by the current family law system. Mr Crean threatens that there will be hard decisions arising from the inquiry—we do not doubt there will be. The Howard government has never been afraid to tackle the tough issues—the issues that matter to the lives of Australians and, more importantly in this case, the issues that matter to the children and their future.

The Howard government's announcement of an inquiry into the system is one step forward in lessening the impact of marriage break-ups on families. It is good news for many people on the Central Coast who have expressed to me their frustration with the family law and the child support acts and their administration. Most importantly, all children have the right to be cared for by both their parents and that is what the federal government inquiry must address above anything else. (*Time expired*)

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

**Mr DANBY** (Melbourne Ports) (7.54 p.m.)—Over the last week, prior to the commencement of this parliamentary session, in my electorate at the Classic Cinema, some young people have been showing a film called *Relentless*. This is a film about incitement in the Middle East conflict and how that incitement is an issue that has to be addressed.

I want to congratulate the two people who organised the showings at the Classic Cinema. I particularly want to congratulate Malki Rose and Yoram Symons on doing that, and the film maker, Wayne Kopping. The 400-person cinema was full for 10 sessions, and the film was commercially released. What it showed to me is that there is a genuine fear, at least amongst a segment of Australian society in my electorate, of this continuing incitement. People feel greatly



aggrieved that mainstream media networks, like the ABC and SBS, have not been showing this as one of the causes of the current conflict between Israelis and Palestinians. I believe that is an issue that has to be addressed. As Dennis Ross, who was President Clinton's chief Middle East negotiator, explained to me, it is all very well for intellectuals and the elite to be discussing this in coffee houses around the world but, if there is no public education program that underlies peace between the two people, these things will not come to pass.

We have had three years of terrible violence in that area, but we are at a slightly better stage at the moment. But I believe this issue of incitement is of great concern not just to people in my electorate but it is something that is becoming of wider concern to the Australian community. Let me bring this House's attention particularly to the remarks of Federal Police Commissioner Mick Keelty after the bombing in Jakarta. Mr Keelty made the point that the issue of terrorism now creeping ever closer to Australia is something that is not to be viewed just incident by incident; we should look at the causes, the recruitment areas, where these people are incited from and how they are incited to do these dreadful kinds of attacks. As has been said, what kind of cause is served by killing ordinary Indonesians, ordinary Muslims, humble taxi drivers and hotel workers? No-one's cause is served by it. I think Commissioner Keelty is right to identify the small group of people who are trying to incite this around the world.

We have to remember that the issue of suicide bombing has moved from the Middle East to our part of the world. It is regrettable to say that both the Bali and the Jakarta incidents were, it has now been agreed, undertaken by suicide bombers. These are very

serious issues affecting the security of the Australian people. The issue that was highlighted in the film *Relentless*, shown in my electorate over this last week, is not something that simply concerns people in my electorate. As I said, slightly more hopeful progress is taking place in the Middle East at the moment.

Mr Speaker, I was pleased to see that you and other people were entertaining the Speaker of the Palestinian Legislative Council. I am sure that elections will be taking place amongst the Palestinian people as soon as possible, where they can have free and fair elections. I am sure Australia could play a role in that, as we do in other places.

The cartoon in the *Sydney Morning Herald* by Moir yesterday has really shocked people in my electorate and all around Australia. It is not simply that it compares the victims of the paradigm of evil of the Nazis with the current Israeli-Palestinian situation; it is a lapse of taste as much as judgment. One does not help solve the current situation over there by making such propagandistic, inciting cartoons. It does not aid the cause of peace, it does not aid the cause of reconciliation, and I think it is extremely regrettable that a major Australian publication would compare the situation in Warsaw with the situation in the West Bank at the moment. Let us hope that reconciliation and the cause of peace between the two people can be advanced by the current road map and that we can advance down that track. (*Time expired*)

**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:

**The SPEAKER** to move:

That, in accordance with section 54 of the Parliamentary Service Act 1999, the House of Representatives resolves that:

- (1)
  - (a) the Joint House Department, Department of the Parliamentary Library and Department of the Parliamentary Reporting Staff are abolished with effect from 31 January 2004; and
  - (b) a new joint service department, to be called the 'Department of Parliamentary Services' be established from 1 February 2004 to fulfil all the functions of the former joint departments;and supports the Presiding Officers in the following endeavours:
  - (c) to reinforce the independence of the Parliamentary Library by strengthening the current role of the Library committees of both Houses of Parliament;
  - (d) to bring forward amendments to the Parliamentary Service Act 1999 to provide for a statutory position of Parliamentary Librarian within the new joint service department and conferring on the Parliamentary Librarian direct reporting responsibilities to the Presiding Officers and to the Library committees of both Houses of Parliament;
  - (e) to ensure that the resources and services to be provided to the Parliamentary Library in the new joint service department be specified in an annual agreement between the Departmental Secretary and the Parliamentary Librarian, approved by the Presiding Officers following consideration by the Library committees of both Houses of Parliament; and
  - (f) to consider, after the establishment of the joint service department, that department providing human resources and financial transaction-processing activities for all the Parliamentary departments, subject to such an arrangement being proven to be both cost-effective and efficient; and
- (2) the text of this resolution be transmitted to the Senate for its information.

**Dr Nelson** to present a bill for an act to amend the Australian National Training Authority Act 1992, and for other purposes.

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Wednesday, 13 August 2003

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The **DEPUTY SPEAKER (Hon. I.R. Causley)** took the chair at 9.40 a.m.

**STATEMENTS BY MEMBERS**

**Sunbury Private Hospital**

**Mr BRENDAN O'CONNOR** (Burke) (9.40 a.m.)—In March this year I raised in parliament the sale of the Sunbury Private Hospital by Mayne Health to Primelife. On that day I raised concerns I had about the way in which that would occur and about the failure of Mayne Health to properly provide services to residents of Sunbury and the outlying regions. I also criticised Mayne Health for closing down the maternity ward—and I am on the record as doing that—because it was a much needed service in that region, an area that is growing by eight per cent per annum. I said in parliament on that day:

Mayne have now sold their business to Primelife, and I will be looking to engage in discussions with this new company. However, there is some speculation that this company is only going to enter into the business of aged care services. I welcome the increased provision of aged care services, but I am very concerned that this is going to adversely affect the services that we already have in Sunbury and in the region.

At the time I raised those concerns I was criticised by a number of parties, including Primelife. The local papers said that I had embarrassed myself by foreshadowing potential cuts to the hospital. I wish it was just a matter of embarrassment, but unfortunately it appears that I have been proven correct. Only a week ago Primelife made a decision to cut services to the nonsurgical admissions and to the in-patient psychiatric services of the hospital. That has resulted in the loss of over 20 jobs in the area and has precipitated the forced removal of patients from those services to other services. As I understand it, one patient refused to leave—and that was reported on the main story on Channel 9 news last Sunday.

I have spoken about my concerns with Greg Flood from Primelife: that services have been reduced and that the locals in Sunbury now have fewer services than they require in this fast-growing region. I have set up a meeting with him on Friday. I have asked the member for Calwell, who also has constituents who use the Sunbury Private Hospital, to meet with Greg Flood. I have also spoken with the state member for Macedon, who has indicated that she will be in attendance at this meeting if she can. It concerns me that these private hospitals put profits, on occasion, before patients. There needs to be a greater level of accountability by these hospitals when they are considering their services; otherwise patients are put last—and that is not good for anybody and it is certainly not good for my constituents in Sunbury.

**Health: Commonwealth-State Health Care Agreements**

**Mr ENTSCH** (Leichhardt—Parliamentary Secretary to the Minister for Industry, Tourism and Resources) (9.43 a.m.)—I recently wrote a letter to constituents asking for help in appealing to the Queensland Premier to sign the 2003-08 Australian health care agreement. The agreement details are, firstly, that the Australian government is going to contribute some \$42,000 million over five years to the states—a record funding level. It is \$10,000 million more than the last health care agreement, which was \$31.7 billion. Secondly, the new agreement offers Queensland \$8 billion over five years—\$2,100 million more than the \$5.9 billion given in the previous agreement—a significant increase of some 33.4 per cent in nominal

growth. If you factor in things like inflation and CPI, you are looking at around 17 per cent growth.

I had an overwhelming response. In the first week I had 2,600 letters returned, and over 4,000 letters were returned in total. There were some horror stories in there. I had a resident from Redlynch who recalled a situation where she had to wait for an on-call theatre to be prepared and staffed to deliver her daughter by emergency caesarean. That bed was not made available, there were delays in the theatre readiness and she had to wait for the best part of a day in Brisbane. Unfortunately, she still could not get a bed. They found one in Townsville and had to fly her to Townsville. They then had to wait for the emergency flight to get her there. With that waiting, the child's condition worsened and eventually the child died. She had a completely healthy pregnancy. You can imagine dismay of the parents.

In another example, a woman said she went in three times from Sunday to Tuesday with labour pains. They never had a bed available, so they gave her pain-killers and sleeping tablets and said that would delay the pregnancy and sent her home. On the Tuesday she was eventually able to find a bed and give birth. In another example, a man had a neighbour who was unable to find a neurosurgeon for several months for an emergency medical condition. Eventually they were forced to relocate to Brisbane where they saw a neurosurgeon in the first week. The comment this man made was:

We may be the Smart State, Sir, but we are being treated like the Dumb North here.

These are the sorts of stories that are being told, and unfortunately criticism from Premier Beattie and Senator McLucas on the other side—it is interesting to note that Senator McLucas, who had every opportunity to oppose this in the Senate back in June, did not raise a peep—smacks of political opportunism. I urge the Premier to get away from the politics and sign the health agreement for the benefit of all Queenslanders. (*Time expired*)

### **Pineapple Industry**

**Mr SWAN** (Lilley) (9.46 a.m.)—Once again the Howard government is selling down the drain Australia's pineapple growing and processing industry. Proposals before the Howard government that threaten Australia's pineapple growing and processing industry relate to changes in quarantine policy. This places at risk the 1,600 direct employees at the Golden Circle cannery in Brisbane, many more in associated small businesses and, of course, the 1,000 farmers that are associated with the cannery. This is not the first time the Howard government has put the industry at risk. It had to be dragged, kicking and screaming, to stand up for our pineapple industry some years ago when there was the threat of dumped product. There was also the threat, some years ago, of penalising tax changes, which would have dramatically affected the cannery. Once again, we had to stand up and fight in our local community for a fair go for the cannery.

Now we have the latest decision relating to quarantine which will punish Golden Circle and its farmers. It is a deal that the Prime Minister agreed to recently in the Philippines and, during a joint press conference, Philippine President Arroyo said:

In fact one of the movements forward is that inspections—  
of pineapples—  
can now be done in Australia ...

That is the change to quarantine policy. This was a deal directly with the Prime Minister. What I want to see are the members for Longman, Fisher, Hinkler and Wide Bay show some spine and stand up for the Australian industry like they did—after they were forced to do so—on the two previous occasions when we wanted changes to tax policy that would protect the cannery and when we wanted to stop the dumped imports.

What is this change to quarantine? On 30 June 2003, Biosecurity Australia notified stakeholders of a proposal to modify the existing import policy for the importation of fresh pineapples from the Philippines, Thailand, Sri Lanka and the Solomon Islands. Currently the import policy requires exporting countries to manage the risk of introducing quarantine pests through the importation of fresh pineapples by fumigating the pineapples with methyl bromide and inspecting them prior to export to Australia, with further inspection on arrival in Australia. This process has now been dumped—dumped straight after the Prime Minister went to the Philippines and did his deal with President Arroyo. This is a dangerous process and it came about because during the recent IRA process—that is, the import risk analysis process—industry groups from the Philippines specifically proposed the adoption of methyl bromide fumigation within Australia. This was something that was rejected by the risk assessment panel—the RAP—the scientific panel responsible for undertaking the risk analysis. It has determined that the risk of introducing pests from these sorts of processes are simply too high. So the government is placing in danger all those employees at the cannery and all of those farmers and small shareholders who depend upon the pineapple industry for their living. *(Time expired)*

#### Child Abuse

**Mrs DRAPER** (Makin) (9.50 a.m.)—I report today that, sadly, not all reports of child abuse in South Australia are being investigated by the authorities, because the Rann Labor government has reduced funding to Family and Youth Services—FAYS. Yesterday, International Youth Day, it was revealed in the Adelaide *Advertiser* that more than 450 reports of child abuse and neglect are not being investigated. Young children and teenagers are being put at risk because little or no action is being taken to protect them.

I cannot understand how any government can be so heartless as to cut funds from agencies which protect children from abuse. Have they learned nothing from all the brave men and women who have come forward to reveal the terrible crimes that were committed against them as children? The system failed those children and now the Labor government is failing the children of today.

I know that staff at the Modbury office of FAYS, in my electorate of Makin, are under pressure, as are most state government social welfare agencies. In a recent submission to a state parliamentary inquiry into poverty, the Tea Tree Gully Community Services Forum identified a number of issues where families are being let down by state social welfare agencies. Labor's social justice minister, Stephanie Key, blames the unions—a Labor state government blaming the unions—for this latest crisis in child protection. However, figures released by the Liberal opposition clearly show that her government has reduced FAYS staff funding from \$62.8 million in 2001-02 to \$58.9 million in 2003-04.

This comes at a time when the South Australian government is receiving around \$2.5 billion in GST revenue; yet it is the federal government—which does not see one cent of that GST money—which is taking the lead on this issue by putting it on the national agenda; de-

veloping, with the states and territories, a national register for child sex offenders; and establishing a child abuse prevention program and positive parenting programs. This government's clear aim, which I totally support, is to do all that we can to prevent the abuse and neglect of children, and I believe that our priorities are shared by the community.

Mike Rann's government needs to get its priorities right. When it comes to child safety and protection, there can be no excuses. They should all be ashamed of themselves.

#### **Health: Carers**

**Ms JACKSON** (Hasluck) (9.52 a.m.)—Carers make a tremendous contribution to the lives of the people for whom they care and to the economic and social health of our community. Yet, for all their giving, carers are the forgotten partners in this government's so-called welfare reform. The Howard government demands that all welfare recipients fulfil their mutual obligations; however, neither he nor his minister has asked what obligations the government has to carers. The needs of carers are largely ignored by the government, leaving many carers feeling unconsidered, undervalued and isolated.

The Prime Minister has been content to run down our health and support services, shifting the burden of care to the shoulders of those who already do more than their fair share. It is time to stop and think about what carers give. Their unpaid contribution is conservatively valued at \$16 billion per year, but it is worth much more than that.

We have been talking a lot about heroes in recent weeks. Carers are Australian heroes—ordinary people doing extraordinary things. The government should be providing them with more support in recognition of, and appreciation for, the invaluable work that they do. But how is this government treating them? It is requiring large numbers of carers to justify their entitlement to carers allowance. It is absurd that families caring for a family member with a disability are continually required to justify their entitlement. The latest fiasco by the Minister for Family and Community Services, Senator Vanstone, concerning the so-called review of carers allowance paid to people caring for child with a disability demonstrates the mean spiritedness of this government's approach to carers.

I would like to share the reaction of two of my constituents who care for children with a disability to the media reports concerning the review of the carers allowance. One says:

Is it true, as I have been hearing Amanda Vanstone is going to cut the carers allowance? What nerve this woman has! We do not receive the carers allowance as we earn too much apparently. It would be nice if politicians and rule makers could live as we have to. My husband works 60 hours-plus per week and we both have part-time jobs and do volunteer work to try to pay for our son's therapy for his autism. It is currently costing us about \$30,000 a year. My husband only brings home \$40,000 per annum, so work that out. You can imagine how we are living! What can we as parents do to make these people see sense?

Another constituent says:

I would like to say that as a one-income family we find it very tough already to make ends meet. The cost of looking after a child with special needs is an emotional one, not just a financial one, and this has in the past been made a little easier to cope with using the carer's allowance.

I use this money for such things as nappies at night, as he is still incontinent, to finance travel to and from forums to educate myself on how best to care for him and to prepare for his future, equipment, toys, books and various resources used in his therapy and also to give myself and other family members much needed respite.

I would hate to see the choice be made to cut the carer's allowance. It would make a tough life all that much harder for people like myself who already struggle with an extraordinary life that is looking after a special needs child! (*Time expired*)

#### **Fisher Electorate: Seniors Forum**

**Mr SLIPPER** (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (9.55 a.m.)—I am particularly pleased to see my good friend and colleague the honourable member for Fairfax in the chamber, because he and I are fortunate to represent jointly the most desirable part of Australia in which to live, and that of course is the Sunshine Coast. Many people vote with their feet by leaving the rust-belt areas of southern Australia to move to the Sunshine Coast. We have a very large number of seniors, and it is important as elected representatives that we consult with seniors so that we are able to look after their interests in Canberra and represent what they want to see achieved in the federal parliament.

Last Friday it was my pleasure to co-host, with the Fisher Seniors Council, the 2003 Fisher Seniors Forum and Expo at the Kawana Community Centre. This was third time that we have run the seniors expo and forum and about 200 people attended. We had some interesting speakers. The event was very well received, and people were pleased to receive information in relation to seniors issues from the very many organisations which set up stalls to indicate the services that they are able to provide to seniors in the electorate of Fisher.

The forum and expo are part of an initiative that I established in 1999 during the highly successful International Year of the Older Person to ensure that seniors have the opportunity to raise issues concerning them. I am the chairman of the Fisher Seniors Council, but it is chaired on a day-to-day basis by the deputy chairman, Mrs Maureen Kingston AM. She does a wonderful job in coordinating the members of the Fisher Seniors Council who represent the Association of Independent Retirees; National Seniors; the Council on the Ageing; the University of the Third Age; the Positive Ageing Centre at the University of the Sunshine Coast; the Sunshine Coast seniors newspaper; the Australian Pensioners and Superannuants League; Legacy; Sunshine 60 and Better; National Senior Citizens, Grandparents and Grandchildren; the Returned Services League; and other community groups. As you can see, Mr Deputy Speaker, this is a very representative group indeed.

This year's seniors forum and expo saw some very interesting presentations by the Queensland president of the Australian Medical Association, Dr Ingrid Tall; the Queensland community relationships officer from Diabetes Australia, Alan Cameron; elder law specialist, Brian Herd; and seniors holiday travel representative, Sharon Forbes. They spoke on a wide range of health, legal and travel issues affecting seniors and the very many opportunities that are available to them.

This year, in particular, the seniors at the forum were given some practical advice on how to avoid the onset of diabetes, preserving memory, living with stress and reducing the risk of heart attack. Discussion about the importance of having a will and power of attorney documents also created a lot of interest. In the past, we have had Bronwyn Bishop and Kevin Andrews attend. We were to have had Judi Moylan attend this year but, unfortunately, because of a family bereavement, she was unable to be present. The Fisher Seniors Forum and Expo has become part of the landscape on the Sunshine Coast, and I am looking forward to the fourth event next year. (*Time expired*)

**The DEPUTY SPEAKER (Hon. I.R. Causley)**—Order! In accordance with standing order 275A the time for members' statements has concluded.

**FAMILY LAW AMENDMENT BILL 2003**

**Second Reading**

Debate resumed from 12 February, on motion by **Mr Williams**:

That this bill be now read a second time.

**Mr McCLELLAND** (Barton) (9.59 a.m.)—I rise to speak on the Family Law Amendment Bill 2003. It is an omnibus bill which makes a number of amendments to the Family Law Act 1975 dealing with parenting plans, the conduct of proceedings in the Family Court and the management of the court, the parenting compliance regime, financial arrangements, orders binding third parties, the costs of child representatives and the protection of children from abuse. In the main, the opposition supports the measures contained in the bill, subject to two matters that have been highlighted in the course of the inquiry by the Senate Legal and Constitutional Legislation Committee into this bill.

Schedule 1, which provides that parenting plans can no longer be registered, will remove the possibility of registering a parenting plan with the Family Court or the Federal Magistrates Court. Parenting plans were introduced by the Family Law Reform Act 1995. Once registered, the child welfare provisions in the plan are enforceable. Child welfare provisions are those dealing with the persons with whom a child is to live, contact between a child and other persons, and any other aspect of parental responsibility for a child except child maintenance or support. Parenting plans replace child agreements in the Family Law Act. The key difference between the two is that the child agreements could by rights be registered by parents, with no judicial scrutiny, whereas parenting plans can only be registered if sanctioned by the Family Court after the parents have provided detailed information and a certificate by a lawyer or a family or child counsellor. Parenting plans were designed to promote a cooperative approach to parenting after separation and to overcome a tendency by some parents to think of themselves as winners or losers in the custody battle.

In 1997 the Family Law Council and National Alternative Dispute Resolution Advisory Council recommended that the 1995 provisions governing registration of parenting plans be repealed. I understand that the Attorney-General was then of the view that they should remain in place until a general review was conducted of the 1995 amendments. In 2000 the councils repeated their advice, which was ultimately accepted by the Attorney-General. The recommendations of the councils were based on the following considerations: registered parenting plans are inflexible and can only be varied by registering a new agreement revoking the old one; the process for registering parenting plans is cumbersome and expensive; it has proved confusing to make some parts of a parenting plan legally binding while others remain legally non-binding; family lawyers have made minimal use of parenting plans and instead have sought consent orders to achieve the same outcome; and, finally, the alternative to seeking consent orders should be simpler, clearer and more flexible. Following these amendments, the Family Law Act would continue to encourage the use of parenting plans as informal, legally non-binding agreements.

Several groups have expressed concerns to the Senate committee about these amendments. In essence they are worried that the bill would deprive families of a simple alternative to seek-



ing court orders and that the absence of scrutiny would increase the risk of parents entering unworkable plans. The opposition acknowledge these concerns, but on balance we are satisfied that these amendments are appropriate, having been recommended by those expert councils. The evidence suggests that the parenting plan provisions did not operate as they were originally intended. The Family Law Act will continue to encourage the use of parenting plans as an informal mechanism, and parents will be able to continue to seek consent orders to create enforceable obligations. So the concept will still exist but with those technicalities absent.

In respect of schedules 2 and 3 of the bill, we note that they concern the conduct of proceedings in the Family Court and the management of the court, and they are supported by the opposition. Schedule 2 would amend the Family Law Act to put beyond doubt the capacity of the Family Court to use electronic technology, including video and audio links, and would also allow judges to sit in separate places but still be part of the one court—in other words, a split court, which has the potential to facilitate delivery of justice to remote regions and to reduce costs. Schedule 3 would amend the act to reflect changes to the management structure of the Family Court—in particular, the creation of new positions such as manager mediation and a clearer delineation between the administrative functions of registry managers and the legal and judicial functions of registrars.

While these amendments are uncontroversial, it is appropriate to observe that there has been a further run-down of the capacity of the Family Court directly as a result of the fact that the Attorney-General has not reappointed judges in Adelaide and Melbourne. The pressure on these Family Court registries is apparent from figures provided through Senate estimates which indicate that, while the Family Court nationally manages to finalise 75 per cent of matters within just over 20 months, in Melbourne it is 22 months and in Adelaide it is more than 26 months. The Attorney-General's decision, coming on top of the cuts to the Family Court in the previous years, does nothing to improve the position of separating families waiting in the Adelaide and Melbourne Family Court registries, with the children of separating parents all too often being the victims of that increased delay.

Schedule 4 of the bill would make minor changes to the three-stage regime for the enforcement of parenting orders introduced by the Family Law Amendment Bill 2000, which came into effect on 27 December of that year. We acknowledge that the changes are essentially designed to provide the court with greater flexibility to manage the compliance regime, and they are supported by the opposition. For example, the court would be empowered to order that a person attend a post-separation parenting program at any stage during the proceedings for a parenting order, rather than simply after an alleged breach of a parenting order. The court would also be empowered to order that a person attend a post-separation parenting program provider for an assessment as to the person's suitability to attend a program, and this assessment can take effect as an order of the court directing the person to attend the program. This relieves the court of the function of ordering that a person attend a particular program—a function we understand has been difficult to discharge in practice, given the need to maintain an up-to-date and meaningful list of all programs offered by different providers. In summary, it adds appropriate flexibility to those procedures.

The bill also confers power on the court to make additional orders at various stages of the enforcement regime, including a further parenting order that compensates for residence forgone because of a contravention of an earlier order; an order varying the order alleged to have

been contravened—for example, where a person is able to establish that it was unreasonable or even impossible to comply with the original order; and an order imposing a different penalty if a person contravenes a community service order. The bill also clarifies that the enforcement regime applies only to orders and undertakings on parenting matters, not those that relate solely to financial matters, and that it only applies where no other court has dealt or is dealing with a contravention of a particular order—in substance, where a rule of double jeopardy exists.

While those provisions may appear harsh in terms of the impact on citizens who are directed to attend these programs or to comply with these orders, we note that the emotional and controversial issue of access to children often creates very dramatic disputes, with the children being the victims of those disputes. We believe it is appropriate for the court to supervise this hands-on approach to try and assist those couples who are having difficulty achieving an effective relationship to achieve at least arrangements that are in the best interests of the children.

Schedule 5 makes two changes to the regime for binding financial agreements also introduced by the Family Law Amendment Act 2000. The opposition supported this regime, with amendments recommended by a Senate committee and accepted by the government. Labor's approach was to ensure that the institutionally weaker party—often the woman—is not disadvantaged by a binding financial agreement. The first change is that the court would be empowered to make a maintenance order that overrides the effect of a financial agreement if the circumstance of a party at the time the financial agreement came into effect rendered them dependent on government income support. Currently, this power refers to the circumstances of the party at the time the financial agreement was made. The change makes logical sense as the court, when considering whether to make the maintenance order, will be more concerned with the circumstances of the party during the period the financial agreement has effect.

I acknowledge the concerns expressed to the Senate committee that this change would apply to existing as well as future financial agreements. However, in the circumstances, we accept that this is appropriate and will benefit disadvantaged parties who have found themselves relying on government income support as a result of inadequate provision for maintenance in a financial agreement.

The second change contained in schedule 5 is that a financial agreement will be binding if each party has been provided with independent legal advice on 'the advantages and disadvantages, at the time that the advice was provided, to the party of making the agreement'. This requirement replaces the existing requirement to be provided with advice from a legal practitioner on several complicated grounds, including 'whether or not, at the time when the advice was provided, it was to the advantage, financially or otherwise, of that party to make the agreement', 'whether or not, at that time, it was prudent for that party to make the agreement' and 'whether or not, at that time and in the light of such circumstances as were, at that time, reasonably foreseeable, the provisions of the agreement were fair and reasonable'. You can see the complexity in that language.

We understand that the change responds to concerns expressed by the legal profession that it was being required to provide financial advice based on uncertain future matters. We agree it is undesirable that legal practitioners be mandated to provide such financial advice, which can give parties a false sense of security in circumstances where the advice may not be

soundly based as a result of those unforeseen circumstances. So, in summary, this amendment is also supported.

Schedule 6 deals with orders and injunctions binding third parties. We note that the court could do so either when making orders altering property interests as part of a property settlement or when exercising its more general power to issue orders or injunctions relating to the protection of parties to a marriage. 'Third parties' is defined broadly and would include friends or relatives of the parties to the marriage, business and financial institutions. Marriage is also defined broadly to include void and dissolved marriages. The provisions would not apply to marriages where there is a current order or financial agreement relating to the property of the marriage.

The types of orders the court could make as part of a property settlement would include an order directed to a creditor of a party or both parties to the marriage varying the liability for the debt by either substituting one party for another or varying the proportionate liability of each party, or an order directed to a company or a director of a company to register a transfer of shares from one party of a marriage to the other. The types of orders the court could make in exercise of its more general powers would include an order restraining a person from repossessing property of a party to a marriage or restraining a person from commencing legal proceedings against a party to a marriage. The court could only make such an order, however, if it is reasonably necessary, reasonably appropriate or adapted to effect a division of property and only after the third party has been afforded procedural fairness. If the order concerned a debt, the court would have to be satisfied that the order would not result in nonpayment of that debt. Third parties would be provided with an immunity against loss or damage because of acts done in good faith in reliance on such an order. An order would prevail over any contrary obligation in any other law or legal instrument. This being federal law, it would of course override any state legislation to the contrary.

These amendments would significantly expand the powers of the Family Court and the Federal Magistrates Court to effect a division of property and protect parties to a marriage. This expansion of powers is counterbalanced by measures to protect the substantive and procedural rights of third parties and, on this basis, Labor supports these amendments as being appropriate. However, it again became clear during the Senate committee inquiry that the government's consultations on these measures may have been less than entirely adequate, and some further work may be required to ensure that any consequential amendments that may be required are in place before this regime of making orders against third parties is put in place.

For this reason we believe it would be appropriate to postpone the commencement of these provisions for a specified period to enable this further work to be carried out. We understand that this was an option canvassed before the Senate committee, and we look forward to the government's response to those concerns when the bill is debated in the Senate. This is the first of the two matters I adverted to at the start of my speech as being of some concern to the opposition.

Schedule 7, which deals with miscellaneous amendments, contains a number of amendments. I will restrict my comments to two issues. The first is that of child protection. Currently the Family Law Act makes inadmissible in court anything said by a party during family and child counselling or mediation, conferences with family and child counsellors or welfare

officers and post-separation parenting programs. The public policy behind that confidentiality is, of course, to try to encourage frankness and openness in those discussions.

Schedule 7 would create an exception to this rule and allow as evidence an admission or disclosure of an adult or a child that indicates a child has been abused or is at risk of abuse. Under the exception, the evidence would be admissible unless the court were satisfied that sufficient evidence of the admission or disclosure were available from other sources. The exception would not apply to disclosures by an adult of abuse by another person, nor to disclosures by a child of abuse from another child. These amendments were recommended by the Family Law Council in its September 2002 report titled *Family law and child protection*. The amendments seek to balance the traditional public interest in the confidentiality of family counselling and mediation with heightened community concern to ensure that children are protected against abuse.

While we acknowledge those legitimate policy considerations to the effect that matters canvassed in mediation conferences should not be brought into evidence, the opposition believe that the interests of children must be paramount. On that basis, the opposition welcome and support these changes. I also welcome the fact that the Standing Committee of Attorneys-General has established a working group to consider other recommendations of the Family Law Council designed to enable separating families to have all their family law and child protection issues dealt with in the one court. We frequently refer to the constitutional issue of the separate rail gauges in Victoria and New South Wales at the time of Federation. Surely these disparate state and federal laws which quite frequently affect the most vulnerable in the community—children of separating parents who are potentially subject to abuse—require all of us as legislators at both a federal and state level to do all that we can to overcome the constitutional limitations that prevent a composite model being applied to the situation.

The next item that the opposition is concerned about is the proposal in the bill to require the Family Court to order that each party to the proceedings must bear the costs of a child representative in the proceedings unless a party receives legal aid funding or would suffer financial hardship. Legal aid guidelines introduced by the Howard government require child representatives to seek such a costs order, although in many cases the Family Court has refused to exercise its discretion to make one. I note at this point that it does currently have the discretion to make such orders.

The amendment proposed would inevitably change the way the Family Court considers these applications for a children's representative and would result in more cost orders being made. This measure drew the most criticism from the Senate committee inquiry. It was submitted that this could make it harder for separating parents to reach full agreement and could make them more antagonistic towards the appointment of a child's representative. It was also thought that it could prolong litigation as separating parents disputed the amount of the costs, the proportion they should be required to pay or even whether it was appropriate for the child's representative to explore a particular issue over the course of the litigation if that particular issue and the time spent on it would generate additional costs.

We acknowledge that more children's representatives have been appointed since the Family Court's decision in *Re K* and that this has meant a greater call on legal aid resources. But we really must question whether there are better ways for the Commonwealth government to save money than to charge separating parents in a way that may harm the interests of their children

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in family law proceedings. In my discussions with officers of the court I have heard that children's representatives can often play a truly constructive role as a genuine friend of the court, as opposed to siding with one of the warring factions, in the important area of the interests of the child. We will refrain from amending the bill and wait for the Senate committee's report but, in light of the considerable disquiet expressed during the inquiry, we would strongly urge the government to reconsider this measure before the bill is debated in the Senate.

In conclusion, subject to the two matters I have outlined, the opposition supports this bill and the continuing reform of the family law system in the interests of families coping with separation. By and large, this reform has been undertaken by governments of both political persuasions in a cooperative and bipartisan spirit, which is desirable when dealing with the intense and complex issues involved in family separation. It is to be hoped this approach will continue with the current inquiry being carried out by the House of Representatives Standing Committee on Family and Community Affairs. It would be remiss of me not to express my disappointment that the term 'child custody', with all its connotations of parents winning and losing ownership of their children, has crept back into the debate surrounding that inquiry. As the Attorney-General would remember, that terminology was found many years ago to be counterproductive and contrary to the idea of shared parental responsibility. I hope that those responsible for leading the debate, including the Prime Minister, can in future use language that better expresses the policy of family law of encouraging parents to share responsibility for the care and welfare of their children.

In terms of the subject matter of the inquiry of the House of Representatives Standing Committee on Family and Community Affairs, I have publicly congratulated the Attorney-General on the way in which he has pursued the issue of reform of family law and the fact that he has acted in accordance with appropriate research and advice from these professional and expert committees with appropriate consultation—albeit that there is always some possibility of making improvements in the area of consultation. I have congratulated the Attorney-General on the way in which he has gone about reform in this highly emotive area of the law. I must express my disappointment, in terms of reviewing the issue of the care of children, that this seems to have been promoted as a political agenda item by the Prime Minister contrary to that detailed assessment done on the basis of professional recommendations made by appropriately trained and qualified bodies. Exploration of these issues is justified, given the changing trends in society and so forth, and the opposition is not opposed to reviewing these issues. I note, however, that these issues have the potential to be incredibly divisive and incredibly emotive. When you are dealing with such a crucial issue as the welfare of children, we would like to see decisions made on the basis of objective, tested analysis rather than on the basis of fostering a politically advantageous position in what can be not only quite an emotive debate but also, if we get it wrong, quite a destructive debate.

**Mr CAMERON THOMPSON** (Blair) (10.25 a.m.)—This discussion on the Family Law Amendment Bill 2003 is very timely, given the extent of community concern and discussion about the issues in family law. In addressing this debate today, like the member for Barton who just spoke, I intend to range fairly widely over the various issues associated with the problems concerning family law, these particular amendments and those amendments that I suspect also need to be considered in order for us to continue to progress the cause of a better family law system in Australia.

The government amendments in this bill correct drafting errors and introduce an additional amendment to the Family Law Act 1975. The issues we are addressing include the making of submissions by way of video or audio link and looking at drafting errors. There is also a new subsection, 90C(2A), which will ensure that parties to a marriage can make a financial agreement after the marriage breaks down and before the divorce is finalised. They are important amendments, and there are a range of issues there that have been canvassed by the opposition spokesman in his speech.

In addition, I think we need to consider the overall position, and that is the fact that the Family Court and family law play an increasingly important role in Australian society. We are now in a position where so many of the activities of families that fall within the family law's path are directed by the Family Court. The editorial from the *Sydney Morning Herald* on Saturday, 21 June 2003 starts off saying:

Every second weekend and for half the school holidays, tens of thousands of Australian children pack their bags and move house.

They do that because of the way the Family Court has ruled in their cases. The editorial goes on to say:

Mostly they are going to visit their fathers. Mostly their fathers want more time. Family law in Australia does not prescribe this, or any other, visitation formula. The Family Court does, however, frequently interpret its brief in this way when ruling in child "residency" disputes.

You can see that the way we frame family law and the way the court interprets it really does have a massive impact on the day-to-day life of many Australians. It impacts on their quality of life, their aspirations for the future, their capacity to benefit from their family surroundings and their ability to get maximum benefit for the children of a family in order to build their lives upon it. According to that same editorial, currently:

Almost 70 per cent of Family Court rulings nominate the mother as the primary, residential carer. Just under 20 per cent of decisions give that right to men.

Reading on, it also makes what I think is a very basic point that we all need to consider in all of these debates:

Divorce makes parents and children poorer, because the family income must be divided.

I think that is something that people whose marriages fall into conflict can often overlook. The extent of the hurt involved in the marriage can make them think that perhaps they would be better off if they divided. The editorial makes the very clear point that that automatically makes parents and children poorer. We need some legislative activity and some community discussion about processes by which we can make that abundantly clear to people. While people continue to fantasise that things will somehow get better when they split up, in some cases there is a tendency for people to rush to end their marriages. I think that is a terribly destructive thing in our community.

I compliment the government on continuing to drive forward the need for change and consideration in this area. There has recently been a proposal for a one-court system, which was also discussed by the opposition spokesman. I think it is a good proposal. We need to try to reduce, to pare back, the levels of bureaucratic involvement that people are subjected to when they engage in the process of divorce. The amount of stress that is placed on an already stressful situation is a real concern. A meeting of all Australian attorneys-general agreed to set up a

working group to examine how best to reduce the stress on families required to attend meetings before multiple courts as part of the process of separation. Under the one-court principle, a separating family should be able to deal with all family law and child protection issues in the one court, rather than dealing with a number of different courts and different jurisdictions. When people have to constantly relive all of their problems, it is no wonder that stressful situations become more and more difficult and spin further out of control. I do endorse that change which the attorneys-general have newly confronted, and I urge them to continue to promote it.

The biggest driver in the discussion of these family law issues has been the commissioning of an inquiry by the House of Representatives Family and Community Affairs Committee to look into child custody arrangements. An article in the *Age* on 12 August stated that there had been a huge response to the government's call for public submissions on the topic of child custody arrangements.

**Mr Price**—Residency.

**Mr CAMERON THOMPSON**—I accept the criticism of the member opposite: I am sorry, I was reading my note from the *Age*; they referred to it as 'custody'. I do agree with the member opposite that 'residency' is a far better way to put it. We do have to try to get away from terms that create a punitive slur against one party or the other; we have to try to be straight up the middle in resolving these things. Naturally that has always been the aim, but terms like 'custody' come along and they get repeated and, unfortunately, they live on in the psyche of people. It does affect the way people view themselves and it can have horrendous consequences further down the track.

The spokesman opposite was negative about the idea that this process should be political. He was saying that perhaps we should look more at having professional bodies try to determine the best way out of this. The fact is that at the moment those professional bodies are conducting this debate, but we are still not seeing any light at the end of the tunnel. I think, like me, all members of parliament, regardless of where in Australia their electorates are, receive heaps of complaints and concerns and have approaches made to them every day about issues concerning family law. Family law and the Child Support Agency is certainly one of the top three issues confronting members of parliament.

This is a demanding situation. It has to be responded to in a political way as well as within the bureaucracy otherwise we will wind up with incremental change that results in a swamp of bureaucracy. When people are upset and stressed about their marital situation and their divorce and are trying to address issues of settlement and, more importantly, residency of children, their whole future and aspirations hang in the balance. When we require them, again and again, to confront different elements of the legal system, it creates a lot of difficulty. I will make some comments later about that.

The inquiry into child residency arrangements had attracted 1,100 submissions by the deadline, and there are still other submissions to come from people who, by agreement, have been given an extension of time. I congratulate the government on referring this matter to the Standing Committee on Family and Community Affairs. I am a member of that committee. That committee has been working extremely well and it will soon report on substance abuse. From my knowledge of the way in which people within that committee have been able to communicate with each other, I cannot imagine a better committee to take on this very sensi-

tive and difficult issue of child support and residency arrangements. I think that has been a very good choice by the government.

There are many troubling factors that reflect on this issue. There is the whole question of boys growing up in a society lacking male role models. That has been raised not only in the context of families but also in the context of schooling with inquiries looking at male influences on young boys, and that is an important issue. A report in the *Sydney Morning Herald* on 22 July by Patrick Parkinson states:

... 36 per cent of Australian children did not see their father in the previous year. Both separated men and women agreed on the need for fathers to be more involved: 74 per cent of men wanted more contact, and 41 per cent of mothers wanted the father to have more contact.

Some of this debate has been characterised as being a campaign by men's groups, but I think you can see in those statistics that it is not just men who are concerned about resolving this issue of family law; the mothers of these children also want to see a better outcome.

I strongly support the proposal which has been put forward about a rebuttable presumption of joint residency, although not in all cases, I have to admit, because I think you run into difficulties. The cases that concern me are those where people make a pre-emptive decision—an early decision; a wrong decision, in my view—to split. I think these decisions can be influenced by the idea that, on the one hand, a parent can run away and duck their responsibility for the children or, on the other hand, a parent can somehow manipulate and control the children to spite the other party or get the outcome they desire. In both those cases, this idea of a rebuttable presumption of shared residency would absolutely stop the immediate presumption people have that, 'My problems would be solved if I could just either run away or get complete control of the children.' It is not about that question of control either; it is about your responsibility to the child.

Often we see comments from people—the member opposite was using these exact words, and we all agree with them—that the question has to be: what is in the best interests of the child? I think many of the presumptions made now about what is in the best interests of the child are not necessarily right. For example, the assumption that because someone has been what they call the primary carer that should automatically translate into that person getting 100 per cent of the care or the lion's share of the care is flawed. Yet so much of what seems to be done within the system currently is based on that assumption. At the last official count, 55,300 couples a year are divorcing. Half of those cases go to the Family Court and the other half go to the newly created Federal Magistrates Service.

People trying to grapple with this problem and to see sides to the issue other than their entrenched position would do very well to look at a quite lengthy and involved article by Ian Munro in the *Age*. It involves some interviews with people who are directly involved in the system. There are a couple of comments in this article that I want to refer to. It quotes a family law specialist, Lee Formica, from Morris Blackburn Cashman. The article says:

Something people say about the Family Court—you must be a good hater if you are to have your day here.

Lee Formica is quoted as saying:

"Someone who is really dreadfully hurt, the agenda is the hurt, and you can use the legal system to perpetuate the hatred and the hurt."



The article continues:

Animosity ties people into litigation, she says, but they have to be determined, since the court places obstacles in their path.

Former chairman of the Law Council of Australia's family law section, Michael Taussig, QC, says that amid the continual change of form that seems to typify the court is more procedure and higher costs.

In a typical financial case, the path to a final trial in front of a judge is marked by a case assessment conference, a conciliation conference, a trial notice listing and a pre-trial conference.

"There used to be one or two appearances between the start and the finish," Taussig says. "It's a cause of significant cost blow-out, so far as the client is concerned. It's said to be in the interests of the clients by giving them a chance to settle, but some clients say, 'if we wanted to settle we'd sit down ourselves and do it.'"

That refers to what I was saying before. If we incrementally allow professional groups to look at what might fix this problem, we will probably wind up with layers and layers of these bureaucracies and hearings and things being added in, and all that results in is more hurt and more anger for the parties involved.

There are also some quotes from Rosa Silvestro, a mediator who works in the mediation offices of the court. She has been counselling fractured families at the Family Court since 1978. When she started, the battle was fought over whether non-custodial parents—fathers usually; sorry about the use of the term 'custodial' but I think that was the term used at the time—should have any contact at all with their children. The article says:

"People no longer argue the merits of contact; they argue about how it should occur," Silvestro says. "It's all about anger and punishing ... when you are arguing about how it should occur, it's still people using children to punish the other party," Silvestro says.

That covers another angle. It shows that there have been developments; there have been changes. We are now up to 20 per cent—and, as I said, it was much lower than that—of men having their children reside with them. Silvestro also says—and I agree with this 100 per cent:

"One thing I would say is, if you have any chance of keeping your marriage together, it's better than going on the path of separation. I am not saying don't get divorced at all (but) no matter how mutual the decision to separate, it's never as easy as people expect it to be."

It is so important to get it out there in the minds of people that it is not a simple process. It is a difficult and very destructive process. People have the idea—and I think this extends right down to teenagers—that they can duck their responsibilities, do a runner and manipulate the legal system to basically take someone for all they are worth in the settlement by having a better lawyer, having legal representation or in some other way manipulating the court or the children. All those perceptions are very strong in the base of our community, right there among kids themselves. When people grow up with the perception that this is how the law works then we have a fundamental problem. We have to change that perception so that people are more aware of, firstly, their responsibility to their children. You cannot bring a child into the world and then not have responsibility for it, no matter how twisted and perverted your view of the law may be.

In closing, I am pleased to be able to be part of this inquiry the government has in place. I do not believe that the question of the rebuttable presumption of joint or shared care is the be-all and end-all but I think it is a very positive start. I am really looking forward to cracking

open some of the other potential issues that can be looked at as part of that committee and I urge all members in the parliament to have a say in that process.

**Mr PRICE** (Chifley) (10.45 a.m.)—I rise to speak on the Family Law Amendment Bill 2003. I would like to thank the honourable member for Blair for his contribution on the bill and I express some jealousy that he will be a member of the committee inquiring into those issues while, at this stage, I will not. I can understand why he is so pleased about the huge public response to that inquiry into the presumption of joint rebuttable shared residency. But I also warn him that with such a huge public response come expectations and it will be on the committee's head to meet those expectations.

They say that family law is a terribly emotive issue. I notice the shadow Attorney-General said that. I do not dispute the veracity of that, but it does not mean that it somehow excuses legislators from such an emotional area. In fact, I think it means that we have to be even more involved than we otherwise would be. It is not an excuse for inertia and it is not an excuse for doing nothing, but all too often in this parliament we have offered excuses.

I particularly wanted to rise and speak today because it is the 20th anniversary of the imposition of section 121 of the Family Law Act. This is a section that the Attorney-General himself told the National Press Club—if my memory serves me correctly—that he wanted to reform. It is an area he charged the chief judge of the Western Australian Family Court to bring down a report on. It is an area where I had a private member's bill prepared and was not successful in having it presented.

So what is section 121 and what does it deal with? When the Family Law Act was first passed by this parliament back in 1975, there was a total prohibition on any reporting of the proceedings of the Family Court. A joint committee in 1983 recommended that that be changed—that it was in the interests of justice, in the interests of the court and in the interests of the public that there be some reporting of cases before the Family Court. So section 121 was not a ban on the reporting of cases but an attempt by this parliament to allow the media to report on some family law cases. Unfortunately, the media advise that section 121 is still too restrictive to allow them to fully report on what the Chief Justice of the Family Court rejoices in telling us constantly is five per cent of cases. Five per cent of divorce cases end up in the Family Court. Section 121 allows reporting of those cases.

I will quote from the McCall report: 'Why should we not be satisfied with this star chamber, this court that has no public scrutiny whatsoever? Why should we want to change it?' These are not my words. I am quoting from the McCall report. This was a report the Attorney-General himself commissioned with a view to making changes. Having said to the people of Australia, 'We're going to change section 121'—this being the 20th anniversary of section 121—this is what his own commission report had to say about allowing public scrutiny of what goes on in the court:

It provides a safeguard against judicial arbitrariness or idiosyncrasy and maintains public confidence in the administration of justice.

Could I ask: does secrecy do this? Of course it does not.

No one is more entitled than a member of the public to see for himself that justice is done. The rule (in *Scott v Scott* providing 3 exceptions to full publicity ie wards, lunacy and discovery of an invention) has the virtue that the proceedings of every court are fully exposed to public and professional scrutiny and criticism.

Does that occur today? Of course it does not.

The entitlement to report to the public at large what is seen and heard in open court is a corollary of the access to the court of those members of the public who choose to attend.

Experience has shown that open courts and unrestricted media produced bad as well as good, consequences: The principle is adopted not because it is an unalloyed panacea, but because it is the least worst method of securing the proper exercise of judicial power and accountability for it.

Without the publication of the reports of the court proceedings, the public would be ignorant of the workings of the courts whose proceedings would inevitably become the subject of the rumours, misunderstandings, exaggerations and falsehoods which are so often associated with secret decision-making. The publication of fair and accurate reports of court proceedings is therefore vital to the proper workings of an open and democratic society and to the maintenance of public confidence in the administration of justice.

Lastly, McCall said:

Publicity is the very soul of justice. It is the keenest spur to exertion, and the surest of all guards against improbity. It keeps the judge himself, while trying, under trial.

Why is it in this day and age, in this new century and millennium, we have federally entrenched as a star chamber the one court that touches the most people in Australia? Why do we say that this is satisfactory? Why is it that we refuse to do anything about it? What hypocrisy. Those who argue that there should be no publicity of the court are happy to rely on the instrument, section 121, that was designed to achieve the opposite. What hypocrites. If you believe it should be totally closed, if you want to revert to 1975, then so be it. I can understand a contra-argument. But at least have the decency to put into legislation that which clearly serves your purpose, not an instrument that was designed to achieve the complete opposite of it.

I have said on many occasions in this House that the biggest victim of section 121 is not the people and parties who come before the court; it is the very court itself. We need to lift the veil. We need to ban secrecy. Why is it so? Why is there no impetus in this place to amend section 121 to make the court like any other in this land? The current provisions of section 121 protect the privileged and the moneyed. They may even protect some parliamentarians who go through divorce—and we do.

I accept that there are drawbacks to public life. People get fascinated by aspects of your private life where they may not otherwise be; but so be it. We should not close ourselves in protection. We should not try to protect the top end of town because clearly the media and others would be most interested in those cases. That is a price you have to pay in a democracy. But the penalty we pay is a perverted justice; it is a court that is unaccountable to the public and to the commentators. It is not a very satisfactory situation at all.

Why, in 1975, was there a prohibition on publication of proceedings? It was designed to protect children. It was considered that divorce was such a social stigma that children would not survive if people knew that their parents had divorced. Mr Deputy Speaker Scott, I invite you to go to any classroom in your electorate and ask how many students have been subject to parents who have separated or divorced. It is hardly the exception. In fact, I would say that every family has, amongst its own ranks, those who have separated or divorced. The suggestion that somehow we will be emotionally crippling children in allowing newspapers and the media to report on family law cases is utterly absurd. In fact, if there is to be a prohibition on

reporting, we ought to entrench it—as a private member’s bill of mine sought to do—so that the judge could suppress it, or he could suppress it at the request of the parties. I understand only too well that there would be some situations where a judge would seek to suppress the publication of the identities of people. I am not arguing for *carte blanche*. Any court can close the court, but you have to make a submission. You have to have some merit in your case. It has to be decided impartially and fairly whether it is the most appropriate course of action and whether the application should be granted. But this parliament relies on section 121—hypocritically passed, in my view, to allow scrutiny of the Family Court. Now, on the 20th anniversary of section 121, can there be any dispute that section 121 has been as effective as the total ban that applied in the original act?

I say to the Attorney-General: where is your zeal? You announced you were going to reform section 121. Do we need to wait for 30 years? Do we need to wait for 25 years? Or is a golden anniversary the most appropriate occasion? You announced that you were going to make the change. You commissioned the McCall report, and what have you done? Absolutely nothing. As the first law officer of this land, how can the Attorney-General, having publicly stated that he wanted change—and having commissioned a report that said that change was necessary—come into this parliament without the legislation, without the will and without the courage to open up and tear the screens off this court, let the breath of fresh air go through this court and allow ordinary men and women to understand what goes on in that court whilst they are not parties to the court proceedings?

The previous member who contributed to the debate on this bill talked about that committee inquiry—and I am pleased there is a committee inquiry—but why can’t the member for Blair champion the Attorney-General’s cause? If you want to reform something, first let people peer into it and let them understand what is going on. But we are continuing with what I call the hypocrisy or the mirage that somehow section 121 allows scrutiny of the Family Court, knowing that after 20 years under that section the curtain across the court is as closed as the day the court was first formed in 1975.

If there is one thing fundamental to achieving reform—and I appreciate some of the steps that have been taken in family law reform—I would say that it is to draw back that veil of secrecy, draw back the curtain, open it up, let the sun shine into the Family Court—mausoleum of justice that it is. Let people see what goes on. I think you would then find a groundswell of support amongst men and women for changes to this legislation—and change it we must. You cannot put an act of parliament in concrete that deals with human relations and expect that there will not from time to time be a need for change.

The member for Blair also talked about having one court that looked at all aspects of separation. One of the biggest impediments to reform is that we have grabbed this jurisdiction ourselves—and it is ironic, I know, for a Labor member to say so. Clearly, if you were going to have a unified court, it would be much better in a state jurisdiction that was able to look at all issues concerning juveniles and separation. One great advantage that the state systems have is that you do not need to have judges in charge of chapter 3 tribunals because, at the end of the day—and let me perhaps finish on a positive note—the best form of divorce and separation is one in which the parties themselves come to terms with the end and make sensible decisions about property and their responsibility to their children. It allows them to discharge that responsibility to their children and get on with their new lives—free from lawyers and courts.

Firstly, I long to see reform to section 121 and to join with the Attorney-General on the other side and support it. Secondly, I would love an Attorney-General of this Commonwealth to walk into the parliament and tell us how much family law is costing. We know what the Family Court costs; we know what the magistrates court costs; we know what legal aid costs; but we do not know—and no Attorney-General has sought to get this information—how much money parents are spending on lawyers and advocates. How much does the legal profession gain out of the wreckage of marriages and relationships? Tell me what that figure is. If we were doing industry policy, it would be one of the first things we would want to know. But there is a deafening silence on this.

I offer the challenge: commission a report and let us get a figure and have some understanding of what parents are wasting on court procedures and legal advisers as opposed to spending that money on their children and getting on with their new lives. I believe we would be utterly staggered by that figure. There were some other things I wanted to talk about in this bill but, given the 20th anniversary of section 121, I apologise for being unable to resist the temptation to make a few remarks about that most draconian provision in the current Family Law Act.

**Ms JULIE BISHOP** (Curtin) (11.05 a.m.)—Sections 51(xxi) and 51(xxii) of the Commonwealth Constitution give the Commonwealth government the authority to make laws in relation to marriage, divorce and matrimonial causes, parental rights and the custody and guardianship of infants. Thus the Family Law Act is one of the most significant factors in the social life of this nation, governing as it does the forms of relationship recognised by the state. The profound influence exhibited by the act is apparent from the statistics collected since the passage of various laws and the determination of certain judicial cases.

In *State of the Nation 2003* Jennifer Buckingham, Lucy Sullivan and Helen Hughes of the Centre for Independent Studies noted that there were three major ‘fits and starts’, as they described them, to divorce in Australian society. The first was occasioned by state legislation in New South Wales and Victoria in 1899 and 1889, respectively, that rendered divorce in those then colonies relatively easier. The divorce rate in the last decade of the 19th century apparently quadrupled, although it remained very low compared to today. In 1961 the federal Matrimonial Causes Act replaced separate state and territory legislation—with the exception, as is often the case, of Western Australia—and gave as grounds for divorce a five-year separation, thereby doubling divorce rates in the decade from 1963. Finally in 1975—and I recall this well, because it was about the time or a few years later that I entered into the legal profession, and the Matrimonial Causes Act was a thing of the past—the Family Law Act was introduced. Its single ground, the irretrievable breakdown of marriage, caused a massive jump in divorce rates, such that today there are just over 50,000 divorces each year, or just over 2.5 per 1,000 people annually. Interestingly, since the 1980s there has been a trend downwards from a high of just under three per thousand. I will not go into the reasons for that now.

There have also been other changes—for example, in cohabitation prior to marriage, average ages at marriage and marriage rates more generally, as well as child rearing issues and the like. These phenomena are important but are less related to the law per se than divorce. Thus there is obviously some danger in having an increased state manipulation of familial relationships. Government too often has that effect regardless of its architects or implementers. As

was well described by British economist Arthur Seldon, overgovernment can mean ‘government of the busy by the bossy for the bully’.

It is the responsibility of a prudent government to view the Family Law Act in terms of its potential effect on national social life and even future generations of Australians. A constant eye should be placed on the act’s workings—and, for that matter, its failings. Reform should be approached in a concerned and aware fashion—which brings me to the Family Law Amendment Bill 2003, an integral part of this government’s commitment to ongoing reform of the family law system. As part of that reform program, the government has responded to the report prepared by the Family Law Pathways Advisory Group on the present system and nonjudicial options for conflict resolution entitled *Out of the maze: pathways to the future for families experiencing separation*. The Family Law Amendment Bill 2003 constitutes that response, and it follows amendments of the act undertaken in 1996 and in 2000. As the Attorney-General noted in his second reading speech, this allows for a ‘process of continuous improvement’ that:

... ensures that the experience of those using the provisions is taken into account and that operational issues are addressed in a timely manner.

More particularly, the bill reforms provisions of the act relating to property and financial interests. Provisions in schedule 6 will allow courts to make orders binding on third parties when addressing property settlements. In other words, the court—within defined limits obviously—will be empowered to make orders that compel third persons or companies to do certain things to meet the requirements of a settlement. As the Attorney-General remarked, this means, for example, that the proportion of a debt that a husband or wife owes a creditor can be changed by an order of the court. This would include the altering of contractual terms within prudent limits. Stipulated procedural rights and the knowledge that their underlying rights have not been altered by this amendment will protect the position of creditors in these circumstances. That is obviously very important and that has been taken into account. This particular reform should aid in determinations of financial equity between husbands and wives in line with the previously enacted reforms of divorce and superannuation.

The certification requirements for financial agreements laid out in the act will also be clarified so as to ensure proper operation of the reforms undertaken in the year 2000. Likewise, schedules 1 and 4 of the bill will amend part 7 of the act so that the reforms of 2000—in this instance related to parenting plans and the parenting compliance regime—will operate as intended.

In other areas, the bill is intended to allow greater accessibility to self-represented litigants in line with the work of the court’s own rules revision committee. This is an important amendment. The cost of engaging lawyers at any time can be prohibitive. In family law cases and property and financial cases arising out of divorce, the cost of the lawyers can often outweigh the money at stake. So allowing greater accessibility to self-represented litigants is a good reform. It is a step in the right direction, and hopefully it will even lead to the further ability of people to represent themselves in these circumstances.

The bill is also intended to allow the electronic publication and distribution via the Internet of court lists and reasons for judgments. This is an area that is normally fraught with concern, but in this instance the electronic publication and distribution via the Internet will be without, I must say, any change to the prohibition of personal details publication, and that is very, very

important. There is no way that the court should put itself in a position by reason of such publication to be used to disadvantage or advantage one or other party.

The bill is also intended to provide a limited exemption to the inadmissibility of evidence garnered from counselling sessions overseen by the court where that evidence relates to one of the most serious evils in our society—namely, the abuse of children. I think that is also an entirely appropriate and timely reform. This final provision follows the Family Law Council's 2002 report on family law and the protection of children. Concerns have been expressed in some quarters that children might be ill served, if I can put it that way, by a system that prevented judges from having access to all relevant evidence when considering a child's vital interests—in other words, the child's right to the court's protection and a safe environment.

It is to the benefit then of all participants in the family law system—to husbands and wives and importantly children—and therefore, by extension, to our society as a whole that these reforms are passed. They will ensure a better level of procedural efficiency and fairness. The Family Court is criticised constantly—sometimes fairly, sometimes unfairly—and these reforms will hopefully enable the process to be more efficient and fairer. Furthermore, the reforms will help to minimise the trauma that accompanies the breakdown of a marriage and the separation of a family. Of course these reforms will not eliminate the trauma, but anything we can do to ensure that at least there is minimal trauma ought to be passed by this chamber. Accordingly, I commend this bill to the chamber.

**Mr MURPHY** (Lowe) (11.15 a.m.)—The second reading of the Family Law Amendment Bill 2003 today is broadly supported by the opposition, with the indication that it is the intention of the opposition to refer this bill to a Senate committee and reserve the right to move amendments depending on that committee's recommendations. The bill makes a number of significant amendments to the Family Law Act, the most important of which deal with the substantive issue of what are called parenting plans. As the Committee is aware, parenting plans replaced what were called child agreements under the Family Law Act. The primary difference between these two instruments is that child agreements could be made as of right—that is, without judicial scrutiny—whereas parenting plans are not binding unless there is judicial sanction.

This development in family law cannot go unnoticed or without comment. Unfortunately we are seeing a pattern in family law that progressively increases the power of the state over the power of the parents. Part of this trend gives rise to an ever-increasing level of government intervention in families. In these circumstances I take the opportunity in this debate on this bill to stand up for marriage and for families. I ask the question: what is the purpose of this legislation? Is it a realisation that parents as a group are so lacking in terms of making decisions on their own behalf that it takes the broader wisdom of the state to determine what is the interests of the child and, now, the interests of the parents as well? Children are now frequently represented by separate legal counsel at proceedings. Even if the child is not legally represented separately from the parental parties, the court is the ultimate determinant of what is in the best interests of the child. However, with this legislation comes the implied assertion that, in order to settle disputes in the old system of child agreements and overcome the perception of winners and losers, we must implement a more cooperative approach through parenting plans.

The real winner in this new regime is not the mother, the father or the child; the real winner is not the husband or the wife. The real winner in this slippery slope of legislation is the state. It is the state that determines who is right and wrong in a parenting order. It is now the state—through its agency, the Family Court—that determines the conditions of these orders and even the existence of the so-called parenting plans themselves. It is the state that determines what is morally right and wrong by saying what is legal and illegal. According to this proposal, the only legal parenting plans will be those which are registrable—gone will be the discretionary child agreements registrable at will, without scrutiny, by the parents.

This parliament has, in my opinion, forgotten the purpose of the state, so it might be helpful to remind the House and the parliament what role the parliament and the government play, particularly with respect to parental rights. The right of parents is an immediate right over the children. That right is born naturally from the procreative right to rear children. Even in separation, dissolution and annulment of marriage, the intrinsic parental right remains. That right can never be extinguished, subrogated, substituted or amended by the state. The best that the state can do is hold mediate rights—that is, intervening rights on behalf of the parent. The state cannot be the parent, the state is never the parent, yet this is the direction of this legislation. Increasingly, it is the state that is usurping more and more power unto itself, with increasing Family Court powers.

It is asserted that parents are demonstrating more and more resistance to demonstrating parental responsibility. This phenomenon is due to mixed messages that the government is giving individuals as to the nature of marriage and the nature of social structures such as family, parenting and marriage. It is the government—the Commonwealth—which has broadened the definition of marriage. Sadly, the whole rubric of marriage, family and parenting is breaking down. On the back of this is the growth of what can only be described as the divorce industry. A registration check of the New South Wales Law Society's specialist accreditation shows a staggering 444 accredited specialists in family law, towering above other accredited specialisations. The legal profession, the state governments and other bodies are raking in the money in the divorce industry, carving up the matrimonial home and leaving armies of divorced, financially destitute single mums and suicidal dads to cope with the devastation and pick up the pieces.

For all this, we do not see a serious attempt to address the real issues of family segregation through proper parenting formation but changes, as embedded in this legislation, that will ensure an even wider interpretation of the word 'marriage' to include void and dissolved marriages. If the government were serious about assisting families in the tragedy of divorce, it would support proper preventative measures such as premarital counselling and the encouragement of proper preparation of marriage celebrants through mainstream marriage preparation. Instead the government contents itself with increasing the powers of the state in the control of the family and marriage and establishes itself as the sole advocate of the interests of the child. I note that the only body named in the so-called consultation process for this bill is the Family Law Council. I see nothing regarding broader consultation with the larger body of marriage celebrants and family preparation groups, including the mainstream churches.

This is a case, I fear, of ramming legislation through without adequate community consultation, and for this reason I agree with the opposition in moving that this bill go to a Senate committee and that the committee invite the mainstream churches to advocate, from their po-

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sition of wisdom, on the matters of family and marriage. For too long we have seen the powers of the state usurp the powers of parents over their own children and even the powers of parents over their own lives. Upon entry into the Family Court, the parties to the proceedings effectively lose their rights in favour of the state, which assumes a power greater than it is entitled to in its mediate role.

This is the one jurisdiction where church and state must enter into dialogue. The interests of the family unit, the interests of the institution of marriage and the interests of the child must meet in harmony. This government parades itself as a family oriented government. If the government is serious about parental rights, family rights and the sanctity of marriage then it will advocate that the Senate committee invite true consultation, which was so obviously lacking in the bill's drafting. I therefore urge that the opposition's request be granted to refer this bill to a Senate committee, with the proviso of full community consultation with interested parties.

**Mr DUTTON** (Dickson) (11.24 a.m.)—There has been a great deal of debate in recent times concerning family law reform and indeed family policy. Part of my attraction to this parliament and to the Liberal Party was a cornerstone ideology emphasising the importance of the rights of individuals. It is an important position to bear in mind when we discuss these policies.

The bill before the House today, the Family Law Amendment Bill 2003, deals in part with parenting plans and an obligation to attend counselling, so we are talking about a considerable involvement of government in people's lives. These are important considerations and in today's society of increasing family breakdown there is a community expectation that government does need to play a role in family law and policy.

It is an irony in many ways because one of my core beliefs—and in fact my task as a Liberal member of parliament—is that the involvement of government in the lives of people should be reduced wherever possible. People should be rewarded handsomely for hard work and should be able to enjoy the spoils of their successes with as little intervention from the government as possible. My commitment to this ideology has only been strengthened during my short time as the federal member for Dickson.

However, the unspoken part of this ideology is the basic principle that with rights come responsibilities. So what has also been emphasised to me during this same period is the fact that an increasing number in our society, while happy to enjoy the rights, are even happier to abrogate their responsibilities—responsibilities that should go hand in hand with those rights. In my view, there is no greater demonstration in Australian society of this increasing problem than in the area of parental responsibility.

Where and why is it permissible for government to take a more active role? What areas of public policy should we as a government more actively participate in? My view is that parental responsibility is one such area. I believe our government and indeed the state and territory governments need to take a more active role in the issue of parental responsibility. At the same time, the ultimate aim, though, should be one of preserving individual parental rights. It is incredibly important to make that distinction.

Each year governments across Australia spend billions of taxpayers' dollars on child welfare, baby bonuses, health, education and other policies and on welfare payments. We must be

accountable for the expenditure of this money and if we believe it could be better directed or more efficiently applied then we should not be afraid to say so.

The Aboriginal community in Cape York, under the leadership of Noel Pearson, is having the guts to address the afflictions on their people stemming from alcohol abuse. The domestic violence is horrific. Sexual abuse, particularly of young children by other family and community members, is rife and needless to say the resulting health and education achievements are appalling. The reason I make this point is that people like Noel Pearson and the Prime Minister have the strength to recognise a problem but, more importantly, the desire to address it.

Why do we as the broader Australian community refuse to recognise significant problems within our own society? Although not as systemic as or on the general scale of those problems facing Cape York and other communities, our own community faces increasing social problems that we need to have the guts to speak about today. We need to challenge the structure of the current system.

What makes this issue very difficult to talk about is the fact that the majority of Australian parents love and care for their children as they should. But please let me make it very clear that there is a culture in our society that crosses the bounds of poverty and wealth and is not dictated by education or social status. It is a culture in which parental responsibility is all but absent. Although not great in number the human cost, not just to those children but to the rest of our society, is incalculable. In Australia today we have households in which there is now a third generation of people who have never worked and in which children are subject to role models who have no work ethic at all. Indeed there is a welfare handout mentality, the expectations of which are growing out of control.

In Australia today we have households where parents are more concerned with spending money on home theatre systems than on their children's education. In Australia today we have children who are physically, mentally and/or sexually assaulted by other family members or friends, and their parents choose to take no action. In Australia today we have babies and young toddlers attending child care and children attending preschool and primary school who have not been fed or bathed before being placed in care. In Australia today we have children whose parents have no interest in their children's being other than what it means financially for them in the form of social welfare payments.

In my own electorate I can return home from a function at any hour of the night and see children as young as 10 or 11 years of age hanging around the local servo or convenience store. It could be 10 o'clock at night or one o'clock in the morning; it matters not. This is happening right across the country. Many people surely ask themselves the same question I ask: 'Why the hell aren't these children at home in bed?' or perhaps more importantly, 'Where the hell are their parents?' Incredibly, and to their credit, many of these children are able to achieve in these circumstances—certainly in spite of them. But the reality is that the majority will not. So we have a situation where, through no fault of their own, in their formative years, these children are developing lifelong traits that impact negatively upon not only their own lives but the lives of those around them in society.

In my electorate of Dickson there are in excess of 30 local schools. I play an active role in attending as many events as possible at these schools. Many of the teachers I speak with in both primary and secondary schools and indeed in preschools and child-care centres tell of their similar concerns and can relay instances of these very events. They too share a great

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frustration when they see many of these children. Many simply ask, 'Why are children who come from the same street and whose parents have similar positions in life treated so differently by their parents?' The answer is that we can never solve all of these problems. The human nature of parents and children and their individual traits and respective abilities to deal with certain situations are not things that we could or would want to control or clone across society. But the fact remains that parents have responsibilities not just to themselves but primarily to their children. In a civilised society we must be responsible for decisions taken not only by ourselves but also by our children which affect those in society around us.

In my view one of the core problems seems to be the distinct lack of preparedness in becoming a parent despite, in many cases, every good intention. Many of the teachers, social workers and police that we speak to on a daily basis believe that the parents of many of the children they have contact with have a distinct lack of parenting skill or ability. Hence the seed of many of the problems that lay down the track for these children is sown very early in life.

In generations gone by, new parents had assistance from grandmothers and grandfathers, aunts and uncles and family and friends. Generally that was the nature of a traditional family unit. There was a wealth of information and parenting advice that was shared naturally. For many reasons and in many situations, that support network no longer operates. That advice and support simply do not exist. But perhaps for some, sadly, it has never existed. So the results mean that a percentage of new parents in our society are ill-prepared and have limited or no parenting skills at all. In fact it may be the case that in today's global environment they simply do not have family or friends close by who can offer genuine advice and assistance. Frankly, there are a myriad of reasons—too many to list—as to why some parents get it right with their children and others simply have no idea. The usual suspects, the politically correct, will attempt to scream me down for daring to discuss such issues. But my view is that we must look at what I believe is a core precursor to relationship breakdown itself—low self-esteem, drug use, juvenile crime and many other social cancers in today's society.

I started by speaking about the role of government in this issue. Although I strongly believe that, in many of those areas, government can only assist those who are willing to help themselves, government could assist in a more practical and useful way than we are doing at the moment. In my view the majority of Australians believe in a fair go and support the concept of rights and believe strongly that they should go hand in hand with responsibilities. We see this concept working practically in other areas of welfare payments, and in my view the area of family payments should be no different.

I believe there is an incredible need and perhaps demand for proper parenting skills courses, and it is an area that we as policy makers need to further examine and discuss. I spoke before about teachers and welfare workers who express their frustration when they identify families or children at risk. Surely in these circumstances we should be acting proactively to address the problem before a course is set. On average, teachers have contact with children for one-third of the day. How can we realistically expect teachers to actively and positively engage children when they know that, for two-thirds of the day, many children are stuck in front of a video or television program, with family surrounds that include nothing that is conducive to their positive development?

We need to discuss the viability of parenting courses for particularly at-risk families. We need to investigate a regime that would allow teachers, social workers and police, for argument's sake, to refer these at-risk families to compulsory parenting education programs. We need to break this cycle, and we must break it early. Tragically, in many situations it is too late when that child is nine or 10—in some cases even six or seven—because the pattern has already been determined. Anyone involved in community groups or their school community will inform you that, if a drug education program or parent information night were held at the local school, the families who would turn up would be predictable. The same people who helped out with the fete or working bees or who participated in other school or community events would be the people who would attend. Sadly, those people who the teachers are able to identify as those at risk would be the ones who, despite the obvious need for their circumstances to be addressed, would be noticeably absent. If as a society we are serious about putting the interests of children first—and clearly and absolutely we should be—then this is a debate, however painful, that we must have. If we are interested in setting these children on a positive path in life, then we need to break the cycle as early as possible.

I spoke before about other welfare payments that we operate in today's society, and mentioned that we have a system of mutual obligation in some of those areas. This is an area that I believe needs to be discussed in relation to parenting plans because, if as a government we are providing payments on a regular basis to families who are not providing positive role models and indeed are providing negative ones to their children, then we need to reassess that as a community. We need as a community and as policy makers in this country to be able to say to those people that they are getting it wrong. We need to be able to say to those people that their children are embarking upon a path which will lead them to darker days—not just for themselves but for the community that surrounds them. We need to be able to say to those parents that the cycle needs to stop. We need to be able to say to those parents, through these courses that they attend, that they need to adopt positive roles and positive parenting skills that will aid their children for many years down the track.

That is a debate that we very genuinely need to undertake in our society. There are those critics in society who believe that everything is okay and that we should not be talking about these issues. But the fact is that, if we are looking at some of the problems and the precursors to the problems that exist in society, the core problems—such as those in my electorate of Dickson, including juvenile crime and, tragically, the sexual abuse of young children—are the sorts of issues that we need to be addressing. My background includes having spent nine years in the police force and about seven years in a part-time and full-time capacity in the child-care industry. I saw on a daily basis many families who came through the doors of our child-care centres. At that time, I saw hundreds of families who came from similar backgrounds as me, who came from the same suburbs and streets, who had the same starts in life and who had, I suppose, the same economic or social backgrounds. But some who turned up to the child-care centre each day had not fed or bathed their young children, and that would happen on a regular basis.

We need to ask ourselves as a society why those people get it wrong but others in identical circumstances get it right in relation to their children. Why is it that those people who work full time are able to find the time to provide these basic skills and beliefs and provide for their children, yet the people next door who are working full time are not able to do that? It does

result in these children being put at risk. If you speak with teachers and those who have had constant contact with children, particularly in primary schools, you find that they can generally identify at the very early stages—this is not always the case and it is a generalisation that, perhaps, we should be careful in making—those children who will go on to commit crime, have the greatest problems with truancy down the track or not engage at all in the education system. They may have problems with numeracy or literacy early on. They are the ones who need to be identified. As a government and as a community, we need to have the guts to say to those people that what they are doing is not working and that what they are doing needs to be addressed. They need to be provided with and afforded every assistance possible by our society.

That is why I say that, in this day and age, I think we need to be able to link parenting payments to the attendance at those courses, because there are positive outcomes; firstly, for those children—and, as I say, that should be our primary focus—and, secondly, for the other members of that family unit and our broader community at large. They should be the objectives that we go forward with into the next decade. I think it is an issue that we need to discuss more broadly. Like the leaders in the Aboriginal community, we need to identify that these issues do exist. There is no sense in our society brushing them aside or feeling that they are too sensitive to talk about. If we are going to make a positive contribution in this parliament then I think we need to work with families, without being intrusive in their lives, and say that the actions they take affect the outcomes not only for their children but for the community at large. We need to work with those people, address the problems and arrive at positive outcomes.

I wanted to flag today what I think is a very serious issue. This is an issue that I intend to speak more on. I hope we are able to foster some debate in the broader community. Some people will agree with what I have said today and others will disagree adamantly. I think it is healthy for our society to debate these issues and find proper outcomes. It is something that we need to further research. I commit myself to doing that today, because it is important to young aspirational families; it is important to the people who live in suburbs right across Australia, certainly to those who live in my electorate of Dickson.

**Mr MOSSFIELD** (Greenway) (11.43 a.m.)—I rise to speak on the Family Law Amendment Bill 2003, which is an omnibus bill making a number of amendments to the Family Law Act 1975. There is probably no more contentious issue than family law and the operation of the Family Court. This is because of the high levels of emotion usually involved with the breakdown of marriage and access to children. Accusations usually fly and each party attempts to lay blame and hurt the other. The child is often the one who suffers the most. In this area, more than any other, people define themselves as either winners or losers; usually, because they do not get everything they want, it is the latter. This is a policy area that needs constant attention and continuous updating. This bill is part of that process.

In 1995 the House of Representatives passed the Family Law Reform Act, which came into effect on 11 June 1996. One of the provisions of that bill was to replace the child agreements then in place with what were known as parenting plans. Once registered, the child welfare provisions of a parenting plan—those dealing with the person with whom the child is to live or contact between the child and somebody else, and so forth—would be enforceable. The key difference between the new parenting plans and the old child agreements was that, while the

child agreement could be registered as a right by parents with no judicial scrutiny whatsoever, the parenting plan would need to be sanctioned by the Family Court after the parents had provided detailed information and a certificate by a lawyer or a family or child councillor. These plans were designed to promote a cooperative approach to parenting after separation.

The original provisions of the bill reflect a compromise struck in the parliament and differ substantially from an earlier draft bill which provided two types of plans, the first being a registrable, enforceable agreement and the second being an unregistrable and unenforceable plan. The bill was considered too complex and it was perceived that the provisions for scrutiny were insufficient in some areas. Hence a compromise was reached that would allow for registration of parenting plans that could have unenforceable sections.

In 1997 the Family Law Council and the National Alternative Dispute Resolution Advisory Council recommended that the 1995 provisions governing registration be repealed. The Attorney-General then called for an extensive review of the 1995 arrangements, to which both councils again repeated their advice. The government's acceptance of that advice is what we see reflected in this bill today. The reason for repealing the sections dealing with the registration of parenting plans is based on the following considerations. Registered parenting plans are inflexible. They can only be varied by registering a completely new plan and revoking the old one. This process is cumbersome and expensive. It has also proved confusing that some parts of the parenting plan are legally enforceable while others remain nonbinding. Family lawyers have actually made little use of the parenting plan and instead have sought what is known as consent orders, which achieve the same outcome. This alternative of seeking consent orders is simpler, clearer and far more flexible.

If this bill is passed, the Family Law Act will continue to encourage the use of parenting plans as an informal, legally nonbinding agreement. So essentially what we have here is a new system introduced in 1995 that has not quite worked out the way it was intended. What was intended as something that would promote a cooperative approach to parenting after separation has instead become a cumbersome, inflexible, expensive legal minefield. The government has reacted by amending the act through this bill to address some of these concerns. The parenting plans will continue to be encouraged, and this is a good thing. The cooperation between the custodial parent and noncustodial parent in the raising of a child is incredibly important to the child's growth and development. Consent orders can still be obtained to create enforceable obligations, which is also important in providing the structure that such arrangements need. This is one area of law that needs a great deal of flexibility because no one size fits all. The compromise scheme that was introduced did not contain the flexibility that is needed in this policy area. This bill puts some of that flexibility back into the system.

Schedule 2 of the bill is a noncontroversial item dealing with the use of video and audio equipment in the Family Court proceedings. Again this section will create some flexibility. Schedule 3 deals with changes to the management structure of the Family Court and better delineates the differences between the administrative and judicial functions of the registrar. Again, any change that clears up confusion is a good thing, and this will be supported by Labor.

This bill contains a number of minor changes to the parenting compliance regime and these are contained within schedule 4 of the bill. As members would know, there is a three-stage regime for the enforcement of parenting orders—preventative, remedial and punitive. Stage 1

provides for preventive measures to improve the communication between separated parents and to educate parents on their responsibilities under the scheme. Stage 2 encompasses remedial measures and enables parents to resolve issues of conflict about parenting. Stage 3 covers punitive measures which ensure that, as a last resort, a parent is punished for a deliberate disregard of the court's order. This is a sensible approach to conflict resolution in this highly charged and emotive field.

The key changes that this bill makes add flexibility to the system. For example, at present the court can order a person to attend a post-separation parenting program only if enforcement procedures are brought following an alleged breach of a parenting order. This bill adds the flexibility that such an order can be made at any time during the proceedings for a parenting order. There are a number of other orders and options made available with this bill to adjust this stage 3 resolution process—and, as I said, make the system more flexible and user-friendly. These changes are also supported by Labor, as they build on and enhance the current system.

Schedule 5 of the bill makes some minor adjustments to the regime for binding financial agreements which were introduced by the Family Law Amendment Bill 2000. The amendments are mostly technical but are soundly based and consistent with Labor's position when the original legislation was passed; so we have no objections to them. When examining schedule 5, Labor were concerned to ensure that the financially weaker party—often the woman—were not disadvantaged by a binding financial agreement. Having said that, the number of men who come into my office claiming hardship due to child support payments considerably outnumber the women. Quite often these men genuinely want to provide for their children and are supported in their actions by new partners and sometimes other members of their family. One claim that is made is that the child support payment should be based on the net income, and in many situations these men claim that they are left with insufficient income to commence a new life.

On this point, I will mention a few other things, without going into detail, that are raised by people who come into my electoral office. I have no doubt that other members experience exactly the same thing. Access to children is one issue, where meeting arrangements are not kept. Problems with payments for the welfare of the child include situations where people are able to hide their true income and where the non-custodial parent is earning less income than the custodial parent. Also, if a non-custodial parent makes payments towards the child's education, medical or dental expenses, they cannot claim those payments against their taxable income. These are some of the things that people raise when they come in to see me. However, the changes in this bill, which Labor supports, require that the court will be empowered to make a maintenance order that overrides the effect of the financial agreement if the circumstances of a party at the time the financial agreement came into effect render them dependent on government income support. Currently this power refers to the circumstances of the parties at the time the financial agreement was made. The changes make sense, as the court, when considering whether to make a maintenance order, will be more concerned with the circumstances of the parties during the period the financial agreement has effect.

A further change under this schedule requires that a financial agreement will be binding if each party has been provided with independent legal advice on the advantages and disadvantages at the time that the advice was provided to the party making the agreement. This change

follows concerns expressed by the legal profession that it was being required to provide financial advice based on uncertain future matters. This is a very difficult and touchy area of policy. Not everybody will be happy, but we have to consistently address the ramifications of the legislation we pass and, where enhancements to the system can be made, they should be.

Schedule 6 of the bill deals with orders and injunctions binding third parties, such as friends or relatives of the parties to the marriage as well as businesses and financial institutions. These amendments will significantly expand the powers of the Family Court and Federal Magistrates Service to effect divisions of property and protect parties to a marriage. This expansion of the powers is counterbalanced with measures to protect substantive and procedural rights of a third party. Given the broad nature of the powers, it is difficult to foresee every practical consequence of their operation, so we may be back here debating further amendments in the future—but then that is what we are supposed to be doing. I believe that it would be appropriate for a Senate committee to consider this schedule in more detail. One issue to be considered, for example, is the implication of these powers for proposals to prevent the use of sham family law arrangements to avoid the payment of tax.

The final schedule of the bill—schedule 7—makes a number of miscellaneous amendments. Firstly, there are a few technical amendments to facilitate the simplification of the Family Court rules currently being undertaken by the court. Secondly, there are a number of amendments dealing with the admissibility or inadmissibility of certain types of evidence regarding child protection. The amendments were recommended by the Family Law Council in its September 2002 report entitled *Family law and child protection*, which followed a four-year inquiry. They will balance the traditional public interest in the confidentiality of family counselling and mediation, with heightened community concern to ensure that children are protected against abuse.

Labor has always taken a strong position regarding child protection and has a strong policy position on the creation of a national commission for children and young people. The changes signalled here are in line with our strong stand on this issue and as such we will be supporting them. The area of family law is one surrounded by controversy. It causes great anguish and distress to many people who are forced to make use of the family law system. The issue of the break-up of families and the hurt and bitterness that this often causes exercises the minds of all federal members of parliament.

In handling the day-to-day queries on family law, we are greatly assisted by our contacts at the Child Support Agency. One such contact who has provided valuable advice to my office on this issue is Nancy Fullerton, who has recently retired. I thank Nancy for her advice and wish her well in her retirement. I am very grateful to the Child Support Agency for the information seminars they organise for clients. They have proven very popular, with over 300 people attending each of the seminars that have been arranged in Greenway over the past two years.

One of the problems with family law is that it keeps changing. We tighten the system here or add a bit more flexibility there, and this bill is an example of that. The seminars that the CSA organise help those affected to better understand both their rights and responsibilities within the framework. On the surface, this appears to be a non-controversial bill, adding flexibility and reducing confusion. As such, Labor support this bill in principle, but we also believe that, given the sensitive nature of the issue, it would be appropriate for a Senate com-



mittee to examine the bill in greater detail. We reserve the right to move amendments should any shortfalls in the objectives of the legislation be discovered.

**Mr WILLIAMS** (Tangney—Attorney-General) (11.57 a.m.)—I thank the honourable members for Barton, Blair, Curtin, Chifley, Dickson and Greenway for their contributions to the debate on the Family Law Amendment Bill 2003. I am pleased to note the opposition's support for both the bill and the government's approach to reform of the family law system. I note that the member for Barton questioned my recent decision to appoint two new federal magistrates—one in Adelaide and one in Melbourne—rather than replace two judges of the Family Court.

I welcome the opportunity to say something about the approach currently being taken by the government. We see the family law system as encompassing, among other institutions, both the Family Court and Federal Magistrates Service. We will make decisions about resources, having regard to the efficient administration of the system as a whole. Already a significant proportion of family law work is being carried out by the FMS, and I expect that that proportion will increase. When the FMS was being established, it was expected that over time there would be changes in the judicial composition of federal courts. A careful assessment of the workload and resources of the Family Court and the FMS in Adelaide and Melbourne indicated that the availability of additional federal magistrates is a greater priority in those locations at this stage.

I recognise the member for Chifley's passionate views regarding reform of section 121 of the Family Law Act. The public policy issues that impact on section 121 are complex and require a balance between the right to personal privacy and the need for public scrutiny of our court system. The bill we are debating makes a number of minor reforms to the section to make clear the power of the court, and others, to publish electronically accounts of its own proceedings and court lists.

As many speakers have noted, the bill was referred to the Senate Legal and Constitutional Legislation Committee for consideration, and the committee is due to table its report today. The government will consider any recommendations that the committee makes about the bill and, if appropriate, propose further amendments to respond to those recommendations.

As it stands, the bill makes a range of amendments to the Family Law Act 1975 as part of the government's ongoing reform of the family law system. The amendments simplify and better integrate the family law system. In particular, the bill clarifies those provisions of the Family Law Act dealing with property and financial interests. Many of these amendments are complementary to recent changes to superannuation law and family law.

The provisions in schedule 6 of the bill are particularly significant. They give courts exercising jurisdiction under the Family Law Act the power to make orders binding on third parties when dealing with property settlement proceedings. The provisions make it clear that, within defined limits, courts will have power to direct a third party to do something in relation to the property of a party to the marriage. The schedule provides for procedural rights to be given to third parties to ensure that the changes do not affect the underlying substance of property rights of the creditor. Consultations are currently continuing with the banking and financial services sectors in relation to schedule 6 with a view to any necessary amendments to the provisions being made in the Senate. I am confident that those issues can be resolved satisfactorily.

A number of the amendments in the bill clarify and refine amendments made by the Family Law Amendment Act 2000. In particular, the amendments improve the operation of the provisions in the Family Law Act relating to the parenting compliance regime for the enforcement of parenting orders. The enforcement of parenting orders, as speakers have noted, is an area of significant public concern. These amendments will improve flexibility for clients, the court and post-separation parenting program providers, as the member for Greenway noted.

In addition, the improvements in the bill to the operation of the financial agreement provisions in the Family Law Act will assist parties who are seeking to resolve property matters after separation without resorting to litigation. Financial agreements were introduced by the government in the 2000 amendment act and allow people to have greater control and choice over their own affairs in the event of marital breakdown.

The bill will allow admissions by adults and disclosures by children made in counselling and mediation sessions under the Family Law Act that indicate that a child has been abused or is at risk of abuse to be admitted as evidence. Such evidence will be admissible unless the court is of the opinion that there is sufficient evidence of the admission or disclosure available to the court from other sources. The amendment implements recommendations of the Family Law Council in its September 2002 report on family law and child protection. The reforms in the bill are consistent with the report of the Family Law Pathways Advisory Group, *Pathways to the future for families experiencing separation*.

The government is committed to the ongoing reform of the family law system. The system needs to be sufficiently flexible to respond to changing needs but appropriately firm to ensure that the processes are consistent and the law is clear. I can advise the Main Committee that the government intends to move six amendments. Two of the amendments will insert new measures that will clarify the law in relation to financial agreements, and the remaining four will correct drafting errors so that the provisions operate as intended. While the amendments will be largely technical in nature, they will contribute to a family law system that is clear and certain and operates as intended. Both the amendments in the bill and other government initiatives, such as the recently announced working group to look at ways to better coordinate the Commonwealth's family law system with child protection systems at state and territory levels, are intended to improve the operation of the family law system. They aim to minimise the difficulties experienced by people and children after relationships break down. I commend the bill to the Main Committee.

Question agreed to.

Bill read a second time.

#### **Consideration in Detail**

Bill—by leave—taken as a whole.

**Mr WILLIAMS** (Tangney—Attorney-General) (12.04 p.m.)—by leave—I present a supplementary explanatory memorandum to the bill and move government amendments (1) to (6):

- (1) Clause 2, page 3 (table item 15, column 1), omit “item”, substitute “items 1A and”.

- (2) Schedule 2, item 7, page 12 (lines 31 to 33), omit “giving testimony is in or outside Australia, but does not allow testimony to be given by a person who”, substitute “appearing is in or outside Australia, but does not apply if the person appearing”.
- (3) Schedule 2, item 7, page 13 (lines 11 to 13), omit “giving testimony is in or outside Australia, but does not allow testimony to be given by a person who”, substitute “making the submission is in or outside Australia, but does not apply if the person making the submission”.
- (4) Schedule 4, item 1, page 27 (line 10), omit “parenting order”, substitute “proceedings”.
- (5) Schedule 5, page 34 (after line 4), before item 1, insert:  
**1A After subsection 90C(2)**  
Insert:
  - (2A) For the avoidance of doubt, a financial agreement under this section may be made before or after the marriage has broken down.
- (6) Schedule 5, item 4, page 35 (line 3), after “order”, insert “or financial agreement”.

There are six government amendments, four of which are to correct drafting errors in the bill so that the provisions operate as intended. The other two amendments introduce an additional measure into the bill. Amendments (1) and (5) insert a new subsection 90C(2A) into the Family Law Act 1975 to clarify the intent of the current section 90C in the financial agreements provisions in the act. Schedule 5 item 1A will amend section 90C(2) of the act to ensure that the parties to a marriage can make a financial agreement dealing with the property or financial resources of either or both of the parties after the marriage breaks down but before the dissolution of the marriage.

Clause 2 provides for the commencement of the new subsection. New subsection 90C(2A) will be deemed to have commenced immediately after the commencement of schedule 2 of the Family Law Amendment Act 2000 on 27 December 2000. This will ensure that the provision operates as the government intended at the time the act was enacted. The retrospective commencement will not impact adversely on anyone who has made a financial agreement under section 90C of the act, as these parties would have relied on the government’s intention that they were able to make such an agreement during the period after separation but before the dissolution of the marriage. The amendments merely clarify this intention.

Amendments (2) and (3) correct drafting errors in item 7 of schedule 2 of the bill, which facilitates the use of video and audio technology for the taking of submissions and evidence in proceedings of the Family Court of Australia. Item 7 of schedule 2 inserts a new division 2 into part XI of the act. New division 2 provides for the use of video link, audio link or other appropriate means to give testimony, make appearances and give submissions. New subsection 102D(3) in division 2, which relates to the appearance of persons, incorrectly refers to a person giving testimony where it should provide for the appearance of a person. Amendment (2) corrects this drafting error. New section 102E in division 2, which relates to the making of submissions, also incorrectly refers to a person giving testimony where it should refer to a person making a submission. Amendment (3) corrects this drafting error.

Amendment (4) corrects a drafting error in item 1 of schedule 4 of the bill. Item 1 inserts a new section 65LA into the act in order to give the court the power to order a person to attend a post-separation parenting program at any stage during proceedings for a parenting order. Item 1 incorrectly provides for the court to make such an order in respect of any party to the parenting order where it should refer to any party to the proceedings for a parenting order. Amendment (4) corrects this drafting error and ensures that the court can order a person to attend a post-separation parenting program not only after the parenting order is made but at any stage during the proceedings for the parenting order.

Amendment (6) corrects a drafting error in item 4 of schedule 5 of the bill. Item 4 amends section 90L of the act to ensure that financial agreements are not liable to duty under Commonwealth and state law. Item 4 paragraph (c) should provide that a deed or other instrument executed by a person for the purposes of not only an order but also a financial agreement is not liable to duty under Commonwealth and state law. Amendment (6) corrects this drafting error to ensure that instruments of transfer made pursuant to financial agreements are not liable to such changes. As I have indicated in the second reading debate, the government is currently in consultations with the banking and financial services sectors in relation to the binding third-party provisions in schedule 6 of the bill. Any necessary amendments to schedule 6 will be moved in the Senate. I commend the amendments to the Main Committee.

Question agreed to.

Bill, as amended, agreed to.

Ordered that the bill be reported to the House with amendments.

**Main Committee adjourned at 12.10 p.m.**

**QUESTIONS ON NOTICE**

The following answers to questions were circulated:

**Australian Film Finance Corporation: Fraud  
(Question No. 598)**

**Dr Lawrence** asked the Minister representing the Minister for Communications, Information Technology and the Arts, upon notice, on 25 June 2002:

- (1) Has the Minister been made aware by any person or body of evidence regarding fraud committed against the Australian Film Finance Corporation (AFFC) relating to its investment in 1995-96 in a children's animation program called "Crocadoo" produced by a Sydney animation company, Energee Entertainment.
- (2) Has the AFFC been presented with evidence of such fraud committed against it in this matter.
- (3) Has the AFFC informed the Australian Federal Police or the NSW Police of this matter; if not, why not.
- (4) How much was the AFFC investment into this production and what has been the return.
- (5) Under the terms of warranties provided by the production company to the AFFC, is the AFFC entitled to ask for the return of its investment; if so, will it do so; if not, why not.

**Mr McGauran**—The Minister for the Arts and Sport has provided the following answer to the honourable member's question:

- (1) The Minister is aware of the allegations.
- (2) The Film Finance Corporation Australia (FFC) has advised that a writer involved in Series 1 of the program Crocadoo has provided information to the FFC regarding allegations of fraud against the production company. The FFC has also been copied with exchanges of correspondence between the respective legal representatives of the writer and production company.
- (3) The FFC has advised that it did not inform the Australian Federal Police nor the NSW Police of this matter because it had been advised that the matter had already been referred to the NSW police.
- (4) The FFC has advised that it invested no money in Series 1 of Crocadoo and invested \$3,930,519 in Series 2 in 1997. The FFC has further advised that it has recouped \$96,829 of its investment to date.
- (5) The Minister has been advised that, if the allegations were correct, the production company would be in breach of its contractual warranties to the FFC and would therefore be in default. The FFC advised that in such cases it has a right under the funding contract to require the repayment of its investment.

The Minister has been further advised that the FFC has not asked for the return of its investment as it is not in a position to conclude whether the writer has a legally enforceable claim or if the production company is in default.

**Australian Greenhouse Office: Investments  
(Question No. 2039)**

**Mr Organ** asked the Minister for the Environment and Heritage, upon notice, on 18 June 2003:

- (1) Is it the case that the Australian Greenhouse Office has invested at least \$3.6 million of taxpayers' funds in two organisations, Refrigerant Reclaim Australia and the National Refrigeration and Air Conditioning Council Ltd.
- (2) In respect of (a) Refrigerant Reclaim Australia and (b) the National Refrigeration and Air Conditioning Council Ltd, (i) what is their legal status, (ii) what are their structures, (iii) who are their directors, (iv) who are their key operating personnel, and (v) will he provide their latest financial reports.
- (3) What are the details of any contracts between the organisations and the Government.

**Dr Kemp**—The answer to the honourable member's question is as follows:

- (1) Refrigerant Reclaim Australia and the National Refrigeration and Air Conditioning Council jointly submitted an application and were successful in being awarded a Greenhouse Gas Abatement Program (GGAP) performance-based grant for up to \$3.56 million to facilitate better handling and recovery of hydrofluorocarbon and perfluorocarbon refrigerants. This activity is expected to result in abatement of greenhouse gases equivalent to 3.58 million tonnes of carbon dioxide.
- (2) (a) Refrigerant Reclaim Australia (RRA)
  - (i) RRA is a company limited by guarantee. It exists primarily to be the trustee of the Ozone Depleting Substance (ODS) Reclaim Trust. RRA is a not-for-profit industry-funded organisation that has been established to recover and destroy waste refrigerant gases.
  - (ii) RRA acts as a trustee to the ODS Reclaim Trust. It has a board of directors and a Chief Executive. RRA contracts with professional organisations to effect the recovery, transport, storage and destruction of waste refrigerants. RRA utilises world best practice Australian developed destruction technology to transform waste refrigerant to salts and water.
  - (iii) The Board of RRA is a vertical slice of the refrigeration and air conditioning industry with representatives from importers, wholesalers, contractors and end users of refrigerants. Current directors are from the following organisations:
    - Refrigeration and Air Conditioning Contractors Association (RACCA);
    - Australian Refrigeration Wholesalers Association (ARWA);
    - Australian Fluorocarbon Association (AFC);
    - Vehicle Air-conditioning Specialists of Australasia (VASA); and
    - Air-conditioning and Refrigeration Equipment Manufacturers Association (AREMA).
  - (iv) The Chief Executive of RRA is Michael Bennett.
  - (v) As RRA is not a publicly listed company, it is not required to produce public financial reports. However, RRA is required to report to the Australian Greenhouse Office on expenditure relating to its GGAP grant. No such reports are available at this time.
- (b) National Refrigeration and Air Conditioning Council (NRAC)
  - (i) NRAC is a not-for-profit, limited liability company.
  - (ii) NRAC has a Board of Directors and a Chief Executive Officer. Current board members are:
    - RACCA;
    - ARWA;
    - AREMA;
    - VASA;
    - RRA;

- Motor Traders Association of Australia (MTAA);
  - Institute of Refrigeration Airconditioning Service Engineers (IRASE);
  - Australian Institute of Refrigeration Air-conditioning and Heating (AIRAH); and
  - Air-conditioning and Mechanical Contractors Association (AMCA).
- (iii) Current Directors are from the following organisations:
- AIRAH;
  - AREMA;
  - ARWA;
  - RACCA;
  - VASA; and
  - AMCA.
- (iv) The key operating personnel are:
- Alan Woodhouse – Chief Executive Officer;
  - George Thompson – Training and Certification Manager;
  - Jim Allen – Publicity, Promotion and Marketing Manager;
  - Bret Wright – South Australian State Manager;
  - Paul Fassulo – New South Wales State Manager; and
  - Mike Gilmore – Queensland State Manager.
- (v) NRAC is currently preparing a financial report for the Australian Greenhouse Office covering the period from 19 September 2001 (when the first funding was received) to 30 June 2003. This statement has not yet been received.
- (3) The Commonwealth signed GGAP Deeds of Agreement with Refrigerant Reclaim Australia and the National Refrigeration and Air Conditioning Council on 19 September 2001. As GGAP is focussed on the delivery of abatement in the Kyoto Protocol commitment period, and these projects therefore need to continue throughout this period, the Deeds of Agreement do not expire until 2013.

### **Transport: Passenger Vehicles**

#### **(Question No. 2104)**

**Mr Murphy** asked the Minister for the Environment and Heritage, upon notice, on 25 June 2003:

- (1) Is he able to say whether, overall, four-wheel-drive passenger vehicles sold in Australia have poorer average fuel economy than two-wheel-drive passenger vehicles.
- (2) Does Australia's tariff rate encourage the importation of a larger number of four-wheel-drive passenger vehicles than would otherwise occur if the rate of tariff for these vehicles and two-wheel-drive passenger vehicles was the same; if so, how many more four-wheel-drive passenger vehicles have been imported than would otherwise have been the case.

**Dr Kemp**—The answer to the honourable member's question is as follows:

- (1) Fuel consumption is not a function of a vehicle being a four-wheel-drive vehicle or a two-wheel-drive vehicle. Fuel consumption is determined by factors such as the size of the vehicle, its weight, aerodynamic characteristics and engine technology.
- (2) This question should be directed to the Minister for Industry, Tourism and Resources.

**Motor Vehicles: ECOMmodore**  
**(Question No. 2106)**

**Mr Murphy** asked the Minister for the Environment and Heritage, upon notice, on 26 June 2003:

- (1) What has been the outcome of the trial of the hybrid ECOMmodore which was constructed as a joint industry-government project by the CSIRO and General Motors Holden in 2000.
- (2) What was the total cost of this project and what was the total contributed by the Commonwealth.
- (3) Is it the case that the ECOMmodore uses 50% less fuel than a conventional vehicle of the same size and produces the same performance as a standard 3.8 litre V6 from a four-cylinder motor.
- (4) Is the Minister able to say how much the demand for petroleum fuels would be reduced if the Government encouraged or required vehicle manufacturers to produce fuel-efficient vehicles like the ECOMmodore; if not, why not.
- (5) Has he seen a report by the CSIRO titled Energy Outlook to 2020, which indicates that there are no plans to produce vehicles of this type in Australia.
- (6) Does the Government support the production of vehicles of this type in Australia; if so, why; if not, why not.
- (7) Is the Minister able to say when Australian production of vehicles with hybrid petrol-electric motors will begin.

**Dr Kemp**—The answer to the honourable member's question is as follows:

- (1) The ECOMmodore was a 'learning platform' to give scientists and engineers the opportunity to explore new and innovative technologies such as power-train strategies, control systems and energy storage systems. These technologies may be relevant to future hybrid vehicles.
- (2) I understand that the total contribution by the CSIRO to the ECOMmodore project was approximately \$900,000. I do not know the Holden contribution.
- (3) One of the design targets, based on engineering modelling, was for a vehicle that used 50% less fuel when compared to a standard 3.8 litre V6 Commodore. Actual fuel consumption figures vary considerably, and are drive cycle dependant.
- (4) No, because of the many inter-related factors involved. These include the percentage of the current car fleet replaced by such a vehicle, the timescale over which this would occur, the make-up of the entire current vehicle fleet, and the annual usage for the various vehicle types.
- (5) The Government is aware of the CSIRO Energy and Transport Sector – Outlook to 2020 report. It is publicly available on the web at: <http://www.dpr.csiro.au/sector/E&T%20Outlook%202020.pdf>
- (6) The Government supports the production of vehicles that incorporate modern fuel-saving technologies. The Government's Automotive Competitiveness and Investment Scheme (ACIS) is directed towards encouraging new investment and innovation in the automotive industry. A new feature of this scheme will be a \$150 million R&D fund specifically for vehicle manufacturers investing new and innovative technologies. The decision to produce hybrid vehicles in Australia is a commercial decision for vehicle manufacturers.
- (7) No. The Government is unable to pre-empt the decisions made by commercial vehicle manufacturers regarding the Australian production of such cars.